

Report of the Public Inquiry into the 2022 Public Order Emergency



Volume 2: Analysis (Part 1)

The Honourable Paul S. Rouleau, Commissioner

February 2023



**PUBLIC ORDER
EMERGENCY
COMMISSION**



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EMERGENCY
COMMISSION**

**COMMISSION
SUR L'ÉTAT
D'URGENCE**

Volume 2: Analysis (Part 1)

February 2023



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Volume 2: Analysis (Part 1).

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Introduction

1. The Freedom Convoy and the 2022 Public Order Emergency

The federal *Emergencies Act* was enacted in 1988, and for more than thirty years, it had never been used. That record of disuse, in many respects, reflects success. When emergencies arise, as they inevitably do, governments must have the ability to respond promptly and effectively. Fortunately, not every emergency requires a statute like the *Emergencies Act*, which provides power to the federal Cabinet that we would not, in ordinary circumstances, think appropriate. Canada's ordinary legal regime can and does live up to the task of responding to emergencies.

Canada's successful streak of not using the *Emergencies Act* ended in February 2022 when, for the first time, the Federal Government proclaimed a Public Order Emergency. The proclamation was made in response to a series of protests that occurred throughout the country following more than two long years of public health measures enacted in response to the COVID-19 pandemic. At the centre of these protests was the "Freedom Convoy," a loosely organized but profoundly impactful collection of people who travelled across the country to Ottawa, Ontario, entrenching themselves there for three weeks and demanding radical change to government health policies and, arguably, much more.

The Freedom Convoy inspired other protests, and in January and February 2022, Canada was facing not only a demonstration in Ottawa unlike any that it had seen before, but also a range of other actions, including blockades of border crossings and sustained protests in many provincial capitals.

The causes of these protests are not easy to describe. People’s motivations are complex, and groups’ motivations are even more so. But there is little doubt that the COVID-19 pandemic and the responses of various levels of government played a significant role in how the Freedom Convoy movement emerged.

COVID-19 had a profound impact on the world, and Canada was no exception. It killed tens of thousands of people in Canada, and millions globally. It was a public health crisis unlike any that had been seen in a century. Countless lives have been touched by its effects. Every order of government in Canada took measures to mitigate the impacts of COVID-19. Like COVID-19 itself, those government measures also affected the lives of countless Canadians. Businesses were forced to close, individuals were required to remain in their homes, and travellers were mandated to quarantine and isolate. Canadians suffered not only thousands of deaths, but also thousands of lost jobs, businesses, and life savings, to say nothing of the social isolation these measures caused. Not all measures impacted Canadians equally. Some were able to weather the pandemic with relative ease. For others, it was a life-altering event.

Some Canadians welcomed the public health measures imposed by governments, if perhaps only grudgingly. Others believed that governments were not doing nearly enough to protect lives. Still others believed that governments had overstepped and done far too much. Nothing in this Report will resolve those disagreements. All I can do is note that, rightly or wrongly, thousands viewed the COVID-19 pandemic as a period of unnecessary, unjust, and harmful government overreach.

Canada is an open liberal democracy, and as such, it is normal for members of the community to air their grievances through public protests. It is not surprising that such protests were held in opposition to public health measures. Indeed, there had been protests against COVID-19 measures in Canada for almost as long as those measures had existed. In the case of the Freedom Convoy, the immediate cause of protests were rules about cross-border travel. Commercial truckers, who throughout the pandemic had performed critical work under truly difficult circumstances, had been able to pass the Canada – U.S. border with relative ease compared to other travellers.

However, starting in early 2022, both Canadian and American rules required truckers to be vaccinated against COVID-19 in order to cross the border. For most, this was a trivial requirement as they were already vaccinated. But for the minority of truckers who chose not to be vaccinated, these new rules threatened their livelihoods.

Using social media and existing networks of contacts, several individuals in the trucking industry, as well as others who were aligned with their cause, organized and mobilized a series of truck convoys to Ottawa to protest these rules. The results were beyond anything that the organizers could have expected. Hundreds of trucks crossed the country toward Ottawa and were joined by hundreds of others to make up convoys measuring kilometres in length. Thousands of supporters stood on roadsides to encourage them on their way and donated millions of dollars to support their efforts. Upon arriving in Ottawa, the protesters effectively paralyzed the downtown core. Roads were filled with trucks, parks became encampments, and sidewalks were teeming with protesters. To some, this was a celebration of freedom. To others, it was a siege. To everyone, it was an event the likes of which Canada had never before seen.

Despite the expectations of local authorities, the protesters did not leave after the first weekend of protests, but rather entrenched themselves and claimed that they would remain until all COVID-19 mandates were lifted. They stayed for three weeks, until they were cleared out by one of the largest public order operations in Canadian police history.

Beyond Ottawa, protests took root in many locations. In Windsor, Ontario, protesters blockaded the Ambassador Bridge, Canada's busiest commercial crossing to the United States and a vital piece of infrastructure for the local, regional, and national economy. In Coutts, Alberta, police investigated more radical protesters through undercover operatives and wiretaps, ultimately uncovering a cache of weapons and charging four protesters with conspiracy to murder police officers. In dozens of other communities across the country, protests large and small took place that were inspired, at least in part, by the actions of the Freedom Convoy.

By February 14, there were some signs of improvement. The Windsor and Coutts protests had been or were in the process of being cleared. Police in Ottawa were coordinating with the Ontario Provincial Police (OPP) and the Royal Canadian Mounted Police (RCMP) to finally develop a plan to end the protests. At the same time, significant uncertainties remained, and officials within the Federal Government engaged in intense deliberations about what was needed to end the protests, secure the borders, and protect the national interest. Existing legal tools were thought to be inadequate, and provincial and municipal governments were thought to lack the plans or power to resolve the perceived threats to the nation. Cabinet concluded that there was only one option left: invoking the *Emergencies Act*.

The decision was controversial. Many Canadians supported the protests and believed that the real answer was the repeal of health measures and an end to government overreach. Others believed that it was not necessary to use the *Emergencies Act*, or that the powers used by the Government were inappropriate and draconian. Still others praised the Government for its action or condemned it for not acting sooner.

Within days of the invocation of the *Emergencies Act*, the protests were ended. Many protesters left Ottawa on their own, either by choice or due to the impact of measures such as bank account freezing that occurred pursuant to the Government's emergency powers. Others remained and were forced out by police. Many were charged with crimes. Existing protests in other parts of Canada were also resolved. Additional protests, which government officials feared would erupt elsewhere in the country, either did not arise or were not as disruptive as the protests in Ottawa. A little more than a week after the Public Order Emergency was proclaimed, the Government announced that it was over.

2. The Commission

The *Emergencies Act* grants extraordinary powers to the Federal Government. In order to balance this, it also contains a range of accountability mechanisms that are

intended to prevent abuse and to subject government action to oversight and review. One of the most significant of these mechanisms is that, when the Act is used, the Government is required to hold an inquiry at the conclusion of the emergency.

Commissions of inquiry are independent bodies appointed by government with a mission to investigate a matter of public importance. They are headed by one or more commissioners, who have the overall responsibility for the work of the commission and the ultimate duty to report on the subject matter of the inquiry. Commissions perform two important functions: They make findings of fact and they make recommendations for the future.

The fact-finding function of commissions serves an important social purpose. As Supreme Court Justice Peter Cory wrote, “[t]hey are often convened, in the wake of public shock, horror, disillusionment, or skepticism, in order to uncover ‘the truth.’”¹ Uncovering the truth is an important goal. When unforeseen, disruptive, or otherwise significant events occur that impact the lives of Canadians, the public has a right to know what happened and why it happened. Inquiries are also forward-looking. They seek not only to understand what occurred in the past, but also to learn from those experiences and make recommendations for the future.

On April 25, 2022, the Governor in Council made Order in Council 2022-0392, appointing me as Commissioner under the *Inquiries Act* to conduct an inquiry into the 2022 Public Order Emergency.

In my opening statement at the start of the Inquiry’s public hearings, I said that I had been given two different mandates to fulfill. The first was found in the *Emergencies Act* itself. When Parliament passed that law in 1988, it chose to make an inquiry mandatory, and provided that it must examine “the circumstances that led to the declaration being issued and the measures taken for dealing with the emergency.” This mandate from Parliament is one of public accountability. The public is entitled to

¹ *Phillips v. Nova Scotia (Commission of Inquiry into the Westray Mine Tragedy)*, [1995] 2 S.C.R. 97, para 62.

know why the Government proclaimed an emergency, and whether the actions that it took were appropriate.

My second mandate is contained in the Order in Council appointing me. In addition to examining the circumstances that led to the proclamation of a Public Order Emergency, my Order in Council also tasks me with examining the evolution, goals, leadership, and organization of the convoy movement and border protests, as well as the participants; the impact of domestic and foreign funding, including crowdsourcing platforms; the impact, role, and sources of misinformation and disinformation, including the use of social media; the economic and other impacts of the blockades; and the efforts of police and other responders prior to and after the declaration.

There is, however, an important caveat to this mandate from Cabinet. The Commission is asked to examine these issues “to the extent relevant to the circumstances of the declaration and measures taken.” In other words, while these topics are important and worthy of attention, it was the mandate given to me by Parliament that drove the Commission’s work.

Conducting this Inquiry presented a number of challenges. By far, the greatest challenge that I faced was time. The *Emergencies Act* itself sets out the deadline for the Inquiry to file its Report in Parliament: 360 days from the day on which the emergency ends. Because the Government had two months to select a Commissioner to conduct the Inquiry, in reality, I had only 300 days to prepare this Report. To put that number in context, the National Inquiry into Missing and Murdered Indigenous Women and Girls had approximately three years to issue its report. The Air India Inquiry had a little more than four years. And unlike every other commission of inquiry in Canadian history, it was impossible for me to request an extension of my deadline to file this Report.

As a result, the Commission was required to work at an accelerated pace. The public hearings themselves were a particularly grueling period. Over the course of 31 days, I heard from 76 witnesses and received more than 9,000 exhibits into evidence.

The Commission sat long hours to accomplish this. Our longest hearing day was 11 hours and 20 minutes, not including breaks. Immediately after that phase was complete, I held an additional week of policy hearings, in which a further 50 experts from various disciplines testified on matters including internet misinformation, the protection of critical infrastructure, the use of intelligence in public order policing, and interjurisdictional responses to emergencies.

These hearings were a critical component of my mandate. They were not only an important way for me to obtain the information I required to write this Report, but also were themselves an important accountability mechanism. With only one exception,² the hearings were open to the public. Anyone was able to come to the hearing room at the National Archives in Ottawa, or stream the proceedings live on the Commission's website. For those who could not follow the proceedings in real time, both the video recordings of the sessions, as well as formal transcripts were posted to the Commission's website. The proceedings were delivered simultaneously in French and English using translators, as well as into both American Sign Language and Langue des signes québécoise. Each of the 9,000 exhibits entered into evidence was posted to the Commission's website, free for anyone to download.

I am proud of the hearings that the Commission held. They provided a level of insight and transparency into government decision making that is rare for even the most open of liberal democracies. The public heard testimony from protesters; police; municipal, provincial, and federal civil servants; and political leaders from a range of governments. Eight Cabinet ministers, including the prime minister, disclosed internal exchanges and communications they had related to the convoy and were subjected to hours of examination and cross-examination in open hearings.

² There were two days on which witnesses from the Canadian Security Intelligence Service (CSIS) testified before me. One was in an open session, while the other was a closed hearing. The closed hearing was necessary to allow me to hear classified evidence from CSIS that could not be disclosed for reasons of national security. A summary of the testimony given in that proceeding was filed as part of the public record.

Moreover, the Commission gained access to Government records at a level rarely seen in public inquiries. Commission counsel were all security cleared and had access to classified information that would normally be unavailable to anyone outside of the Government itself. Even more significantly, as a result of considerable efforts by the Commission, the Government agreed to waive Cabinet confidence over the various inputs that were before Cabinet when it deliberated on whether to invoke the *Emergencies Act*. In the 371 federal inquiries that have been held since Confederation, this was only the fourth time that such a waiver had been given.

There is little doubt that Canadians have strongly divergent views about the Government's actions in January and February 2022. That is understandable, and indeed healthy in a democracy. The purpose of the public hearings was to expose the actions of Government to public scrutiny. Whatever view one might hold about the actions of the Government, the public can be confident that the Government was held to account for its conduct in response to the use of the *Emergencies Act*. In providing the public with an open and transparent examination, I hope that the Commission was able to contribute to maintaining public confidence in Canada's institutions and mechanisms of accountability.

3. The Report

This Report is the second way in which the Commission seeks to maintain accountability and confidence in our institutions. In these pages, I have attempted to consolidate the hundreds of hours of testimony and thousands of pages of evidence that I have heard and reviewed into a single account of the events of January and February 2022.

Chapters 2 – 4 provide a general background on legal and constitutional concepts that are relevant to many of the issues addressed in this Report. Their purpose is to provide a common framework for readers to understand the analysis contained elsewhere in the Report. In Chapter 2, I discuss how emergency powers are used by different levels

of government, including rules that regulate how the state may respond to situations of exceptional urgency. In Chapter 3, I focus on the constitutionally protected rights that relate to protest, including freedom of expression, freedom of peaceful assembly, and freedom of association. I address both how these rights protect the ability of Canadians to protest, as well as the ways in which these rights may be limited. Chapter 4 concentrates on how police are able to manage public protests, including a review of their legal powers as well as an introduction to the strategy and tactics police forces use in practice.

After these introductory chapters, I move to a discussion of the origins of the Freedom Convoy movement in Chapters 5 and 6. In Chapter 5, I consider not only the immediate cause of the 2022 protests, but also their deeper roots, including the social trends that have influenced anti-government sentiment in Canada. I also discuss the backgrounds of some of the people who played a role in organizing the Freedom Convoy. In Chapter 6, I describe how some of the main organizers of the protests came together to plan, organize, and execute a convoy from points across Canada to Ottawa.

In Chapters 7 and 8, I discuss how police and government officials saw the convoy as it moved toward Ottawa and how they prepared for its arrival. Chapter 7 addresses police intelligence, while Chapter 8 looks at the steps taken by the City of Ottawa to prepare for the arrival of the convoy.

Chapter 9 examines the Ottawa protests. It tells this story from the perspective of multiple groups, including police forces, City officials, protesters, and the residents of Ottawa. Chapter 9 describes the unprecedented events that took place in the nation's capital for three weeks, from the first weekend of the protests to the invocation of the *Emergencies Act*.

Chapters 10 – 12 shift the focus away from Ottawa and toward protests that occurred elsewhere in Canada. Chapter 10 examines the protests in Windsor, Ontario. The blockade of the Ambassador Bridge was a significant event in the story of the January

and February 2022 protests, and this chapter describes how those protests began, were managed, and were ended. In Chapter 11, I discuss several protests that took place at other border crossings — also known as ports of entry — across Canada. This includes the events at Coutts, Alberta, as well as other protests in Ontario, Manitoba, and British Columbia. Finally, Chapter 12 discusses protests that occurred in other cities and communities across the country that were inspired by the Freedom Convoy.

In Chapter 13, I provide an in-depth examination of how the protests in Ottawa were financed. Looking at crowdfunding platforms, payment processors, cryptocurrency exchanges, banks, and simple cash transactions, I examine the steps that were taken by protesters to obtain money, and the steps taken by others that prevented the protesters from using it.

In Chapters 14 and 15, I shift focus to the Federal Government. In Chapter 14, I retell the story contained in previous chapters from the perspective of federal decision makers, including senior civil servants and Cabinet ministers. This chapter sets out the deliberations of the Federal Government that culminated in the invocation of the *Emergencies Act*. In Chapter 15, I describe the measures that the Government adopted under the *Emergencies Act*; namely, the *Emergency Measures Regulations* and the *Emergency Economic Measures Order*.

Chapter 16 returns to the story of Ottawa and describes the events that took place while the *Emergencies Act* was in force. This includes the police operations that ended the protests and the decision by the Government to end the Public Order Emergency.

Chapter 17 sets out my ultimate findings on a range of issues, including the nature of the protests, the policing response to the protests, the Federal Government's use of the *Emergencies Act*, and my assessment of the effectiveness and appropriateness of the measures that it enacted.

Finally, in Chapter 18, I make a number of recommendations for the future, while in Chapter 19, I provide a more detailed overview of the process the Commission adopted to conduct this Inquiry.

These chapters are at once detailed and concise. They set out a significant amount of information about the 2022 Public Order Emergency, at times providing a detailed, hour-by-hour account of events that took place. At the same time, there is much more that could have been written about the events of January and February 2022. I have little doubt that they will be studied and examined by many after this Report has been released. However, I believe that in these pages, I have set out a meaningful account of the Freedom Convoy protests. I hope that, for all those who wanted to achieve a better understanding of the circumstances that led to the first-ever invocation of the *Emergencies Act*, this Report will meet that need.

Chapter 2

Emergencies and the Law



Emergencies and the Law

1. Introduction

I have been asked to determine, among other things, whether the circumstances in Canada in January and February of 2022 justified the invocation of the *Emergencies Act*. To do so, I must assess the actions of various entities, including the police, protesters, and municipal, provincial, and federal governments. Most of this Report deals with the extensive evidence that I heard during the Inquiry. However, before turning to the evidence obtained by the Commission, I believe it is important to address several topics that provide context for the questions that I have been tasked to answer. In order to clearly convey the significance of what occurred in Ottawa and in other places in Canada, I must first explain their full legal context. In this chapter, I briefly discuss the legal framework in Canada that regulates how governments respond to emergencies. In Chapter 3, I turn to the constitutional rights engaged by public protest and in Chapter 4, I discuss the powers held by police and other actors to respond to public order disturbances.

There are many ways to define the word “emergency.” In its broadest sense, it suggests a situation of urgency and danger. There is also a subset of emergencies that we can think of as *public* emergencies, that is, emergencies that threaten the state, the collective interest, the public good, or something more than individual or private interests. A heart attack is an emergency for the individual experiencing it, but not an emergency for the public. A sudden wave of heart attacks that overwhelms a provincial health system, on the other hand, is an emergency in the public sense.

Every jurisdiction in Canada has laws that are intended to provide a legal framework for responding to public emergencies. They do so in a variety of ways. Emergency management legislation sets out the roles and responsibilities of government departments and other actors in relation to emergencies. Often, this legislation also permits extraordinary temporary measures for responding to and mitigating the impact of such emergencies. While emergency management is often thought of primarily as the immediate response required by an extreme event, it is also an ongoing process of identifying, preventing, and preparing for extreme events. Emergency management is often described as a continuous four-part cycle: (1) prevention and mitigation; (2) preparedness; (3) response; and (4) recovery. Legislation respecting emergencies, as well as a range of policies and procedures, addresses all aspects of the emergency management cycle.

Conditions and processes outlining how governments can declare an emergency, and the range of temporary measures that they can implement in response, are key features of Canadian emergency management legislation. Emergency management legislation may also impose specific responsibilities on governments, such as the duty to prepare an emergency plan and to conduct training programs to ensure preparedness.

At the federal level, Canada has two main statutes that address emergency management: the *Emergencies Act* and the *Emergency Management Act*. I will address the *Emergencies Act* in detail in this chapter. The *Emergency Management Act* sets out federal roles and responsibilities for emergency prevention, preparedness, response, and recovery. Each province and territory also has emergency management legislation that governs their responses and also specifies the powers and responsibilities of local governments with respect to emergencies. As well, Indigenous governments implement emergency measures by exercising a range of jurisdictions, including treaty rights and delegated powers.

Fifteen provincial and territorial states of emergency have been declared since 2017.¹ These have been in response to COVID-19, wildfires, floods, and extreme weather. Local state of emergency declarations — issued by municipalities — number in the hundreds annually, many in response to flooding. There have also been states of emergency declared by Indigenous governing bodies over drinking water and suicide.² Sometimes, emergencies are declared under different provincial legislation such as public health legislation, rather than emergency management statutes, as seen during the COVID-19 pandemic and the opioid crisis.

When an event causes severe or widespread disruption, multiple levels of government may declare an emergency and exercise their authority to manage the event simultaneously. This is what happened with the February 14, 2022 Public Order Emergency declaration. In addition to the Federal Government invoking the *Emergencies Act*, the City of Ottawa declared a State of Emergency on February 6, 2022 and Ontario declared a provincial State of Emergency on February 11, 2022. Windsor declared a State of Emergency on February 14, 2022. The interjurisdictional aspects of responding to emergencies became a significant topic during the Commission's proceedings, particularly given the complex jurisdictional arrangements that exist in Ottawa. I return to this topic in Chapter 8.

To better explain the legal frameworks for dealing with emergencies, I begin this chapter by addressing the constitutional jurisdiction over emergencies in Canada. Then, I discuss the predecessor to the *Emergencies Act*: the *War Measures Act*. As I discuss later in this chapter, concerns about abuses under the *War Measures Act* and the advent of the *Charter of Rights and Freedoms* were critical in the development of a new legal framework for responding to emergencies that was embedded in the *Emergencies Act*. I conclude this chapter with a more detailed discussion of emergency management legislation at other levels of government.

¹ See the appendix to Jocelyn Stacey's Commissioned Paper, *Governing Emergencies in an Interjurisdictional Context*, which is found in Volume 5 of this Report.

² For example, Attawapiskat First Nation and Eabametoong First Nation in 2019, Sioux Valley Dakota Nation in 2020, and Wapekeka First Nation in 2017, respectively.

2. Constitutional jurisdiction over national emergencies

Canada is a federation, which means that powers are divided between federal and provincial governments. This “division of powers” is largely reflected in the provisions of the *Constitution Act, 1867*. In this document, it would appear that most authority to respond to emergencies rests with the provinces. It is the provinces that have jurisdiction over property and civil rights, municipalities, and generally matters of a local nature. By exercising these powers, provinces and municipalities have played a primary role in addressing emergencies occurring at the local or regional level. Even for emergencies that occur at the national or international level, the provincial level of government can take an active role in responding. When the COVID-19 pandemic reached Canada, it was provincial, territorial, and municipal levels of government that declared states of emergency and enacted significant public health measures, a topic that I discuss in Chapter 5.

The federal Parliament has powers under the *Constitution Act, 1867* that apply to specific areas relevant to emergencies, for example, quarantine under section 91(11). However, compared to the provinces’ power over “property and civil rights,” these authorities are focused and limited. There is, nonetheless, one significant federal power related to emergencies that is not explicitly stated in the text of the *Constitution Act, 1867*, but which grants broad powers to address national emergencies. Under the *Constitution Act, 1867*, the Federal Government has a residual power to make laws for the “Peace, Order, and good Government of Canada,” also known as the POGG power. Over many decades, the courts have identified three “branches” of the POGG power, each of which describes a different facet of Parliament’s authority in this area. One of these facets is known as the “emergencies branch” of POGG. Under the emergencies branch, Parliament has the authority to make laws and exercise temporary powers in relation to national emergencies. When acting under this constitutional power, Parliament has temporary, complete jurisdiction to legislate on all matters regarding the national emergency, including those that are normally exclusively under provincial jurisdiction.

What constitutes a national emergency sufficient to permit Parliament to act under the emergencies branch is a difficult question to answer. We are fortunate that there have been relatively few examples of emergencies so severe that Parliament has had to use this exceptional authority. This means that there are also relatively few court cases that have explored its limits. There are, however, at least two points that appear to be well settled. First, emergencies are not limited to extreme categories such as states of war; it is a flexible concept that may encompass any sufficiently serious state of affairs. For example, in the 1970s, the Supreme Court of Canada ruled that high levels of inflation could constitute a national emergency.³ The second principle is that emergencies must be temporary. Although laws passed under the emergencies branch do not have to contain a fixed end date, they must still be temporary in nature.

Parliament's expanded legislative powers in times of national emergency do not negate the provinces' constitutional powers and responsibilities. Although their role may be reduced, provincial authority over an emergency continues until it conflicts with, or is displaced by, federal legislation. Even during national emergencies, provinces are still responsible for the safety, security, health, property, and welfare of their populations.

3. *The War Measures Act*

Before the *Emergencies Act* existed, Parliament's main exercise of the emergencies branch powers was the *War Measures Act (WMA)*. The *WMA* was a very different statute from the *Emergencies Act*, both in terms of the rules that it contained and the goals that it pursued. As its name suggests, the *WMA* was focused on a narrow set of emergencies, namely, war, invasion, insurrection, and apprehended insurrection. It was a direct response to the First World War. When Canada declared war on Germany on August 4, 1914, the government rapidly drafted the *WMA* as a tool to allow wartime governments to bypass the ordinary parliamentary procedure for making new laws. Parliament passed the *WMA* less than three weeks after it was introduced.

³ *Re: Anti-Inflation Act*, [1976] 2 S.C.R. 373.

The general structure of the *WMA* was as follows: When the federal Cabinet — referred to as the “Governor in Council” by lawyers — formed the opinion that emergency measures were needed, it could proclaim an emergency. A proclamation would have the effect of activating the *WMA*’s powers. The main power under the *WMA* was the broad authority it granted Cabinet to govern by regulation. In effect, Cabinet could draft and enact laws without the need to go through the ordinary process in the House of Commons and the Senate.

The power given to Cabinet under the *WMA* was subject to little or no oversight. The *WMA* provided that Cabinet’s proclamation of a state of war, invasion, insurrection, or apprehended insurrection was “conclusive evidence” that such a state existed.⁴ While a proclamation had to be laid before the House of Commons and the Senate, Cabinet had no obligation to explain why it made a proclamation, nor was it required to consult with either Parliament or other levels of government in Canada prior to making a proclamation. When the *WMA* was enacted, Parliament did not have the authority to revoke a proclamation or regulation made under the *WMA*, and the *WMA* even permitted Cabinet to establish special courts to deal with alleged violations of regulations made under it.⁵

The *WMA* was used during both World Wars, as well as during the October Crisis of 1970. The measures taken under the *WMA* varied dramatically, from the regulation of rents and commodity prices and the creation of a basic labour-relations scheme, to the internment of Canadians of Japanese descent and the warrantless arrest of suspected members and sympathizers of the Front de libération du Québec. The latter measures were harshly criticized when they were enacted and would be almost unthinkable today. It is important to recall, however, that throughout most of the *WMA*’s existence, there was neither a *Charter of Rights and Freedoms*, nor modern international human rights instruments like the *International Covenant on Civil and Political Rights*. In 1960, Parliament enacted the *Canadian Bill of Rights* that, while

⁴ *War Measures Act, 1914*, 5 Geo V., c. 2, s. 4.

⁵ *War Measures Act, 1914*, 5 Geo V., c. 2, s. 6(2).

neither entrenched in the Constitution nor applicable to the provinces, did provide Canadians with some guaranteed civil rights. However, when the *Bill of Rights* was enacted, Parliament expressly excluded its application to the *WMA* or to any order or regulation made under its authority. Until the enactment of the *Charter* in 1982, the provisions of the *WMA* were largely free from substantial legal restraints.

4. From the *War Measures Act* to the *Emergencies Act*

In 1987, Brian Mulroney's Conservative Government introduced legislation to repeal the *WMA* and to replace it with a new framework for managing national emergencies. The government's desire to reform Canada's emergency management framework was motivated by a range of concerns, including the need to better respect civil liberties; to better reflect the diversity of emergencies that could legitimately concern Canada as a whole; to promote general accountability, as well as particular accountability of the executive to Parliament; and to better respect the principles of federalism.

Preserving civil liberties was a primary motivator for replacing the *WMA*. While the existence of a war may legitimately require the state to exercise special powers, by 1988, many of the measures Canada used under the *WMA* were broadly condemned as contrary to human rights. Government censorship of critics and detaining people in camps based on their religion, national origin, or beliefs were viewed as unacceptable violations of basic rights and went beyond what could be justified, even in a time of war.

A closely related concern with the *WMA* was the breadth of power it granted to Cabinet. The *WMA* was, as I discussed previously, specifically designed to respond to wartime emergencies and, as a result, granted Cabinet exceptionally broad powers. However, through the concept of "apprehended" insurrection, the *WMA* could also be used in peacetime, as it was during the October Crisis. At the same time, the *WMA* did not contemplate emergencies that were unrelated to war, rebellion, or insurrection. In the years since 1914, the world had seen significant changes, and government

recognized that the *WMA* did not cover all potential situations of national emergency. Heightened international tensions, natural disasters, industrial accidents, epidemics, and environmental disasters could all, in principle, be so severe as to constitute a national emergency. Thus, the *WMA* was at once both overly broad and under-inclusive. It granted wartime powers that could be used in times of peace without granting any powers to address emergency circumstances unrelated to armed conflict.

The *WMA* also lacked constitutional safeguards to ensure that the executive was accountable to Parliament. In Canada's system of parliamentary democracy, the government of the day can only maintain power as long as it has the confidence of Parliament. The Executive Branch is ordinarily accountable to Parliament for its decisions and actions. However, under the *WMA*, Parliament's traditional role was sidelined, and no alternative means existed by which Parliament could oversee the work of the executive. Parliament had no role in deciding if an emergency existed or if one had ended. It also had no role in deciding if the emergency measures taken by Cabinet were appropriate or justified. Indeed, the *WMA* cut Parliament out entirely from its law-making function. Without adequate parliamentary scrutiny and oversight of the powers delegated to the executive during a national emergency, the democratic process was thought to be undermined. Beyond the absence of parliamentary accountability, the *WMA* also left little room for the courts or third parties to review the actions of the Executive Branch.

The traditional role of Parliament was not the only constitutional norm that was sidelined. The *WMA* also gave no specific consideration to principles of federalism. As discussed earlier in this chapter, the emergencies branch of the POGG power is exceptional in that it permits the Federal Government to make laws that are normally within exclusive provincial jurisdiction. Regardless of this fact, sound principles of federalism still required that federal emergency legislation should not unnecessarily tread on provincial interests. Nothing in the *WMA* reflected any such concern. The statute did not even require consultation with the provinces before their jurisdiction

was usurped — a point that was criticized by numerous groups that had studied the federal jurisdiction over emergencies prior to the enactment of the *Emergencies Act*.⁶

When the proposed *Emergencies Act* was introduced to Parliament in 1987, the defence minister claimed that its purpose was to prevent the abuses of civil liberties that occurred under the *WMA* in 1970. However, the project of reform was much broader than this. The *Emergencies Act* was not simply an attempt to build in additional safeguards. It was an attempt to enact an entirely different framework for the management of national emergencies — one that reflected a range of concerns that included, but were not limited to, the need to protect civil liberties and constitutional rights.

5. An overview of the *Emergencies Act*

The *Emergencies Act* has four main parts. First, it establishes the types of situations in which the federal Cabinet can declare an emergency. Second, it outlines the process for how proclamations of emergency begin and end. Third, it sets out the types of powers that the federal Cabinet can exercise while an emergency proclamation is in effect. Finally, it establishes a series of oversight and review mechanisms related to Cabinet's use of its emergency powers.

5.1 Four categories of national emergencies

Unlike the *WMA*, which focused exclusively on war, invasion, and real or apprehended insurrection, the *Emergencies Act* allows the Federal Government to respond to four distinct types of emergencies: (1) public welfare emergencies, such as natural disasters and pandemics;⁷ (2) public order emergencies, which arise out of threats to the security of Canada;⁸ (3) international emergencies, such as acts of intimidation or

⁶ Canada, Emergency Preparedness Canada, *Bill C-77: An Act to Provide for Safety and Security in Emergencies — Working Paper*, p. 32.

⁷ *Emergencies Act*, s. 5.

⁸ *Emergencies Act*, s. 16.

coercion by foreign states;⁹ and (4) war emergencies.¹⁰ This Inquiry is concerned with the second category: public order emergencies.

Each of these four types of emergencies has a distinct definition, but all share a common element: the existence of a “national emergency.” A national emergency is an urgent and critical situation of a temporary nature that cannot effectively be dealt with under any other law of Canada and that: (1) seriously endangers the lives, health, or safety of Canadians and exceeds the capacity or authority of a province to deal with it; or (2) seriously threatens the government’s ability to preserve Canada’s sovereignty, security, and territorial integrity.¹¹

For a situation to constitute a public order emergency, it must arise from “threats to the security of Canada” that are “so serious as to be a national emergency.” A threat to the security of Canada, in turn, is defined by the *Canadian Security Intelligence Service Act* to mean one of four things:

- (a) espionage or sabotage that is against Canada or is detrimental to the interests of Canada or activities directed toward or in support of such espionage or sabotage;
- (b) foreign influenced activities within or relating to Canada that are detrimental to the interests of Canada and are clandestine or deceptive or involve a threat to any person;
- (c) 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, or ideological objective within Canada or a foreign state; or

⁹ *Emergencies Act*, s. 27.

¹⁰ *Emergencies Act*, s. 37.

¹¹ *Emergencies Act*, s. 3.

(d) activities directed toward undermining by covert unlawful acts, or directed toward or intended ultimately to lead to the destruction or overthrow by violence of, the constitutionally established system of government in Canada.

The common threads uniting the concept of a public order emergency are deliberate acts of individuals or groups jeopardizing the life, liberty, safety, security, or property of citizens, the rule of law, or constitutional government. These acts are so serious that they meet the definition of a national emergency.

There are important differences between the four types of emergency that can be declared under the *Emergencies Act*. The most significant difference is that the powers granted to Cabinet vary with the kind of emergency declaration. In a war emergency, Cabinet retains a general regulation-making authority that contains relatively few limits. For the other three forms of emergency, however, the Act specifies the types of orders Cabinet can make.

5.2 Invoking the *Emergencies Act*

The *Emergencies Act* can be invoked when the government reasonably believes that the conditions for one of the four types of emergency have been met. If Cabinet believes that such a situation exists, and that special temporary measures must be taken, it may proclaim an emergency. However, because of concerns surrounding federalism, the Federal Government usually needs to consult affected provinces before making such a proclamation. The general rule is that the Federal Government must consult the executive branches of each province in which the effects of the emergency occur.¹² The obligation to consult does not require Cabinet to obtain the agreement of the provinces, except where an emergency exists only within a single province. In that limited case, the *Emergencies Act* can only be invoked if the province indicates that the emergency exceeds the capacity or authority of the province to

¹² *Emergencies Act*, s. 25(1).

deal with it. The *Emergencies Act* does not require consultation with other forms of government, such as Indigenous governments, the territories, or municipalities.

Once an emergency is proclaimed, it will automatically expire after a set period unless it is renewed. The length of a proclamation varies depending on the type of emergency. In the case of a public order emergency, the proclamation lasts 30 days.

5.3 Powers during an emergency

Once an emergency is proclaimed, the federal Cabinet is empowered to make various types of orders and regulations which, when made, have the force of law. A violation of any order or regulation made under the Act can be punished as an offence.¹³ Under a public order emergency declaration, Cabinet may make orders or regulations it reasonably believes are necessary under the circumstances, including regulating or prohibiting public assemblies that may lead to a breach of the peace; banning travel to, from, or within specified areas; prohibiting the use of specified property; assuming control of public utilities; and directing persons to provide essential services.¹⁴

However, there are limits on Cabinet's power to make orders and regulations. First, powers used under the Act must be consistent with the *Charter of Rights and Freedoms* and the *Canadian Bill of Rights*.¹⁵ Measures under the Act can only infringe on a *Charter* right if they constitute a reasonable limit to the right in question. Determining what constitutes a reasonable limit involves considering the measure's purpose, how much the limit impairs the right in question, and its overall proportionality. I discuss the concept of reasonable limits further in Chapter 3. The *Emergencies Act* also makes reference to the *International Covenant on Civil and Political Rights*, one of the foundational international conventions of modern international human rights law. The Act's preamble says Cabinet "must have regard to the *International Covenant on Civil*

¹³ *Emergencies Act*, ss. 8(1)(j), 19(1)(e), 30(1)(l), and 40(3).

¹⁴ *Emergencies Act*, s. 19(1).

¹⁵ *Emergencies Act*, Preamble.

and Political Rights.” No court has yet determined what this wording means, but on its face, the words imply that the *Covenant* is an important interpretive aid.

The *Emergencies Act* also contains several statutory restrictions on what the orders and regulations made by Cabinet can do. No order or regulation can have the effect of amending the *Emergencies Act* itself, nor can it provide for the detention, imprisonment, or internment of Canadian citizens or permanent residents on the basis of race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.¹⁶

Also, in further recognition of the importance of federalism, powers exercised under the *Emergencies Act* must be used in a way that does not unduly impair the ability of any province to take measures under provincial legislation to deal with the emergency. Rather, Cabinet must exercise its powers with the view of achieving, to the extent possible, concerted action with each impacted province.¹⁷

5.4 Oversight of emergency declarations

Unlike the *WMA*, the *Emergencies Act* provides legislative and judicial oversight of government’s use of the legislation. These measures take on a wide range of forms, and include the ability to terminate emergencies, review government measures, and review the use of the Act once an emergency has ended.

The House of Commons and Senate must each vote on whether an emergency declaration is justified.¹⁸ If either the House of Commons or the Senate votes against approving the declaration, the declaration is revoked and the emergency ends.¹⁹ Even if Parliament confirms a proclamation of emergency, it continues to exercise control over how long the state of emergency will last. As previously noted, all forms of emergency automatically expire after a fixed amount of time. To extend it beyond that

¹⁶ *Emergencies Act*, s. 4.

¹⁷ *Emergencies Act*, ss. 8(3), 19(3), 30(2), and 40(4).

¹⁸ *Emergencies Act*, s. 58.

¹⁹ *Emergencies Act*, s. 58(7).

point, Cabinet must make a decision to continue the emergency, and Parliament must vote to confirm the continuation.²⁰ As with the initial proclamation, a continuation can only be for a fixed amount of time — 30 days in the case of a public order emergency. Any further extensions must follow the same process of continuation by Cabinet, followed by approval by Parliament. Parliament also has the power to terminate a state of emergency early. If either the House of Commons or the Senate votes to terminate a proclamation of an emergency, the emergency is terminated.²¹

Parliament also has a role in reviewing the exercise of emergency powers by Cabinet. The Federal Government must put any orders and regulations made under the declaration before each House within two sitting days.²² At any time, the Senate or the House of Commons can consider a motion to revoke or amend an order or regulation. If both houses of Parliament agree to such a motion, the order is amended or revoked accordingly.²³ Through this power, Parliament continues to exercise some law-making authority even though it is Cabinet that makes emergency measures under the Act.

Parliament provides additional scrutiny of Cabinet's conduct during a state of emergency through a joint House of Commons – Senate committee (the Parliamentary Review Committee) to review Cabinet's performance of its functions under a declaration of emergency. It functions both during the emergency itself, as well as after it has ended.²⁴ The Parliamentary Review Committee must report the results of its review to Parliament.

After a proclamation of an emergency ends, a commission of inquiry must examine the circumstances that led to the declaration and the measures taken to address the emergency, and must table a report before Parliament within 360 days of the date the

²⁰ *Emergencies Act*, ss. 23(1) and 60.

²¹ *Emergencies Act*, s. 59.

²² *Emergencies Act*, s. 61.

²³ *Emergencies Act*, ss. 61(3), (4) and (8).

²⁴ *Emergencies Act*, s. 62.

declaration of emergency ended.²⁵ It is pursuant to this provision that I was appointed Commissioner.

A declaration of emergency, and any measures taken under it, are also subject to review by the courts. Both a proclamation of emergency and the exercise of emergency powers under the Act are subject to judicial review on constitutional as well as administrative law grounds. Indeed, when the Federal Government proclaimed a Public Order Emergency in February of 2022, numerous applications for judicial review were filed in the Federal Court, challenging the proclamation itself, as well as the measures taken by the government. Those proceedings remain outstanding as of the time this Report was drafted.

6. Non-federal emergencies legislation

In discussing the role of the *Emergencies Act*, it is important not to lose sight of the role of other levels of government in responding to emergencies. Most emergencies are local or regional events and, under the Constitution, fall primarily within the authority of the provinces. Each province and territory of Canada has a central emergency management statute. These statutes perform largely the same functions as the federal *Emergencies Act* and *Emergency Management Act* combined: setting out the conditions and processes for declaring a state of emergency, delegating roles and responsibilities for emergency management, and issuing temporary emergency measures. The purpose of these statutes is to enable rapid, coordinated government responses that minimize the impacts of a serious and urgent event on people and property. To this end, legislation usually establishes a lead emergency management department and mandates the creation of an emergency plan.

While there are some differences between the various provincial and territorial emergency management statutes, most share the same general features, including:

²⁵ *Emergencies Act*, s. 63.

- a definition of “emergency” with three typical features: a present or imminent event, the need for prompt coordination of action, and the need for action to protect the safety and welfare of people and/or prevent or limit damage to property or the environment;
- delegation of the power to declare an emergency to either the responsible minister, Cabinet, or both;
- procedural requirements such as the need for declarations of emergency to be published, and default time limits for how long a declaration of emergency lasts (most frequently to 14 days);
- authorizing the executive to “take all measures necessary” to address the emergency, frequently coupled with lists of specific types of order that can be made; and
- limited oversight by the legislature.

Major public order disturbances could meet threshold requirements for declaring provincial or territorial states of emergency, but this has not been the practice in Canada. Until it was declared in Ontario in 2022, no province or territory has ever declared a state of emergency under peacetime emergency management legislation in response to a public order disturbance. During public order events, such as the October Crisis of 1970 and the Oka Crisis of 1990, provincial attorneys general called for the military’s aid pursuant to provisions of the *National Defence Act*. In other circumstances, anticipated protests and demonstrations have been pre-emptively regulated through specific by-laws or regulations (e.g., the 2010 Winter Games By-law made by the City of Vancouver); responded to through separate, stand-alone emergency legislation (e.g., Quebec’s 2012 *An Act to enable students to receive instruction from the postsecondary institutions they attend*); or by invoking the riot provisions of the *Criminal Code* (e.g., during the 2011 Vancouver Stanley Cup riot).

Because municipalities fall under provincial and territorial jurisdiction, provincial and territorial emergency statutes determine municipal responsibilities for local emergency management, as well as procedures and limits on the exercising of municipal emergency powers. Municipal responsibilities and powers are at a smaller scale than

those of the province or territory and there is strict oversight from the provincial / territorial government. In some jurisdictions, regional entities can have specific roles and responsibilities in addition to, or instead of, a municipality.

Provincial and territorial legislation allows declarations of states of local emergency, giving a range of emergency powers to local authorities. While emergency powers available to local authorities vary, they are generally limited to streamlining procurement and administrative processes and facilitating access to additional human resources. Despite these limitations, declarations of states of local emergency can also be used to alert other levels of government that response to an emergency situation exceeds the local authority's capacity. Both Ottawa and Windsor made declarations of states of local emergency in connection with the events of January and February 2022.

Indigenous Peoples also exercise laws and jurisdiction over emergencies. How this authority is exercised by Indigenous Peoples and received by Canadian institutions is based on inherent, negotiated, and/or delegated jurisdiction. For example, there are tripartite arrangements specific to emergency management that recognize Indigenous leadership in emergency management in their territories.²⁶

Finally, federal, provincial, and territorial emergency laws do not operate in isolation from one another. Governments often work together to coordinate emergency management. Legislation and other formalized arrangements often describe and authorize interjurisdictional coordination. Even the *Emergencies Act*, with its narrow focus on immediate and time-limited response, anticipates coordination between federal and provincial governments through its consultation requirements.

The primary framework for interjurisdictional coordination is the federal *Emergency Management Act*. It sets out federal powers and responsibilities for emergency management, including providing resources (for example, equipment and personnel) and financial aid to the provinces and territories, when requested. There are also

²⁶ See, for example, Collaborative Emergency Management Agreement between the T̓silhqot̓'in Nation, Canada, and British Columbia (2022).

other mechanisms for interjurisdictional and intrajurisdictional coordination, including policy frameworks, working groups, Disaster Financial Assistance Arrangements, and mutual aid agreements.²⁷ In addition, the *National Defence Act* allows provinces and territories to request public service responses to an emergency from the Canadian Armed Forces and allows them to directly call upon the armed forces for aid.

²⁷ For a review of these, see Jocelyn Stacey’s Commissioned Paper, *Governing Emergencies in an Interjurisdictional Context*, which is found in Volume 5 of this Report.

Chapter 3

Protests, Fundamental Freedoms, and the *Charter*

Protests, Fundamental Freedoms, and the *Charter*

1. Introduction

The ability to protest is a cherished right in liberal democracies, and is constitutionally protected. It empowers individuals to shape the rules by which we choose to govern ourselves, thereby enriching social and political life. Demonstrations sometimes result in public disturbances. Indeed, protests can be significant or effective forms of expression precisely because they are confrontational and disruptive. Governments cannot limit protests just because they are loud and angry or might provoke or enrage others. But, like all constitutional rights, freedom of expression can be restricted when its exercise would result in substantial harm to social or individual interests.

This last point often seems to be forgotten in discussions about fundamental freedoms. During the hearings, I heard testimony from several protesters who said that their activities were lawful because they were engaged in protests, and thus were exercising their rights under the *Charter*. This view, while understandable, is inaccurate. Individuals may exercise their constitutional rights both lawfully and unlawfully. Rules that restrict protests may be constitutional or unconstitutional. The *Charter* provides a robust protection for protest activities. But like all rights in Canada, protest rights are subject to reasonable limits. When the conduct of protesters exceeds such reasonable limits, they may be restricted, or even punished.

In this chapter, I take a moment to consider three fundamental freedoms that support a robust right to protest: freedom of expression, freedom of assembly, and freedom

of association. I begin by describing the values, meaning, and scope of these three fundamental freedoms. In so doing, I identify the array of activities that are protected under the *Charter* as well as some activities, such as violent protest, that the *Charter* does not protect. I then explain how our Constitution allows the government to limit *Charter* rights in some situations, so long as it can prove that those limits are reasonable. By considering which activities the *Charter* protects and when limits may be imposed on those activities, I hope readers of this Report can better assess the nature of the protests in Ottawa and other locations. I deal with the protests themselves in a more detailed manner in Chapters 9 – 18.¹

2. Freedom of expression

Freedom of thought, belief, opinion, and expression is protected under section 2(b) of the *Charter*. For simplicity, I refer to this as “freedom of expression” throughout this Report. Expression is inherent in the very idea of protest, since protests are, by definition, attempts to express grievance, disagreement, or resistance. And because protest is inherently expressive, understanding the scope of freedom of expression is key to understanding the scope of a right to protest. Before discussing the legal contours of freedom of expression, it is important to first address the basic values that underlie the *Charter*’s section 2(b) guarantee.

2.1 Values underlying freedom of expression

We protect freedom of expression to support three main values: truth, democracy, and individual autonomy. Freedom of expression can contribute to the public’s recognition of truth, to the growth of public knowledge, to the operation of a democratic form of government, and to individual self-realization or personal autonomy. The Supreme Court of Canada has said, in a long line of decisions, that freedom of expression is: “an essential feature of Canadian parliamentary democracy”; “one of the fundamental

¹ In preparing this chapter, I was greatly assisted by the Commissioned Papers prepared by Professors Cameron and Moon. These papers can be found in Volume 5 of this Report.

concepts that has formed the basis for the historical development of the political, social and educational institutions of western society”; “the means by which the individual expresses his or her personal identity and sense of individuality”; “the matrix, the indispensable condition, of nearly every other form of freedom”; and an important way of “seeking and attaining truth.”

Underlying the commitment to freedom of expression as a means to pursue these three values is the belief that humans are rational beings capable of evaluating factual and other claims made by others. We presume that public discourse is open to a wide range of competing views that may be assessed by its audience. We believe that “bad” speech should be countered not with censorship but with “good” speech because of our faith in the existence of rational judgment and the availability of competing perspectives. Of course, these assumptions may not always hold and likely never hold perfectly. A range of restrictions on expression, from the prohibition on false advertising to limits on electoral advertising, reflect the reality that the marketplace of ideas can be manipulated or overwhelmed. Rules respecting defamation reflect that some bad speech cannot simply be cured by responding with good speech. Prohibitions against the willful promotion of hatred or incitement to genocide reflect the fact that some expression is wholly inconsistent with the basic values underpinning section 2(b) of the *Charter*.

The line between expression that may be bad, but which should still be protected, and expression that does not deserve protection at all can be difficult to draw and is frequently contested. To better promote the core values of truth, democratic participation, and individual self-fulfillment, the law errs on the side of an expansive view of freedom of expression.

2.2 Meaning and scope of freedom of expression

The guarantee of freedom of expression in section 2(b) protects a person’s right to communicate a message, as long as the method and location of that expression is

compatible with the values of truth, democracy, and self-realization. Activities that convey or attempt to convey a meaning have expressive content and fall within the scope of freedom of expression. An act of expression or communication is characterized by the actor's intention to convey an idea or feeling. When communicating, the speaker wants the audience to recognize that their act is meaningful. The communicative act is successful if the audience recognizes the speaker's intention and can grasp the meaning of the act, but this success is not necessary to protect the communication under section 2(b). It is the attempt to convey meaning, successful or not, which attracts constitutional protection.

This definition of expression is broad. Expression can take on an infinite variety of forms, including the written and spoken word, the arts, and physical gestures. It has even been suggested that, in some circumstances, expression could apply to the act of parking illegally. If someone does this to protest the way in which parking spaces are allocated or to protest some other policy or practice, then the act of illegal parking could be within the scope of section 2(b) because it is intended to convey a message. Other categories of expressive acts protected under section 2(b) include commercial advertising, labour picketing, hate speech, soliciting for the purposes of prostitution, and obscenity and pornography. Even lies are within the scope of section 2(b). In other words, there is protection for expression regardless of the meaning or message sought to be conveyed. It comes as no surprise then that section 2(b) also covers parading and marching.

Clearly, the content of expression rarely falls outside the scope of section 2(b) of the *Charter*. However, violent acts and threats of violence fall outside of the guarantee of freedom of expression. While threats and violence may convey meaning, they are incompatible with the values that section 2(b) seeks to promote, and so are excluded on that basis.

Freedom of expression includes a right to access some public property. Government owns places for citizens' benefit, and so protecting expression in public forums serves

the purposes of the guarantee of free expression. If the public had no right to distribute leaflets or engage in other expressive activity on government-owned property (except with permission), then there would be little opportunity to exercise rights of freedom of expression. Streets, the sides of buses, and airport terminals are all public forums that courts have recognized as attracting protection under section 2(b) of the *Charter*.

However, *Charter* protection of freedom of expression does not mean that all government property must be made available for expressive activities. Communication on property not usually open to the public like prison cells, judges' private chambers, private government offices, and publicly owned broadcasting facilities, does not advance values of democracy, truth, and autonomy that underlie the constitutional protection of freedom of expression. As noted by the Supreme Court in *Committee for the Commonwealth of Canada*:

These are not places of public debate aimed at promoting either the truth or a better understanding of social and political issues. Nor is expression in these places related to the open and welcoming environment essential to maximization of individual fulfillment and human flourishing.²

3. Freedom of assembly

Freedom of peaceful assembly is protected under section 2(c) of the *Charter*, yet it has received little attention from the courts. Unlike freedom of expression, the Supreme Court of Canada has not determined the values, objectives, scope, and limits of freedom of peaceful assembly. Nor has the Supreme Court articulated a legal framework in which to analyze the right's application. Some lower-level courts, however, have recently considered section 2(c) in the context of challenges to gathering rules contained in COVID-19 public health measures.

² *Committee for the Commonwealth of Canada v. Canada*, [1991] 1 S.C.R. 139, p. 241. See also *Montréal (City) v. 2952-1366 Québec Inc.*, 2005 SCC 62, para 76.

Freedom of assembly is listed separately as one of section 2's fundamental freedoms, and is therefore distinct from sections 2(b) and 2(d). Unfortunately, courts have not yet differentiated section 2(c) from other fundamental freedoms. The Supreme Court has addressed questions about expressive activity in public spaces under section 2(b) without considering section 2(c). The relationship between peaceful assembly and freedom of association is also undeveloped. Sections 2(c) and 2(d) both protect collective rights, but the freedom of association case law has focused almost exclusively on labour issues, and its impact and relationship with peaceful assembly has never been explored.

While the law and academic analysis in this area remains relatively undeveloped, it does seem clear that large-scale protests — at least those that are “peaceful” — engage not only freedom of expression but also the freedom of peaceful assembly.

3.1 Values underlying freedom of assembly

As the collective performance of individual expressive activity, freedom of peaceful assembly incorporates and advances values like democracy, truth seeking, and self-realization. A public assembly or gathering can send a message of protest or dissent, forcing the community to pay attention to grievances and become involved in redressing them. Public gatherings can enable disadvantaged and disempowered communities to forge a collective entity and leverage their voice. This engages the *Charter's* democratic aspirations and objectives. The “Occupy Toronto” protests, in which activists occupied a public park for more than a month, serve as an example. To participants in this group, staying in the space was the movement, and it allowed participants to experiment and learn about constructing a fair and equitable society. Those purposes are at the core of section 2(c)'s democratic functions.

Assemblies occur for religious, expressive, or associational purposes, and can be a way to exercise other fundamental freedoms. All of the *Charter's* fundamental freedoms serve core democratic functions and are, to some extent, overlapping. For

example, the right to peaceful assembly protects citizens' right to gather to express views about matters related to the functioning of a free society, so sections 2(b) and 2(c) are closely connected. The values of democracy, truth seeking, and self-realization in section 2(c) align with the underlying values of freedom of expression and the values of collective entitlement and empowerment inherent in freedom of association.

Although it shares values with sections 2(b) and 2(d), the *Charter's* guarantee of peaceful assembly is grounded in its own idea of a freedom that is collective, spatial, and performative in nature. There may also be distinctive value in the assembly itself, as a form of communication.³ A public assembly or gathering incorporates ideas of space and presence or place. The power to gather may be an important political prerogative distinct from the right to say what one wants to say.⁴

3.2 Meaning and scope of freedom of assembly

Section 2(c) protects the collective pursuit of a common purpose by gathering or assembling in public. In other words, section 2(c) protects the act of assembling. The right of peaceful assembly is, by definition, a group activity, as an assembly is a gathering of more than one person.

The wording of section 2(c) says that protected assemblies must be peaceful. Therefore, the meaning of “peaceful” is critical in defining the scope of section 2(c), as any assemblies that are (or become) non-peaceful would fall outside the scope of section 2(c), and the government could limit them without the need to justify such restrictions. As a matter of definition, “peaceful” might simply mean “without violence,” but it could also entail something closer to “quiet” or “calm.” A violent assembly would

³ Thomas Emerson, *The System of Freedom of Expression* (New York, NY: Random House, 1970), p. 286.

⁴ Judith Butler, *Notes Toward a Performative Theory of Assembly* (Cambridge, MA: Harvard University Press, 2015), p. 9.

clearly not fall within section 2(c). The more difficult question is whether an assembly should lose constitutional protection if it is disruptive or unlawful, but not violent.

If democracy, truth seeking, and self-realization underlie section 2(c), then it may be reasonable to protect assemblies that produce an element of disruption. Many public protests are disruptive, and that disruption may be central to their efficacy. This is especially true for groups and communities who are otherwise politically marginalized.⁵ Relevant sources outside of section 2(c) also suggest that at least some disruptive assemblies ought to be given constitutional protection. For example, section 2(b) of the *Charter* applies to all expressive activities except violent ones. The violence threshold is high, meaning that section 2(b) protects expression of ideas that are unpopular, distasteful, or contrary to the mainstream. Protecting disruptive assemblies can serve the same values as protecting offensive speech.

International law, which has a more developed approach to freedom of peaceful assembly, also supports the protection of non-violent disruptive assemblies. Under the *International Covenant on Civil and Political Rights*, “[p]eaceful assemblies can in some cases be inherently or deliberately disruptive and require a significant degree of toleration.”⁶ The Venice Commission, an advisory body of the Council of Europe, has commented that conduct that may annoy or give offence and temporarily hinders, impedes, or obstructs the activities of third parties is within the scope of the freedom.

This is not to say that all non-violent assemblies are constitutionally guaranteed regardless of how disruptive they may be. In some cases, the line between disruption and “non-peaceful” may be blurry. What, for example, about assemblies characterized by seriously harmful, yet non-violent conduct? Would such an assembly still be “peaceful”? These are difficult questions to answer, particularly in the abstract. The important point is that an assembly is not excluded from the scope of section 2(c)

⁵ Tabatha Abu El-Haj, “Defining Peaceably: Policing the Line between Constitutionally Protected Protest and Unlawful Assembly” (2015) 80:1 Mod L Rev 961, p. 980.

⁶ *General Comment No. 37, (2020) on the right of peaceful assembly*, Human Rights Committee, September 17, 2020, CCPR/C/GC/37, para 44.

simply because it is disruptive. Even highly disruptive assemblies could, in principle, further the values that underlie the *Charter's* fundamental freedoms.

Freedom of peaceful assembly remains one of the *Charter's* most under-developed rights. There are many questions of first principle that do not yet have clear legal answers, such as whether section 2(c) extends to virtual spaces, or if it protects activities integral to the assembly, such as mobilizing resources, planning, preparing, and publicizing a gathering and travelling to and from an assembly.⁷ What should be recognized, however, is the important conceptual role that it plays within the *Charter's* fundamental freedom provisions. Just as public protest necessarily engages with freedom of expression, it also necessarily engages with freedom of peaceful assembly.

4. Freedom of association

Section 2(d) of the *Charter* guarantees freedom of association. This guarantee is grounded in empowerment for those who join with others to elevate their voice and exercise power. Like freedom of peaceful assembly, freedom of association is a collective right. Section 2(d) can empower groups whose members' individual voices may otherwise be too easily drowned out. For example, by banding together, vulnerable groups can work to right imbalances, protect marginalized groups, and make possible a more equal society.

Freedom of association protects three categories of activities: (1) the right to join with others and form associations; (2) the right to join with others in the pursuit of other constitutional rights; and (3) the right to join with others to meet on more equal terms

⁷ This is the case for the right of peaceful assembly in the ICCPR: *General Comment No. 37, (2020) on the right of peaceful assembly*, Human Rights Committee, September 17, 2020, CCPR/C/GC/37, para 33. See also the *European Commission for Democracy for Law (Venice Commission) Guidelines on Freedom of Peaceful Assembly*, 3rd ed., CDL-AD (2019) 017rev, para 54 (including the planning, preparation, and publicity in its conception of the right).

the power and strength of other groups or entities. Violent associational activity is not protected by section 2(d).

To date, freedom of association has focused almost exclusively on labour issues, like collective bargaining and the right to strike. How it might apply outside of the labour relations context remains to be seen. In principle, the values inherent in freedom of association — such as the collective pursuit of common goals, the preservation of human worth and dignity, and the maintenance of a free and democratic political system — could be engaged in the context of public protests.

5. Limits on fundamental freedoms

So far, my focus has been on the array of activities that are constitutionally protected under the *Charter*, and on the types of activities that are so unconnected to freedom of expression, assembly, and association as to attract no constitutional protection at all. In essence, most forms of protest activity benefit from *Charter* protection, but some, such as violent expression or communication on property that is not normally open to the public, are not constitutionally protected. At this juncture, I turn to how forms of expression, assembly, and association that are recognized under the *Charter* can sometimes be limited, if the government shows that such a limit is reasonable and justified.

All rights protected by the *Charter* are subject to such reasonable limits as can be demonstrably justified in a free and democratic society. In other words, no rights are absolute. In appropriate cases, the government may enact laws or take action that limits a *Charter* right in order to further some other important goal. Because it has received more attention from the courts, freedom of expression is a useful example. Given that section 2(b) is so broad, there are many examples of rules that have been upheld as reasonable, notwithstanding the fact that they limit freedom of expression.

Section 1 of the *Charter* contains the rule that permits reasonable limits on other *Charter* rights. Determining whether any given limit on a *Charter* right constitutes a “reasonable limit” is done by courts under a framework known as the “*Oakes* test,” named after the first case in which the Supreme Court of Canada applied section 1 of the *Charter*.⁸ The *Oakes* test has four main components. The first step is to determine whether the law’s purpose is substantial and pressing enough to justify limiting a fundamental right or freedom. Steps two and three assess the ways government chose to advance its purpose: The “rational connection” test asks whether the restriction rationally advances the pressing and substantial objective of the law. The “minimal impairment” test asks whether the measure restricts the right no more than is necessary to achieve that objective. The final part of the *Oakes* test considers whether the benefit of the restrictive measure is proportionate to its impairment of the freedom. In making this final assessment, the type of expression at issue can be important. Limits on speech directed at core values such as political discourse are generally more difficult to justify than limits on more marginal forms of expression that are not connected to section 2’s underlying values. However, while political protests engage the core of protected expression, government measures may still justifiably limit them.

Concretely, some of the ways in which the Legislature may limit freedom of expression in response to demonstrations and protest camps include dispersal as well as time, place, and manner restrictions. The government legally dispersed “Occupy Toronto” protesters in 2011 when it evicted activists who had been protesting perceived economic injustices by occupying a public park for more than a month. As for time, place, and manner restrictions, examples include confining protests to designated protest spaces or “free speech zones.” This happened during a series of street demonstrations by Quebec students in 2011 – 12, styled the “Maple Spring,” that led to legislation placing significant restrictions on the demonstrations. Among other things, Quebec’s *An Act to enable students to receive instruction from the postsecondary*

⁸ *R. v. Oakes*, [1986] 1 S.C.R. 103.

institutions they attend required organizers to give notice to the police, at least eight hours in advance, of any assemblies involving 50 or more participants. It also provided that police could require a change of venue for those assemblies on the grounds of public safety, and in those cases, organizers were required to submit a new venue to police. Another example of time, place, and manner restrictions are laws establishing bubble or buffer zones around abortion clinics and related premises.

Despite the differences in methods, in each of the examples mentioned previously in this chapter, courts upheld the government actions as a reasonable limit on free expression. That does not mean that measures such as these will always be justified. Each of those cases was decided based on their own facts; in different circumstances, the same government conduct could have been found to be an unreasonable — and therefore unconstitutional — limit on free expression. The balancing exercise required under the *Oakes* test can be highly contextual. Restrictions on free expression must always be assessed in light of their own facts. The point is simply that, while protected, political protest can still be restricted. Protesters who are expressing themselves, even peacefully, may still be restricted, so long as the restriction in question constitutes a reasonable limit on section 2 of the *Charter*.

6. Fundamental freedoms and fundraising

Before concluding this chapter on protests and fundamental freedoms, I wish to address the interaction between fundraising and *Charter* rights. During the Inquiry, I heard a great deal of evidence on how individuals chose to participate in protests in Ottawa and other locations throughout Canada. Many people travelled to the nation's capital to protest. Some of them travelled great distances. Others, however, participated in the convoy movement in more symbolic ways, including through social media and, notably, through making donations. Tens of thousands of individuals signalled their support for the protesters by donating money to their cause in person and online. I discuss these fundraisers in detail in Chapter 13. For the purpose of this discussion, it is important to recognize that the individuals who lent their support to the

protests through making donations were also engaged in the exercise of fundamental freedoms.

Spending or raising money to support social, political, and other causes engages both freedom of expression and freedom of association. Freedom of expression includes the right to employ any methods necessary for communication. This includes the donation and spending of money in support of expression. The public act of providing financial assistance to a cause may in and of itself convey meaning to others, such as support for a political position, or solidarity with a social movement. The expenditure of money is often done privately, not directed at any audience, and is therefore not typically considered an act of expression. It is, however, often necessary to provide for effective expression by others. Rules that restrict or limit individuals' ability to spend money on things like referenda or elections have been held to infringe freedom of expression.

Freedom of association also includes the right to donate to and support organizations. Restrictions on the freedom to donate to, or fundraise for, certain objectives violate section 2(d) because they prohibit individuals from engaging in associational activities to join with and support others.

These legal principles reflect the simple reality that expression can sometimes be expensive. Measures that target the financial resources to engage in protest can interfere with expression and associational rights just as severely as measures that target protests themselves. In thinking about the economic tools used by the Government to respond to the Ottawa protests, I do not want to lose sight of this reality.

Chapter 4

Policing Public Protests



Policing Public Protests

1. Introduction

In Chapter 3, I discuss how freedom of expression, assembly, and association apply to protests and how section 1 of the *Charter* allows governments to limit these freedoms in some circumstances. As I explain in that chapter, fundamental freedoms and reasonable limits on those freedoms are both part of Canada's Constitution. In this chapter, I discuss the application of constitutional limits to protest activities in more concrete terms by reviewing the various legal tools that exist to regulate or restrict protests.

Occasionally, witnesses at the hearings appeared to associate unlawful activity with arrests. They saw the absence of arrests or coercive police action as an indication that protesters were acting lawfully. The absence of arrests during a protest might reflect that the protest is lawful, but this is not necessarily so. The limits that exist with respect to public protests are enforced by a complex web of written and unwritten laws. The actors involved in policing these rules include the police, but also a range of other public and private entities. For example, property owners who obtain injunctions and private security who provide enforcement can play a role in managing protests. When police act in managing protests, their decision not to use coercive action may be motivated by factors ranging from available resources to plans for building long-term trust with protesters. As I develop a common framework for my substantive review of the Federal Government's use of the *Emergencies Act*, it is important to understand both the vital protections the *Charter* provides but also the legal tools that

exist to enforce reasonable limits on rights to assembly, expression, and association. Therefore, in this chapter, I discuss how public protests can be policed.¹

2. Policing powers

Police are almost always involved in the management of public protests, and this management can take many forms. In some cases, protesters work collaboratively with the police to manage parade routes and protest sites. Police may even be involved in planning aspects of public events with protest organizers. Other times, police respond reactively. During protests themselves, police can play a variety of roles, including traffic manager, negotiator, and public relations professional, as well as security guard for protesters, their targets, and members of the public alike. Police may also act to restrict protests, or even shut them down. The evidence that the Commission heard about police liaison teams, public order units, and critical incident response frameworks showed that the relationships between protesters and police can be varied and complex.

The police frequently use soft engagement tools to manage protests, such as talking to protesters and members of the public. Other times, the police invoke a range of coercive powers to control or end protests. My discussion here is concerned with the latter: legal authorities available to the police outside of the *Emergencies Act* that can be used to limit protests. Foremost among these are powers under criminal and regulatory law. These powers allow police to manage gatherings that unlawfully interfere with people or property or threaten to do so. I will use the term “public order disturbance” to describe this kind of protest.

¹ I am indebted to the Commissioned Papers provided by Professors Penney, Fehr, and Rigakos which helped to inform this chapter. These papers can be found in Volume 5 of this Report.

2.1 Criminal law

Police may manage public order disturbances by enforcing the *Criminal Code*. Maintaining public peace and order is a significant component of the criminal law. Many tactics that protesters can use to express their views can also constitute a crime. One of the most common offences that occurs during protests is simple mischief. Mischief occurs when a person obstructs, interrupts, or interferes with the lawful use of property. Protests are often designed to be disruptive, and when the disruption extends to the ability of a person to use property, it can constitute a crime.

Protests that become violent inevitably involve some form of criminal conduct, such as assault. Protests that are done in violation of an injunction — a topic I discuss later in this chapter — may constitute the crime of disobeying a court order under the *Criminal Code* or criminal contempt of court at common law. Other offences that might be committed during a protest include common nuisance, taking part in a riot, failing to disperse when the “riot act” is read, intimidation, causing a disturbance, and unlawful assembly. All of these offences capture not only the protesters engaged in the prohibited activities, but also anyone who aids, abets, or counsels another person to engage in the prohibited activities.²

When faced with criminal conduct, police have a range of powers to apprehend suspects and prevent further crimes from being committed. The most obvious power that police have in this respect is the ability of arrest. Police officers may arrest anyone they find committing a crime. They can also arrest anyone who they have reasonable grounds to believe has committed an “indictable offence,” whether or not they see the crime being committed. Indictable offences are the more serious of two categories of crimes in Canada and include many of the offences described earlier in this chapter, including mischief.

² For a detailed discussion of the requirements and scope of these offences, see Steven Penney and Colton Fehr’s Commissioned Paper, *Police Powers and Public Order Disturbances* in Volume 5.

Given the breadth of this arrest power, it may be surprising to some that even seriously disruptive protests in Canada seldom end with mass arrests. This is largely because police have significant discretion on whether to use these powers, including their discretion not to lay charges even when they observe criminal conduct. They may choose instead to issue an informal warning and take no further action. Even when police do want to lay criminal charges, they have a range of options that do not involve arrest, including forms and orders such as appearance notices, undertakings to appear in court, or court summonses to ensure that a person goes to court. Finally, even when police do arrest a person, they have a range of options regarding how the person is released.

In practice, then, the police have a flexible arrest power that can be exercised to manage protests that involve the commission of crimes. The police also have a power to arrest that does not require that criminal charges be laid. This is known as arrest for breaching the peace. A breach of the peace involves a level of violence and a risk of harm and excludes behaviour that is merely annoying, disruptive, or unruly. If a police officer witnesses a breach of the peace, they may arrest those involved as well as any person they reasonably believe is about to join in. This power is notable because it does not require the police to lay any criminal charges against the person arrested; it allows police to remove the person from what could be a violent or harmful situation.

In addition to their *Criminal Code* powers, police also have certain common law “ancillary powers” to maintain public order. Courts recognize these unwritten ancillary police powers where they are “necessary for the carrying out of the particular police duty and ... reasonable, having regard to the nature of the liberty interfered with and the importance of the public purpose served by the interference.”³ Examples of police powers that have been authorized under this doctrine include limiting access to small areas that are normally open to the public and erecting a security exclusion zone

³ *Dedman v. The Queen*, [1985] 2 S.C.R. 2, p. 35. See also *R. v. Mann*, 2004 SCC 52, paras 24 – 26; *R. v. MacDonald*, 2014 SCC 3, paras 33 – 40.

for an intergovernmental conference. However, in recent years, courts have been reluctant to recognize ancillary police powers in public disturbance cases.

Over the course of the public hearings, one of the topics discussed was the authority of the police to create a large exclusion zone in downtown Ottawa in order to keep protesters from arriving. While at least some police officials believed that they had such an authority at common law, it is fair to say that the full extent of that authority was uncertain. In the paper he wrote for the Commission, titled *The Policing of Large-Scale Protests in Canada: Why Canada Needs a Public Order Police Act*, Professor Robert Diab suggests that, in most cases, police have no clear legal authority in Canada to create large exclusion zones where they regulate the entry of vehicles and pedestrians. I will consider the issue of police powers later in this Report. At this point, it is sufficient to note that the existence and extent of police common law powers can be uncertain, including as they apply to the policing of large protests.

2.2 Regulatory law

The criminal law is not the only tool that police can use to manage protests. A range of provincial regulatory laws and municipal by-laws can give police the authority to control traffic, close roads, and remove vehicles in order to control public order disturbances. These statutes can also give the police arrest powers, though the scope of this authority varies considerably between jurisdictions. While some provinces have given police broad powers to arrest people committing offences under these laws, most provinces permit arrest for only specific offences.

Provincial traffic safety statutes give police extensive powers to direct the movement of vehicles and control access to roads, including during public order disturbances. Municipalities also have extensive powers to direct traffic, close roads, prohibit parking, and control access to public areas. The City of Ottawa, for example, has by-laws regulating parking, limiting pedestrian access to roadways, prohibiting excessive noise, and permitting the removal of unlawfully parked vehicles.

Provincial traffic statutes and municipal by-laws usually create offences and impose administrative penalties for breaking their rules. Police can use these ticketing offences to dissuade people from unlawful conduct during protests. In some cases, police may go further and arrest individuals for violations of provincial and municipal laws. In Manitoba and Quebec, police can, in certain circumstances, arrest a person committing any provincial offence. In most provinces however, the power of arrest is limited to only certain (usually more serious) offences.

2.3 Emergency management powers

As I discuss in Chapter 2, all provinces and territories have legislation authorizing governments to give police and other officials additional powers during an emergency. These powers can also be used to respond to public order disturbances, although, as I noted in Chapter 2, this had not been done in Canada until February 2022.

On February 11, 2022, Ontario declared an emergency under its *Emergency Management and Civil Protection Act (EMCPA)*, a topic I address in more detail later in this Report. The *EMCPA* allows the Government to create and oversee an exclusion zone of any size. In February 2022, this was not done; instead, the Government prohibited people from impeding access to “critical infrastructure,” including hospitals, ports, and major highways. It also allowed police to order a person to remove their vehicle, or to suspend or cancel an Ontario licence or vehicle permit of any person impeding a road.

While rarely used, emergency management statutes grant the government broad and flexible tools to manage or prohibit protests that are sufficiently serious to reach the level of an “emergency.”

2.4 Special purpose legislation

A more recent phenomenon in Canada is the enactment of legislation that gives police additional authorities to deal with particular types of public order disturbances. For

example, following the events of February 2022, Ontario enacted legislation that gave police the power to arrest people without a warrant for certain types of interference with “protected transportation infrastructure” such as bridges and airports.⁴ Since 2020, Alberta has had similar legislation that applies more broadly to include pipelines, industrial plants, mines, telecommunications and electrical transmission lines, railways, and highways.⁵ British Columbia has legislation ensuring access to critical infrastructure relating to COVID-19, which is currently set to expire on July 1, 2023.⁶ Much like the breach of the peace arrest power discussed earlier in this chapter, a violation of the British Columbia statute is not an offence, but the police have the authority to arrest anyone believed, on reasonable and probable grounds, to be violating these rules.

3. Other legal tools

Police are not the only actors with legal powers to prevent, manage, or end public protests. Both the military and the courts can also play a role in policing protests. Beyond governments, members of the public can also regulate protest activities through the exercise of property rights, the use of private security, and civil injunctions.

3.1 Military aid

Both provincial and federal governments can call on the military to assist with disturbances that are beyond the police’s capacity to deal with alone. Under the *National Defence Act*’s “Aid of the Civil Power” provisions, provincial attorneys general can requisition the military to suppress a current or anticipated “riot or disturbance of the peace” that is “beyond the powers of the civil authorities to suppress, prevent or deal with.”⁷ When asked, the Chief of Defence staff must “call out such part of

⁴ *Keeping Ontario Open for Business Act, 2022*, S.O. 2022, c. 10.

⁵ *Critical Infrastructure Defence Act*, S.A. 2020, c. C-32.7.

⁶ *Access to Services (COVID-19) Act*, S.B.C. 2021, c. 33, s. 7.

⁷ *National Defence Act*, R.S.C. 1985, c. N-5, s. 275. See also ss. 274 and 276 – 285.

the Canadian Forces” as they consider necessary to suppress or prevent the riot or disturbance.⁸ Soldiers called on to perform this role are automatically designated “constables” and may exercise the powers of peace officers under the *Criminal Code* and other statutes.⁹ The Federal Government can also authorize Canadian Armed Forces (CAF) to help with any law enforcement matter when the Government considers that the assistance is in the national interest and the matter cannot be effectively addressed without CAF assistance.¹⁰ This latter provision does not give soldiers peace officer status.

While the aid to civil power has existed in some form since Confederation, it has only been used sparingly since World War II. When called in during the 1970 October Crisis and 1990 Oka Crisis, soldiers did little direct law enforcement. They mostly provided security and logistical support to local police forces. This is consistent with policy dictating that military called out in aid of the civil power do not replace the civil authorities but help them to maintain law and order. Indeed, it is important to be very clear that using soldiers for civilian law enforcement is an extreme measure and should never be done lightly. Soldiers are not generally trained to police. They are trained to kill. The use of such a force to address police domestic disturbances would always be a grave matter.

3.2 Civil injunctions

Governments and private individuals may each seek the assistance of courts to manage protest activities by seeking an injunction. An injunction is a court order that requires a person or a group to either do, or refrain from doing, things set out in the

⁸ *National Defence Act*, R.S.C. 1985, c. N-5, s. 278. In performing this role, the chief is “subject to such directions as the Minister considers appropriate in the circumstances” and must consult with both the requisitioning attorney general and that of “any other province that may be affected.”

⁹ *National Defence Act*, R.S.C. 1985, c. N-5, s. 282; *Criminal Code*, s. 2(g) definition of “peace officer.” Forces personnel acting in this capacity remain subject, however, to the military chain of command.

¹⁰ *National Defence Act*, R.S.C. 1985, c. N-5, s. 273.6(2).

order. They are frequently used by private individuals and organizations to respond to protests. Canadian labour history is replete with examples of employers obtaining injunctions to prohibit workers from picketing. There are also many examples of anti-protest injunctions being issued outside of the labour context. For example, in 2018, Coastal GasLink Pipeline Ltd. obtained an injunction restraining Wet’suwet’en protesters from blockading a forest service road. After the injunction was granted, another group of individuals set up a new blockade at a nearby site, and the injunction order was revised to expand its area to include this blockade.

Government may also obtain injunctions in response to protests. The events that took place in Windsor, Ontario, which I discuss in Chapter 10, provide an example of both public and private actors seeking injunctions against protesters. An injunction to clear the blockade of the Ambassador Bridge was first sought by the Automotive Parts Manufacturers’ Association, a private trade group. Subsequently, they were joined by the City of Windsor, which sought an injunction to enforce its own municipal by-laws. As I discussed earlier in this chapter, when protesters do not obey the terms of an injunction, police can arrest them for criminal contempt of court.

3.3 Private powers

Private individuals and organizations can play an important role in the regulation of protests. Perhaps the most obvious way is through the enforcement of their property rights. While I have used the phrase “public protests” throughout this chapter, many protests take place on property that is privately owned. There are thousands of parks, squares, and plazas that fall into the category of “privately owned public spaces” — locations that are commonly used by members of the public, but which are, in fact, privately owned. In 2011, the Occupy Wall Street protests began in New York City and brought protesters together to express their grievances about perceived economic injustices. The protests began in Zuccotti Park, a Manhattan park controlled not by the City of New York, but by Brookfield Properties and Goldman Sachs.

Owners of private property generally have the right to decide who they allow on their property, and who they wish to exclude. Trespass to property statutes across Canada reinforce the power of property owners to eject or exclude individuals from their property, including those who may be protesting or otherwise exercising their constitutional rights. It is important to recall that the *Charter* rights I discuss in Chapter 3 only protect individuals from actions by the government. A private landowner has no duty to respect an occupant's constitutional rights to assemble, associate, or express themselves.

The private sector has both legal tools to regulate protests, as well as law enforcement in the form of private security companies. Starting in the 1960s, the private security sector in Canada expanded in both size and responsibility, with private guards patrolling large swaths of urban and commercial settings and providing security for key infrastructure and mega-events. Since this time, the number of private security personnel in Canada relative to public police officers has been consistently higher.

Over the last 50 years, the private sector has become increasingly important in the everyday policing of citizens and has become more intertwined with the public police. For example, during the 2010 Toronto G20 Summit, private security worked with military, provincial, federal, and other Canadian security entities to provide security to that international summit. During that time, the Royal Canadian Mounted Police (RCMP) carried out the largest police and intelligence operation in Canadian history through the use of their Integrated Security Unit (ISU) and Joint Intelligence Group (JIG) (collectively, ISU-JIG). The ISU-JIG mobilized an extensive policing network of 26 police departments, several military and state intelligence units, and more than 100 corporate and government agencies. The JIG established hundreds of points of contact with law enforcement agencies; federal, provincial, and municipal government departments; and corporate security sections. The ISU-JIG invited the private security sector to its "war room" for integrative command. Private security was therefore enmeshed with both the military, provincial, federal, and Canadian security

establishment and formed part of the response to the large-scale protests that took place during the summit.

4. Policing public protests and the exercise of discretion

Whether and how to reasonably limit fundamental freedoms is at the heart of policing public protests. As outlined earlier in this chapter, no one actor decides how to manage public order disturbances. Governments, police, and even private entities can shape the environment in which protests take place. Moreover, each actor has a range of tools at their disposal. In the final portion of this chapter, I discuss two factors that influence how police may address a given public order disturbance: their degree of independence relative to elected officials, and the methods at their disposal.

4.1 Relationship between police and government

The choices police make to manage a protest may differ from the choices elected officials would make. While governments decide important questions about policing, their control over police is not absolute. This is important. If a government has too much control over the police, there is a risk that the law will not be applied impartially. If a government has too little control over the police, there is a risk that the police will become self-governing. As a result, police need to be accountable to democratic institutions, while still making many decisions independently of government. This latitude is often referred to as “operational independence.”

The contours of operational independence remain vague. They are also a source of debate. Some commissions of inquiry and academic commentators have criticized

operational independence as unclear, unmanageable, and even undemocratic.¹¹ Ensuring that police are accountable to the public without being unduly influenced by political pressures is a delicate exercise.

At this juncture, I find it sufficient to note that core law enforcement decisions such as whether to investigate, charge, or arrest someone belong to the police. That aspect of operational independence is clear from judicial decisions and statutes.

In terms of judicial decisions, the Supreme Court of Canada has long held that “[t]he detection and arrest of offenders, the preservation of the public peace, the enforcement of the laws, and other similar powers and duties with which police officers and constables are entrusted are derived from the law” rather than the political bodies responsible for their appointment.¹² More recently, the Court held that police officers investigating a crime are “not acting as a government functionary or as an agent of anybody.”¹³ In making these findings, the Supreme Court related police independence from the Executive Branch to the constitutional principle of the rule of law. The rule of law means, among other things, that the law applies equally to all. It would be compromised if the government had the power to direct the police to investigate or charge (or not to investigate or charge) specific persons.

In terms of legislation, many provincial statutes place restrictions on the directions that police boards — which are composed of elected officials and government appointees — can give to local police. For example, Ontario’s *Police Services Act* says that the board cannot “direct the chief of police with respect to specific operational decisions

¹¹ See e.g., Kent Roach “The Overview: Four Models of Police-Government Relations” in Margaret Beare and Tonita Murray eds. *Police and Government Relations* (Toronto: University of Toronto Press, 2007), pp. 75 and 76; Lorne Sossin “The Oversight of Executive-Police Relation in Canada” in M. Beare and T. Murray eds. *Police and Government Relations* (Toronto: University of Toronto Press, 2007), p.122; Alan Borovoy “Commentary” in M. Beare and T. Murray eds. *Police and Government Relations* (Toronto: University of Toronto Press, 2007), pp. 128 – 131; Kent Roach *Canadian Policing: Why and How It Must Change* (Toronto: Delve Books, 2022), c. 5.

¹² *McCleave v. City of Moncton* (1902), 32 S.C.R. 106, pp. 108 and 109.

¹³ *R. v. Campbell*, [1999] 1 S.C.R. 565, para 27.

or with respect to the day-to-day operation of the police force.”¹⁴ On the other hand, democratic accountability and oversight requires some transparency by police and open lines of communication with elected officials. Best practices for information sharing and interactions between police and their boards can be a complicated subject, and one to which I return later in this Report. For now, what I wish to convey is that police have relatively broad discretion to choose how they respond to public order disturbances.

4.2 Police responses to public order disturbances

The discretion police enjoy in managing public order disturbances trickles down from Senior Command to individual officers. The Commission heard evidence about a range of policing models employed by different police forces, including the Ottawa Police Service, the Ontario Provincial Police, and the RCMP. In general, Senior Command provides direction regarding an operation, including about its purpose, limitations, conditions, and expected conclusion. Incident commanders — the officers assigned to manage individual major incidents — make further decisions. They develop responsive strategies and implement appropriate plans for the incidents to which they are assigned. At the front-line level, each officer also exercises a degree of discretion in performing their duties.

The decisions an incident commander makes are conditioned by the tools they have at their disposal. Police witnesses before the Commission described incident commanders as operating within a “command triangle.” The incident commander is positioned at the tip of the triangle, with liaison and public order teams on either side. Broadly speaking, liaison teams negotiate with protesters and advise the incident commander about negotiation options. Public order units prepare and advise about tactical responses.

¹⁴ *Police Services Act*, R.S.O. 1999, c. P.15, s. 31(4).

Even when arrests or tactical operations are legally justified, incident commanders will often choose to rely on liaison teams to negotiate with protesters. There are several reasons for this. By engaging with protesters, liaison teams attempt to maintain open lines of communication and develop a relationship of trust. When police understand protesters' goals, they may be able to facilitate a safe and lawful environment where protesters can exercise their freedom of expression and assembly. Through education, police may reduce or eliminate unlawful conduct. In some instances, they may facilitate an end to the protest or reduce the size of its footprint. The benefits of building a trusting relationship and establishing connections with influential individuals can also extend beyond the incident at hand. Relying on liaison teams instead of proceeding with arrests can help maintain post-event lines of communication with stakeholders. In fact, police witnesses who testified before the Commission explained that they prioritize the use of liaison teams over public order units, when possible.

Front-line officers who observe criminality during a protest may also rely on their discretion not to arrest or forcefully engage with protesters. Aside from wanting to foster trust between police and protesters, an officer may find that the risk of intervening outweighs the benefits. That might be the case where an officer observes a property offence that does not put anyone's safety at risk and where intervening may provoke a violent response from the perpetrator or their supporters. Officers may be particularly disinclined to arrest someone in a crowd when they feel charges can be laid later, in a less volatile environment.

In essence, police have many methods for managing public order disturbances beyond arrests and use of force. Even when police observe criminality, de-escalation and the exercise of fundamental freedoms may be better served through techniques such as negotiating the form and location of protest activities.

Chapter 5

The Origins of the Freedom Convoy Movement



The Origins of the Freedom Convoy Movement

1. Social cleavages, populism, and the Freedom Convoy

Understanding the origins of the Freedom Convoy movement is a difficult and complex task. On the surface, the causes of the protests appear to be a direct response to COVID-19 public health measures and changes made in early 2022 to Canada's border measures, which had impacted unvaccinated commercial truckers. Many of the protesters in Ottawa and at other locations throughout the country expressed their reasons for protesting in exactly those terms. However, protests against public health measures did not emerge in a vacuum in 2022. Underlying the specific concerns about quarantine rules and vaccine passports were broader grievances about the Federal Government and the state of Canadian society. Nowhere could this be seen more clearly than in the use of "Freedom" as a rallying cry on the streets of Ottawa.

In order to better understand the deeper social trends that influenced the emergence of the Freedom Convoy movement, the Commission had a series of research papers on social cleavages in Canada produced. These papers, which are included in Volume 5 of this Report, examine the Freedom Convoy movement through a variety of lenses. They do not purport to be a comprehensive account of the complex political and social forces that created the Freedom Convoy, but they did help in setting out broad trends for the context in which this movement emerged. While each paper provides its own distinct commentary, they all note a growing polarization within Canadian society, caused by trends that were reflected in the emergence of the Freedom Convoy.

One way in which these trends can be understood is by reference to populism. The 2010s saw the emergence of a new wave of populist sentiment in many parts of the world, and Canada was no exception. These sentiments are characterized by the view that political and social elites govern solely for their own self-benefit, at the expense of ordinary citizens. Disenfranchised by the political establishment, these groups demand that government return to governing on behalf of, and in the interests of, the people (however contested a concept that might be). People with this view saw public health measures, which often imposed real consequences on the lives and livelihoods of Canadians, as a particularly forceful example of a political elite ignoring the rights and interests of the general public.

There is no one reason why populist frameworks have become more prevalent in Canada over the last decade. The emergence of social movements is often complex. However, it seems clear that there are at least three broad trends that help to describe the emergence of this line of political thought: economic marginalization, social anxiety, and distrust in political institutions.

Economic marginalization has contributed to growing populist sentiment around the world, with the economic crisis of 2008 frequently cited as pivotal. That crisis was caused by what many perceived to be a rigged financial system, fixed in favour of an economic elite. When it collapsed under its own weight, political elites bailed out the rich, while ordinary people lost their jobs, pensions, and homes. Canadians also felt the impacts of this global financial crisis. Equally important in Canada, however, were events in 2015 which added to economic anxieties, particularly in the West. Dropping oil prices presented a stark economic challenge to working people, especially in Alberta. This was combined with new environmental policies from the Federal Government that were viewed as hostile to the oil and gas industry. Rather than a force for support, many viewed the Federal Government as actively contributing to the economic anxieties of Western Canada.

In addition, social anxieties played an important role in the rise of populism in Canada. While the country has grown more cosmopolitan over the last decade, polling data shows that a significant segment of the population is skeptical of these trends. For example, while most Canadians have favourable views toward immigration, some view high levels of immigration as not only an economic threat, but also a social one that challenges a particular sense of Canadian identity.¹ Growing social anxieties in the nation are not limited to views on immigration, and indeed often manifest in ways unconnected to race, religion, or ethnicity. What unifies these social anxieties are increasingly inflexible views of who is “us” and who is “them,” and concerns that “they” represent a challenge to the core values and identity of “us.” In the same way that economic elites are viewed as a threat to the working class, elites in the Toronto – Montreal corridor can be seen as a threat to regional or rural identities and ways of life. Because “they” are a source of threat, social anxieties cause individuals to perceive people from outside of their community with greater hostility.

Finally, the 2010s have also seen a dramatic erosion in some people’s confidence in public institutions. Perhaps most troubling is the increasing lack of confidence in electoral politics itself. Democracy is predicated on “losers’ consent,” in which those who do not agree with the decisions of government still accept them as legitimate because they are the product of a fair democratic process. It is easy to see why individuals who do not view elections as free and fair would withhold such consent. Where people question the very legitimacy of the existing political system, there is real reason to channel their grievances through means outside of traditional electoral politics.

All of these dynamics, which help to define contemporary populist tendencies, could be observed in action during the Freedom Convoy. COVID-19 measures, for example, were seen as rules imposed by a political elite that inflicted terrible economic harm

¹ See Frank Graves’ Commissioned Paper, *Understanding the Freedom Movement: Causes, Consequences, and Potential Responses*, pp. 13-12 and 13-19, which is found in Volume 5 of this Report.

on working people. The lack of confidence in public institutions, such as public health officials, led many to question the value of these measures. Political discourse was increasingly hostile. The politicians and public health officials who imposed these rules were not to be merely criticized and disagreed with. For some vocal opponents, they were enemies to be imprisoned or worse. Empirical research helps to demonstrate that there was a connection between supporters of the Freedom Convoy and these underlying social and political trends. For example, in one research poll, 70% of Freedom Convoy supporters agreed that “people like me are falling behind in society,” compared with less than 50% of non-supporters. Fifty-six percent of convoy supporters believed that the 2021 federal election was conducted unfairly.²

The emergence of the COVID-19 pandemic did not create these trends in Canada. They had existed for some time. Instead, it provided a situation where they could manifest more clearly. Public health measures provided an effective opportunity for groups to air their deeper grievances about economic status, social place, and distrust in government. This does not mean that sentiments about mask mandates or vaccine passports were not genuine. They were. What is important to understand is that those sentiments did not exist in isolation. Rather, they represented a particularly forceful manifestation of the deeper trends that had been impacting Canadian society for years.

2. Social media, social movements, and the problems of misinformation and disinformation

One thing that became clear from the evidence I heard during the Inquiry was the critical role social media played in shaping the Freedom Convoy movement. Facebook, Twitter, and numerous other platforms were the tools by which organizers met, coordinated, and connected with participants. During the protests, social media was

² See Jared J. Wesley’s Commissioned Paper, *Alberta Separatism and the Freedom Convoy: A New Brand of Western Alienation*, p. 11-23, which is found in Volume 5 of this Report.

highly influential in how the protests were viewed by others in Canada and around the world. I heard evidence of key events during the protests when social media played a decisive role, like when livestreams of RCMP enforcement actions in Coutts, Alberta caused other protesters in Milk River to head south and join the protesters in Coutts who were blockading the road.

It should not come as any surprise that social media plays an important role today in the organization and mobilization of protest movements. Social media is a powerful tool that allows individuals to connect with one another and share ideas, beliefs, and plans. Organization that in decades past could require months of work can be done today in a matter of days. Collective actions can occur at a much larger scale and with increased degrees of coordination.

But social media also presents its own challenges. It is ultimately a tool, and like all tools, it can be used constructively or destructively. Social media amplifies the voices and power of heroes and villains alike. It allows for protesters to coordinate more effectively, regardless of their cause or intent. However, there are also ways in which social media generates unique challenges not only for protests, but for society at large. In a paper prepared for the Commission, Professor Emily Laidlaw discusses the phenomenon of misinformation, disinformation, and malinformation, and how social media operates to permit hate speech, propaganda, conspiracy theories, and lies to spread further, faster, and cheaper than ever before.

This aspect of social media came up throughout the Inquiry: false beliefs that COVID-19 vaccines manipulate a person's genes, social media feeds rife with homophobic or racist content, and inaccurate reporting of important events all featured in the evidence before me. Other times, it played an important role in key events being examined by the Commission, such as when Benjamin Dichter, one of the convoy's spokespersons, used Tamara Lich's Twitter account to incorrectly claim that a recently negotiated agreement with the City of Ottawa to move trucks off residential streets was "fake news."

The influence of misinformation and disinformation on social media is a complicated topic, and the role that it played in the protests is itself complicated. In an expert report prepared for the Commission, Professor Ahmed Al-Rawi conducted an extensive review of social media posts made during the protests.³ His analysis showed a wide degree of variability in how different social media platforms were used. Facebook and Instagram were largely pro-convoy platforms, while Twitter was home to many opponents of the protesters. Misinformation was limited on “mainstream” platforms but was much more prevalent on alternative platforms like Telegram.

Similarly, the role of disinformation and foreign actors was perhaps more complicated than it would have appeared at first glance. Evidence from the Government of Canada indicated that there was no evidence of foreign disinformation campaigns related to the convoy itself. However, as Associate Deputy Minister of Foreign Affairs Cindy Termorshuizen testified, these events “did not happen in a vacuum.” Foreign-based disinformation campaigns on social media have been a persistent threat throughout the liberal democratic world for some time now. During the COVID-19 pandemic, for example, foreign state actors had significant success spreading false information about COVID-19, public health measures, and vaccines as a means to sow mistrust in democratic governments. As Ms. Termorshuizen testified, “some analysts have suggested that there really wasn’t much of a need for foreign state actors to engage significantly in the convoy information environment because there was already such a high level of disinformation surrounding it.”⁴

Evidence from many of the convoy organizers and participants demonstrated a range of views that I have no difficulty characterizing as being based on misinformation. Some related to matters that were directly at issue in the protests themselves. Both Chris Barber, one of the main organizers of the Freedom Convoy, and Mr. Dichter testified that they believed that the United States of America only decided to impose

³ Ahmed Al-Rawi, *An Empirical Assessment of the Convoy Protest on Six Online Sites*, COM00000864.

⁴ Evidence of Cindy Termorshuizen, Transcript, Vol. 22, pp. 284 – 287.

vaccination requirements for truckers after Canada had already done so. Brigitte Belton, another of the original convoy organizers, testified that she thought the United States had dropped its vaccination requirements by the time of the convoy. None of these beliefs were true.

Other witnesses expressed more clearly conspiratorial views. James Bauder and Patrick King, both of whom I discuss later in this chapter and more extensively in Chapter 6, provided many examples of this type of misinformation. Mr. Bauder testified that mRNA vaccines alter people’s genes, that the 2020 United States presidential election was rigged, and that an international declaration on ethical principles for medical research involving human subjects authorizes the Senate of Canada to override domestic law in certain circumstances. Mr. King testified to his apparent belief that the Government of Canada had “implement[ed]” the presence of Chinese soldiers in Canada, and that the former president of Iran had plans to “breed...out” the “Anglo Saxon race,” then “flood” the borders of western countries “with immigrants.”⁵ Both Mr. King and Mr. Bauder were very active on social media and had significant followings.

While there remain many complexities in the evidence, what is clear is that social media played an important role in the events of January and February 2022, as it is likely to play an important role in future protests. Understanding how these digital platforms work to organize, inspire, inform, and mislead is a necessary part in understanding protests themselves.

3. Predecessor convoys: 2018 – 2019

The use of a trucker convoy as a means of protest was not new in 2022. The particular tactics of the Freedom Convoy — using collections of large vehicles to “slow roll” or disrupt traffic — were employed in a range of other protests that reflected the

⁵ Evidence of Patrick King, Transcript, Vol. 15, pp. 237 and 246.

economic, social, and political anxieties discussed earlier in this chapter. For example, on December 16, 2018, a convoy of some 600 trucks drove through Grande Prairie, Alberta to raise awareness of the difficulties truckers in Alberta’s energy industry were facing. On December 19, 2018, the group “Truckers for Pipelines” organized a 22-km-long convoy of trucks to Nisku, Alberta to protest the lack of progress in pipeline development. Protesters spoke to the media about the importance of developing these energy projects to support themselves and their families. December 2018 was also the starting point for another convoy that shared striking similarities with the Freedom Convoy, including targeting Ottawa, using crowdfunding and, notably, involving at least one Freedom Convoy organizer.

In December 2018, a group of individuals in Alberta created a Facebook group called “Yellow Vests Canada” and started planning the “Yellow Vest (Official) Convoy to Ottawa.” They intended to protest, among other things, the Federal Government’s carbon pricing legislation and proposed changes to the federal environmental assessment regime. Glen Carritt was a key organizer of this protest.

The selection of the moniker “Yellow Vests” by Mr. Carritt was controversial. The term “Yellow Vests” was a reference to the Yellow Vests protests that had begun in France in November 2018, which were initially a reaction against diesel fuel taxes. While the French movement had its origins in economic grievances, some of its organizers also employed rhetoric that some perceived as having anti-immigrant, antisemitic, and Islamophobic overtones. Some of the organizers of the “Yellow Vest (Official) Convoy to Ottawa” reportedly were concerned about how the French Yellow Vest movement had come to be perceived. A related concern emerged when death threats against the Canadian prime minister began to appear on some Yellow Vest Canada pages, which caused some local chapters of the movement to consider name changes to disassociate themselves from that conduct. The Canadian Yellow Vest organizers eventually rebranded their movement to the “United We Roll” convoy for Canada.

On February 14, 2019, the United We Roll convoy left Red Deer for Ottawa to protest the Federal Government's energy policies. Media reported that around 170 trucks of varying sizes left Red Deer as part of the convoy.⁶ Arriving in Ottawa on February 19, 2019, United We Roll participated in two days of demonstrations on and around Parliament Hill before dispersing.

Several people who would play prominent roles in the 2022 Ottawa protests were involved in the United We Roll convoy. Mr. King testified before the Commission that he was one of two individuals in the pilot truck that led the United We Roll convoy. Mr. Bauder was a participant in the United We Roll convoy. Tamara Lich, the individual who would in many ways become the face of the Freedom Convoy, participated in and became one of the organizers of the Yellow Vest rallies in Medicine Hat, Alberta. While she did not come to Ottawa as part of United We Roll, she helped put participants in touch with one another while that convoy was being organized.

A "United We Roll for Canada" Facebook page remains active to this day.⁷ Although still focused on energy policy, the Facebook page regularly makes and shares posts critical of public health measures taken by Canadian governments in response to the COVID-19 pandemic and in support of the Freedom Convoy in 2022.⁸

⁶ *CBC News*, "We've been treated unfairly': Truck convoy sets off from Alberta to protest Ottawa's oil and gas policies", February 14, 2019, COM00000450.

⁷ The Facebook group "United We Roll for Canada" (COM00000578) was created on February 27, 2019. The administrators and moderators for the group include Glen Carritt and Haley Wile. The group had 7,776 Facebook members as of August 22, 2022.

⁸ For example, on February 18, 2022, Glen Carritt posted a video to the group's page in support of the protest in Ottawa and drawing links to the United We Roll convoy in 2019, COM00000583.

4. The COVID-19 pandemic, public health measures, and protests

The United We Roll convoy took place less than a year before the emergence of the novel coronavirus that causes COVID-19. By March 11, 2020, the World Health Organization (WHO) declared COVID-19 to be a pandemic and reported more than 118,000 COVID-19 cases in 114 countries, and 4,291 deaths due to COVID-19. By the end of March 2020, every province and territory in Canada had declared some form of emergency respecting the disease. Some declared multiple states of emergency, and countless municipalities declared their own emergencies. Many Indigenous governments also declared emergencies. At the federal level, measures included orders under the *Quarantine Act* that had the effect of banning most foreign nationals from entering Canada.

With these declarations of emergency came a wide range of public health measures that were imposed by multiple levels of government, across every jurisdiction. The timing and details of these public health rules varied, but governments tended to adopt many of the same measures: travel limits, prohibitions on large gatherings, the closure of businesses and schools, and putting restrictions (such as requiring people to wear masks) on venues that were allowed to remain open. Some orders imposed significant restrictions on liberty, like the curfew and stay-at-home orders adopted in Quebec and Ontario, respectively.

Starting in December 2020, Health Canada began approving COVID-19 vaccines. While welcomed by most, these approvals were met with skepticism by many. The vaccines had been approved rapidly, which made some question the rigorousness of the approvals process. Some viewed the mRNA technology that underpinned the first COVID-19 vaccines as “experimental.” Others had religious objections. A smaller minority believed in a range of conspiracy theories: the vaccines changed a person’s DNA, or they were a secret vehicle for the insertion of microchips. As a result, while most Canadians became vaccinated, some did not. Health Canada reported that at

the start of 2022, about 77% of Canadians had received what was then considered a full vaccination series, including 88% of persons 12 years of age and older.⁹

With the approval of vaccines came new public health measures that were based on an individual's vaccination status. As with other public health measures, vaccine-linked rules varied significantly from jurisdiction to jurisdiction. It was, however, common for provinces, territories, and the Federal Government to require individuals to provide proof of vaccination in order to participate in activities such as air travel, indoor dining, or accessing workplaces. These types of rules were frequently described as “vaccine passports.”

The public's response to the range of public health measures imposed by governments was varied. Many thought that governments were taking inadequate action to protect public health. Many others thought that governments had gone too far and were restricting liberties without justification. This Inquiry is not about the government response to COVID-19 as such, and so I do not intend to wade into the debates about the appropriateness of various governments' approaches to the pandemic. However, I do wish to make three observations. First, whatever their merit, these public health measures imposed genuine hardship on Canadians. Businesses were closed and livelihoods were lost. Families and friends could not meet face-to-face. Those without access to phones, computers, or the internet could not meet virtually. Children lost the ability to attend school in person. Patients died in hospitals and long-term care homes at times when their families were not allowed to visit them.

Second, some of the rules implemented by governments caused understandable confusion and even anger among the public. While many government and public health officials provided clear information to the public, there were times when many felt like the measures being implemented did not make sense. In retrospect, rules prohibiting children from playing in outdoor playgrounds seem counter-productive given what is now known about how COVID-19 spreads. Rules that permitted corporate big

⁹ Health Canada, *COVID-19 Vaccination in Canada*, January 7, 2022, COM00000108.

box stores to remain open, while requiring small businesses that sold many of the same goods to close were hard to understand or explain. This is not to say that the rules themselves represented bad policy, only that some measure of negative public reaction was understandable.

Third, at a time when the pandemic forced many people to live their lives online, it is not surprising that social media was actively used as a means for individuals to express their displeasure with government actions. Whether they thought government was doing too much or too little, people were able to voice their grievances online in ways that would not have been possible 20 years ago. Social media was also a powerful tool that individuals could use to organize a range of protests.

Protests against COVID-19 public health measures began almost immediately after measures were imposed.¹⁰ In April 2020, media reported on protests at the Legislatures in Ontario and Alberta, and in Vancouver’s West End. The Alberta protest, which took place in Edmonton on April 30, was notable for its connection to pre-existing protest movements. One media article reported that vehicles associated with the United We Roll movement participated in the protest by driving around the Alberta Legislature while honking their horns.¹¹

Throughout the summer of 2020, protests grew in size, number, and level of coordination. On July 19, 2020, a set of protests occurred in Vancouver, Calgary, Saskatoon, Winnipeg, and Ottawa under the name “March to Unmask.” On August 8, 2020, an anti-mask protest in Montreal was reported to involve thousands of participants. On August 29, 2020, hundreds of protesters rallied on Parliament Hill in coordination with protests in Berlin, Germany and London, England.

¹⁰ The discussion of protest and litigation activity in this chapter is drawn largely from the Commission’s Overview Report: *Early Protest Activities and Legal Challenges Relating to Public Health Measures*, COM.OR.00000003, and the sources referenced therein.

¹¹ Lauren Boothby, “Hundreds flock to Alberta legislature to protest COVID-19 restrictions”, *Edmonton Journal*, April 30, 2020, COM00000453.

The advent of vaccine passports and related health measures also generated protests. For example, on August 14, 2021, thousands gathered in Montreal to protest vaccine mandates and public health measures. At the height of the protest, the RCMP reported 30,000 protesters.

The targets of protests were also, at times, concerning. Most protests focused on traditional targets like legislatures, government offices, and public spaces. As the pandemic went on, however, protesters began targeting less traditional locations such as hospitals, vaccination clinics, and schools. For example, from August 30 to September 5, 2021, thousands of protesters demonstrated against vaccine mandates outside hospitals in St. John's, Montreal, Ottawa, Winnipeg, Victoria, and Vancouver. On September 13, 2021, protests organized by the group Canadian Frontline Nurses occurred outside of hospitals in all 10 provinces to oppose vaccine mandates. On September 17, 2021, protesters gathered at schools in and around Salmon Arm, British Columbia. Media reported that protesters entered a school as part of an anti-vaccine and masking demonstration. Media also reported that protesters confronted health-care workers administering vaccines in a school parking lot.

Anti-health-measure protests became a subject of study for police intelligence operations during the pandemic. One entity that was particularly engaged in monitoring protests was the RCMP's Federal Policing National Intelligence (FPNI) Ideologically Motivated Criminal Intelligence Team (IMCIT). I discuss this unit in more depth in Chapter 14. This unit of the RCMP issues National Threat Landscape Strategic Assessment reports, a monthly intelligence summary of public order issues in Canada. In one such report, dated June 30, 2021, the IMCIT observed:

Protests opposed to public health restrictions are occurring across the country on a weekly basis. To date, law enforcement partners have not reported on protesters overtly advocating for violence.

Since April of 2020, anti-lockdown public order events in Canadian cities have attracted participation from various ethno-nationalist groups

who, in previous years (2016-2019), had a visible presence at protests advocating for positions considered to be anti-immigration and anti-Muslim in nature. It is important to note, however, that anti-lockdown protests are also attracting individuals that are not aligned with any specific ideology or group, but are experiencing pandemic fatigue due to economic strain, business closures, job losses, or other personal hardships.¹²

Regarding the COVID-19 vaccine rollout, the report stated that anti-vaccine protests have appeared outside vaccination clinics and school board properties, but that there were no reports of violence targeting front-line workers.

The IMCIT report also noted the involvement of fringe actors in anti-mandate activities. It identified that several businesses, police detachments, and health clinics reported incidents involving the receipt of “cease and desist” letters from Romana Didulo — who self-identifies as the “Queen of Canada” — ordering the end of masking, vaccination, and lockdown mandates. These letters were deemed to pose a nuisance rather than a threat to front-line workers.

On July 30, 2021, the IMCIT issued another National Threat Landscape Strategic Assessment report, which stated that:

The easing of public health measures in several provinces has reduced attendance at [protests]. However, as vaccination regulations evolve for business and travel, perceptions of “forced vaccination” are driving discussions in online spaces previously devoted to anti-lockdown rhetoric.

...

¹² National Threat Landscape Strategic Assessment, June 30, 2021, PB.NSC. CAN.00000509_REL, p. 2.

Based on current available information, threats to the vaccine rollout are assessed as low.

Anti-vaccination public order events have occurred nationwide. Protesters gathered to voice concerns against the possibilities of mandatory vaccinations and proof of vaccination requirements (e.g. “vaccine passports”) for work or travel. Recent anti-vaccination protests in Europe have involved incidents of vandalism at vaccination centres and clashes with police. In Canada, however, there are no reports of violence or efforts to disrupt the vaccine rollout arising from these protests for this reporting period.¹³

The report also noted that Ms. Didulo continued to post content online alleging that COVID-19 public health measures are illegitimate and encouraging her followers to deliver more “cease and desist” letters, and that social media accounts associated with Ms. Didulo posted false military orders encouraging her followers to protest public health measures “by any means necessary.”

On November 24, 2021, Ms. Didulo issued an order to the soldiers of her “Kingdom of Canada’s Military” to conduct mass arrests of those they consider opposition, to take control of newspapers, to seize the border, and to “[s]hoot to kill anyone who tries to inject children under the age of 19 years old with Coronavirus19 vaccines.” As a result, the November 24, 2021 IMCIT Strategic National Landscape Threat Assessment stated that Ms. Didulo’s followers “may engage in aggressive or criminal acts motivated by their leader’s escalating rhetoric.”¹⁴

On October 27, 2021, the IMCIT’s National Threat Landscape Strategic Assessment noted a growing opposition to public health measures in response to vaccine passports

¹³ National Threat Landscape Strategic Assessment, July 30, 2021, PB.NSC. CAN.00000510_REL, p. 3.

¹⁴ National Threat Landscape Strategic Assessment, November 24, 2021, PB.NSC. CAN.00000514_REL, p. 8.

and mandates being implemented in employment sectors and provinces in Canada. The report also noted a concern that job losses for unvaccinated individuals and the fear of forced vaccination of children could become a “potential flash point for an act of violence.”¹⁵ An IMCIT report released on November 14 that same year stated that protests that had disrupted Remembrance Day ceremonies in British Columbia marked another escalation within the anti-vaccination movement. It also noted that protests had been planned at children’s vaccination clinics.

The IMCIT National Threat Landscape Strategic Assessment for December 23, 2021, stated that “opposition to vaccine mandates, vaccine certificates, and vaccination of younger populations continues to grow in intensity and could become a potential flash point for acts of violence. Protests outside children’s vaccine clinics and the homes of public officials marks an escalation in the movement.”¹⁶ As noted in this report, protests had expanded to target not only elected officials, but civil servants as well, such as Ontario protests outside of the homes of the medical officers of health for Chatham-Kent and Niagara.

5. Protests and the 2021 federal election

A federal election was called on August 15, 2021. Following this announcement, the IMCIT observed an increase in protest activity. Beyond the number of protests, the tone of the protests was notable. The conduct of protesters during the 2021 federal election campaign was more aggressive than what Canadians were accustomed to as part of the political process. These protests were often framed as being in opposition to COVID-19 vaccine mandates and demonstrated the close relationship between public health measure protests and the increasingly polarized political landscape in Canada.

¹⁵ National Threat Landscape Strategic Assessment, October 27, 2021, PB.NSC. CAN.00000513_REL, p. 5.

¹⁶ National Threat Landscape Strategic Assessment, December 23, 2021, PB.NSC. CAN.00000515_REL, p. 1.

On August 27, 2021, campaign events in Mississauga, Nobleton, and Bolton, Ontario had been planned for Justin Trudeau, the incumbent Prime Minister and Leader of the Liberal Party. In Mississauga, a small number of vocal anti-vaccine protesters appeared outside the venue and heckled him. In Nobleton, approximately 200 anti-vaccine protesters gathered outside the venue holding flags and banners, using bullhorns, pushing, and yelling. They circled the prime minister's bus upon its arrival and then moved toward the windows of the venue and yelled at him through the glass. The protesters tried to push forward toward the prime minister as he exited the site and boarded the bus. The prime minister's campaign cancelled the event in Bolton because of security concerns from approximately 400 anti-vaccine protesters who gathered outside the event venue. The protesters were reportedly aggressive. They took down a rope line that separated them from the venue and used pocketknives to cut down Liberal election signs that had been attached to nearby fences. Conservative Leader Erin O'Toole and NDP Leader Jagmeet Singh denounced the actions of these protesters.

On August 29, 2021, protesters at a campaign event in Cambridge, Ontario attempted to drown out the prime minister's speech by heckling him loudly. The IMCIT reported that the protesters were very angry, aggressive, and verbally threatening in their behaviour.¹⁷ Some held signs with the words "no microchip," referring to the conspiracy theory that COVID-19 vaccines were injecting small tracking devices into people.

The September 2, 2021 IMCIT Strategic Intelligence Brief stated that "[w]hile the IMCIT has no information indicating that protesters or protest organizers are overtly advocating for violence, there is increased social media discussion in general about the tense nature of recent protests" and that "[i]t is highly likely that future disruptions

¹⁷ Strategic Intelligence Brief: Security Threats to Canada's 44th Elections – Update, September 13, 2021, PB.NSC.CAN.00000500_REL, p. 2.

will continue to drive discussions on social media dedicated to anti-vaccination rhetoric.”¹⁸

On September 6, 2021, a protester threw gravel at Prime Minister Trudeau during a campaign stop in London, Ontario. Media and the RCMP reported that an individual associated with the People’s Party of Canada was involved.

On September 13, 2021, the RCMP’s FPNI IMCIT issued another Strategic Intelligence Brief regarding security threats to Canada’s 44th election, which stated that:

The IMCIT assesses that anti-vaccination sentiment remains the current focus at the majority of protests aimed at [Liberal Party] campaign events. Weekly protests opposed to public health restrictions, which have occurred throughout Canada since April 2020, have evolved to predominantly focus on anti-vaccine sentiment since lockdown measures were eased. Several provinces have announced the implementation of vaccine passports, and the PM recently stated that the federal government will provide a fund to help provinces create their own vaccine passports. These developments may be fueling anti-vaccine grievances as there is a perception held by some individuals that vaccine passports will create a segregated society.

The IMCIT assesses that, as campaign events continue, the PM will continue to be met with protest. The current anti-vaccine themed protests directed towards the PM are likely also attracting individuals that are not aligned with any specific ideology or group, but who have experienced personal hardships due to COVID-19, for which they blame the Liberal government. While the IMCIT has no information indicating that protesters or protest organizers are overtly advocating for violence,

¹⁸ Strategic Intelligence Brief: Security Threats to Canada’s 44th Elections – Update, September 2, 2021, PB.NSC.CAN.00000507_REL, p. 3.

there is increased social media discussion about the tense nature of recent protests and interest in protesting at [Liberal Party] campaign events in the future.

Media coverage discussing the frequency of protests directed towards the PM, sign vandalism, and the current anti-Trudeau narrative in the online environment may also embolden individuals to continue to protest [Liberal Party] campaign events across Canada to express a variety of grievances. It is highly likely that future disruptions will continue to drive discussions on social media dedicated to anti-vaccine rhetoric.¹⁹

Over the following days, IMCIT issued three more Strategic Intelligence Briefs. The September 14, 2021 brief reported a “marked escalation over the past week that demonstrates that some individuals are advocating for violence prior to these protests.”²⁰ The September 15, 2021 brief stated that “[i]nformation from law enforcement partners indicates that there has been an increase in the number and impact of public order events, whether directed towards Protected Persons or critical infrastructure locations such as hospitals.”²¹ The September 16, 2021 brief stated that the RCMP opened new investigations relating to threats directed at government officials such as the chief public health officer of Canada. The brief referenced a post on the website “4chan” that encouraged readers to kill elected officials who mandate vaccines and vaccine passports.²²

Looking back at 2021, one can see a range of factors that contributed to the protests that took place. Individuals protested for a variety of reasons, ranging from genuine

¹⁹ Strategic Intelligence Brief: Security Threats to Canada’s 44th Elections – Update, September 13, 2021, PB.NSC.CAN.00000500_REL, p. 3.

²⁰ Strategic Intelligence Brief: Security Threats to Canada’s 44th Elections – Update, September 14, 2021, PB.NSC.CAN.00000501_REL, p. 2.

²¹ Strategic Intelligence Brief: Security Threats to Canada’s 44th Elections – Update, September 15, 2021, PB.NSC.CAN.00000502_REL, p. 2.

²² Strategic Intelligence Brief: Security Threats to Canada’s 44th Elections – Update, September 16, 2021, PB.NSC.CAN.00000503_REL, p. 2.

fatigue and hardship caused by almost two years of COVID-19 measures, to polarized and hostile partisan views. At the fringes were more radical actors, including both ethno-nationalist extremists and conspiracy groups. Most protests were peaceful, but social media amplified calls for violence. The broadening of people and locations targeted by protests represented a troubling escalation.

6. James Bauder and “Operation Bearhug”

I have already noted that the 2022 Freedom Convoy was foreshadowed by the 2019 Yellow Vest / United We Roll convoy to Ottawa. Another foreshadowing event occurred in 2021: James Bauder’s “Operation Bearhug.”

Just as United We Roll found its inspiration in the French Yellow Vest movement, Operation Bearhug was also inspired by events abroad. On August 30, 2021, truck drivers in Australia began blockading parts of the Gold Coast Highway as a protest in response to mandatory vaccine requirements and lockdowns. On the same day, Canadian James Bauder made a post on his Facebook page, referencing the Australian protests and calling out to all truckers in Canada to participate in a “CANADA UNITY Convoy” from Calgary to Ottawa, subsequently dubbed “Operation Bearhug” or “Operation Bearhug 1.0.” Mr. Bauder wrote:

Want to know what Justine Trudeau hates more than Protesters? A CONVOY PARKED ON HIS FRONT STEP... Just saying.

[...]

This Convoy will be 100% geared for UNITING CANADA. No political agendas!!!.

Simple terms.

No Vax Passports CANADA WIDE.

No Masks Mandates Canada WIDE.

No more Lockdowns CANADA WIDE.

We demand our government put an immediate stop to all of the above and to tell all Corporations in Canada that they have no legal rights to demand a vax passport or demand a Canadian to show private medical information and we demand all Corporations to stop breaking the laws.

We are done being divided and segregated over this issue. Time to do what needs to be done!!

[...]

Leaving Calgary ALBERTA as soon as I get +500 trucks, we will deliver the Canada Unity Flag from Calgary AB to OTTAWA and will request an audience with all political parties.²³

On September 16, 2021, Mr. Bauder posted a message on the Facebook page for a group called Canada Unity. He advised that the Canada Unity Convoy would be a “very large group” and that it would “not leav[e] Ottawa until the LAW is upheld by our elected Canadian government.” He continued:

The more our elected servants dig in and deny or decide they can play political games, the more trucks will keep coming, and they won’t stop coming until Ottawa politicians come to their legal senses and admit that [they] have no power anymore over Canadians. The Vax Passport Mandate that is being pushed upon Canadians illegally by Ottawa politicians will come to a FULL STOP or the Convoy will simply consume

²³ James Bauder, “Truckers Wanna Make Some Noise”, Facebook post, August 30, 2021, COM00000505.

every street in Ottawa until all notion of the illegal vax passport is abolished CANADA WIDE.²⁴

On September 28, 2021, Mr. Bauder posted a link to a “Memorandum of Understanding” (MOU) drafted by Canada Unity. The MOU functioned as something of a petition, with Mr. Bauder gathering signatures from supporters on the Canada Unity website. The contents of the MOU were, however, troubling. The parties to the MOU were the “People of Canada” (represented by Canada Unity, Mr. Bauder, Sandra Bauder, and Martin Brodmann), the Senate of Canada, and the Governor General of Canada.²⁵ The MOU provides that the Senate and Governor General will “immediately instruct all levels of the Federal, Provincial, Territorial, and Municipal governments to not only stop, but furthermore waive all SARS-CoV-2 ... fines.”²⁶ The Senate and Governor General are further required to instruct all levels of government to re-instate all employees dismissed due to vaccine mandates and encourage the private sector to do the same.²⁷ As well, the Senate and Governor General are required to “issue a cease-and-desist order abolishing all ... Vaccine Passport requirements, Vaccine discriminatory regulations, initiatives, and mandates in regard to SARS-CoV-2.”²⁸ The MOU also contemplates that the parties will create a “Citizens of Canada Committee.”²⁹ In exchange, the MOU requires Canada Unity to “immediately stop ‘Operation Bear Hug Ottawa’, demonstration / convoy and Federal Referendum activities.”³⁰

By December 6, 2021, the Canada Unity Convoy had arrived in Ottawa. Mr. Bauder claimed that the convoy grew to 500 vehicles at one point, but stated that fewer than 100 protesters arrived in Ottawa. They initially converged in Confederation Park. On

²⁴ J. Bauder, “UPDATE FROM THE DESK OF JAMES BAUDER - ORGANIZER FOR CANADA UNITY CONVOY FOR FREEDOM”, Facebook post, September 16, 2021, COM00000857.

²⁵ See Memorandum of Understanding, on the first (unnumbered) page and the second (“Page 1 of 6”) page, COM00000866.

²⁶ See Memorandum of Understanding, COM00000866, article 3(e).

²⁷ See Memorandum of Understanding, COM00000866, article 3(f).

²⁸ See Memorandum of Understanding, COM00000866, article 3(g).

²⁹ See Memorandum of Understanding, COM00000866, article 3(a).

³⁰ See Memorandum of Understanding, COM00000866, article 3(j).

December 9 and 10, 2021, the protesters gathered outside the prime minister's official residence in Ottawa. They engaged in protest activities in Ottawa until December 10, 2021. Mr. Bauder ultimately provided the Canada Unity MOU to the Senate by registered mail.

After these events, Mr. Bauder went on Facebook to say that the protest would have been more successful with a bigger crowd:

What many of you do not know... We did all this with less than 100 people. We called for 10s of thousands of Canadians to show up so that we could completely shut down Ottawa (vehicle gridlock) and then apply pressure for the Senate to sign the MOU. SADLY Majority of you stayed home... So we had to wrap it up and go back to Calgary - We needed tens of thousands of vehicles and sadly so many of you had excuses that baffles those that did go.

Had thousands vs 100 shown up we would still be there and most likely the MOU would have gotten the much-needed pressure tactic we were seeking.

Will there be a BearHug 2.0 ??? That depends on all those who chose to stay at home... Freedom is NOT FREE and if folks are going to sit at home, watch Netflix when they should have come to Ottawa to defend their freedoms then sadly we may never be free. That's a Fact.

So if there is another BearHug Ottawa... Perhaps the next time those who sat at home can find their freedoms under your boots and come join us!!³¹

³¹ J. Bauder, "Operation BEARHUG Ottawa was a Great Success", Facebook post, December 13, 2021, COM00000858.

I note here that the MOU implied that Mr. Bauder intended for his protesters to remain in Ottawa until such time as the Senate and Governor General agreed to its terms. This too foreshadowed aspects of the Freedom Convoy, in which protesters refused to leave the city until demands that had little chance of being satisfied were met. Here, it appears that Mr. Bauder's vision could not be realized due to a lack of participants. When it came to the events in early 2022, this would not be a problem.

7. Border measures and truckers

I have already stated that public health measures were not the only cause of the Freedom Convoy protests, but they were certainly an important one. The powerful impact of public health measures on people's lives coupled with the increasingly polarized political landscape of Canada came together to provide a strong motivation for protesters. Public health measures served as a rallying point for individuals holding a range of grievances, and who connected and mobilized through the use of social media. Nowhere is this more clearly demonstrated than the response to the perceived impact of public health measures on Canadian truckers at the border.

During the COVID-19 pandemic, prior to August 9, 2021, there was a general prohibition against foreign nationals entering Canada from the United States for optional or discretionary purposes such as tourism, recreation, or entertainment. In addition, until recently, people who were allowed to enter Canada, including Canadian citizens, could be required to show proof of a negative COVID-19 test or to quarantine. In certain cases, including when someone was working as a commercial truck driver, those entering the country were exempted from public health requirements such as pre-arrival COVID-19 testing and quarantine. These rules did not depend on vaccination status since, for much of the pandemic, vaccines did not yet exist. However, between August 6 and September 7, 2021, Canada's rules changed to permit foreign nationals to enter the country for non-essential purposes provided that they were fully vaccinated.

For commercial truck drivers, these measures did not have any immediate impact. They continued to be permitted to enter Canada without regard to their vaccination status and were exempted from the obligation to test or quarantine. This began to change in October. First, on October 12, 2021, the government of the United States announced that, starting in January 2022, all inbound foreign national travellers crossing United States land or ferry ports of entry would be required to be fully vaccinated. This included those travelling for essential purposes, including commercial trucking. Then, on November 19, 2021, Canada announced that its border rules would also change. As of January 15, 2022, “essential service providers, including truck drivers” who were currently “exempt from entry requirements, will only be allowed to enter the country if they are fully vaccinated.” The announcement went on to provide that “[a]fter January 15, 2022, unvaccinated or partially vaccinated foreign nationals will only be allowed to enter Canada if they meet the criteria for limited exemptions” and that “non-exempt unvaccinated or partially vaccinated foreign nationals will be prohibited entry into Canada.”³²

The effect of these new rules was that foreign truck drivers would be barred from entering Canada unless they were vaccinated. Canadian truckers, who have a constitutional right to enter Canada, would not be barred from entry. However, if unvaccinated, they would no longer be exempted from the requirement to quarantine, which would have a significant impact on their ability to engage in commercial trucking. In practice, they were more impacted by the American rules that barred them from entering that country entirely. However, as I mentioned earlier in this chapter, several protest leaders believed that the American authorities decided to impose their vaccination requirement only after Canada did so. This was not the case but does go some way to explaining why protesters may have focused their anger toward Canadian authorities and believed that a repeal of the Canadian requirements would have allowed unvaccinated truckers to continue cross-border work.

³² Public Health Agency of Canada, *Government of Canada announces adjustments to Canada’s border measures*, November 19, 2021, COM00000105.

The situation was made worse due to a communications error about these new measures days before their implementation. On January 12, 2022, a spokesperson for the Canada Border Services Agency (CBSA) stated that as of January 15, 2022, unvaccinated Canadian truck drivers would be permitted to enter Canada without having to quarantine. On January 13, 2022, the federal ministers of Health, Transport, and Public Safety released a statement indicating that the CBSA announcement was wrong and that all truck drivers were subject to the vaccination requirement. The announcement stated that foreign nationals who were not vaccinated would be denied entry to Canada. Canadians, permanent residents, and persons registered under the *Indian Act* would be allowed to enter but would be subject to testing and quarantine requirements.

This back and forth in the Government’s messaging about how unvaccinated commercial truckers would be treated at the border only exacerbated the negative sentiments surrounding the new border rules. In some circles, “the trucker” became a symbol for hard-working Canadians who, despite their contributions to society, were having their lives and livelihoods upended by government COVID-19 regulations. This narrative was a contributing factor that helped to animate the Freedom Convoy.

Chapter 6

Organizing the Freedom Convoy to Ottawa

Organizing the Freedom Convoy to Ottawa

1. Introduction

In the previous chapter, I trace the Freedom Convoy's origins to a convergence of political and social trends. The logistics and the public messaging that immediately preceded the Freedom Convoy are also products of different forces coming together. In the pages that follow, I detail how individuals with distinct experiences and motivations established or became associated with the Freedom Convoy and united with other individuals whose goals were similar, but somewhat distinct from their own.

I begin by introducing five figures who played important roles in mobilizing the Freedom Convoy: Chris Barber, Brigitte Belton, Patrick King, James Bauder, and Tamara Lich. They are just a few of the individuals who shaped the convoy's internal workings and external messaging. I focus on these five organizers because of the complementary contributions they made to the movement in early 2022. I then address how the organizers expected the Freedom Convoy to unfold and how it might end. Ultimately, the evidence I heard about the initial days of the Freedom Convoy painted a picture of a group of early leaders united in their intent to protest public health measures and, more broadly, the Government's actions in restricting freedom. They were, however, somewhat fractured over their expectations for the movement.

While this chapter focuses on five individuals who helped to mobilize the Freedom Convoy, they were not the only leaders in this movement. In subsequent chapters, I describe how others assumed leadership roles over time. Indeed, it is difficult to assess the amount of leadership assumed by various organizers as the protests

progressed in Ottawa and the number of protesters changed. In addition, there is little evidence of ties between the leadership at protests that emerged elsewhere in the country.

2. Key protest organizers

Mr. Barber is a commercial truck driver based out of Swift Current, Saskatchewan. He operates an independent trucking business and employs his son as well as a few contract employees. Mr. Barber has a considerable social media presence and estimates that he had about 30,000 TikTok followers before the convoy. In his testimony, Mr. Barber described himself as an “internet troll” and an “online troublemaker.”¹ As a result of his online conduct, he was regularly suspended from online platforms for posting inappropriate content or violating community standards.

During the pandemic, Mr. Barber became increasingly frustrated with provincial and federal public health rules. He considered the restrictions governments continued to introduce to be a form of overreach. The measures implemented on January 15, 2022, respecting cross-border travel and vaccinations had a particular impact on Mr. Barber and his industry, resulting in many operators losing work. Mr. Barber chose to become vaccinated only because he felt that, if he did not, he would have lost the business that he had spent 16 years building.

Mr. Barber expressed his frustration with cross-border vaccine requirements in numerous TikTok videos. Those videos were available to his growing TikTok audience which, by his estimate, had increased to about 170,000 by mid-February 2022.

Brigitte Belton is an independent owner-operator trucker based in Southwestern Ontario. She and her husband acquired their own truck in late 2021 with the hope of growing a trucking business. Ms. Belton testified that she faced a range of difficulties during the COVID-19 pandemic, including being refused entry at various

¹ Evidence of Chris Barber, Transcript, Vol. 14, p. 11.

establishments for such needs as buying clothes or even showering. She described working during the pandemic to deliver goods to businesses so that they could stay open, only to be turned away by those same businesses when she asked to use their bathroom after many hours on the road. Notwithstanding these challenges and the disrespect she felt, she believes that it was her duty to support Canadians by bringing them the goods they needed.

On November 16, 2021, Ms. Belton had what she described as an unpleasant interaction with a Canada Border Services Agency (CBSA) officer at the Ambassador Bridge Port of Entry, where she was asked to pull over into the CBSA compound because she did not have a mask on. Ms. Belton testified that she has been a victim of violence and that wearing a mask caused her to revisit that traumatizing time in her life. She told the Commission that, as a result, she had been exempted from masking requirements. After her interaction with the CBSA, Ms. Belton posted a video on TikTok to share her experience. Unlike Mr. Barber, Ms. Belton had not been an active TikTok user up to this time but began to use that platform during a time when Facebook had suspended her access to her account. Ms. Belton also expressed her dissatisfaction to public officials, apparently sending some 32 emails to members of federal and provincial governments.

The concerns Ms. Belton expressed extended beyond economic hardship and the ability to access businesses. Ms. Belton testified that following the November 16 incident over wearing a mask, she was afraid police would take her truck and its load, euthanize her dog, and put her in jail. She also testified during cross-examination and again when examined by her legal representative that police were throwing people to the ground for violating public health measures, including children on their skateboards and relatives visiting their families. Ms. Belton's frustration with public health restrictions reached a boiling point when the Federal Government introduced the vaccine mandate for cross-border truckers. Given her vaccination status, the mandate would put her and her husband out of work.

Patrick King lives in Red Deer, Alberta, and has held various positions in the oil and gas industry. He was active on social media, primarily Facebook and Instagram. Mr. King testified that he had previously used YouTube but claims that he is one of only two people (the other being Donald Trump) who has ever been banned from using any Google products (of which YouTube is one). He is also a podcaster and has a website. Between his various online platforms, Mr. King estimates that he has about 500,000 followers. It became apparent during his testimony that Mr. King has made numerous statements on social media that could reasonably be viewed as racist and violent. Mr. King indicates that his enemies have worked to portray him in a false light.

Unlike Mr. Barber and Ms. Belton, Mr. King is not currently a trucker. However, as I mention in Chapter 5, Mr. King has experience with protest movements and convoys. He told the Commission that he was one of the two individuals in the pilot truck, which typically is an escort vehicle that accompanies trucks with oversized loads, that led the 2019 United We Roll convoy from Red Deer to Ottawa to protest the federal government's energy policies and legislation related to oil and gas pipelines. During the COVID-19 pandemic, Mr. King has been outspoken about public health restrictions, including through his large social media following and his podcast. Mr. King testified that the requirements imposed on cross-border trucking were “a direct attack against the Canadian economy.”²

James Bauder is a commercial truck driver living in Calgary, Alberta. Like Mr. King, he has a background in the oil and gas industry. He also participated in the 2019 United We Roll convoy to protest the federal government's energy policies. Public health measures have had a direct impact on Mr. Bauder's employment. He testified that he quit his job because he could not access clients' facilities without proof of vaccination. It is likely that Mr. Bauder's leadership in the Freedom Convoy was not inspired by personal hardship alone. He testified that all COVID-19 public health measures are

² Evidence of Patrick King, Transcript, Vol. 15, p. 220.

unlawful, that mRNA COVID-19 vaccines are a form of gene-altering therapy, and that God told him to organize the convoy.

For Mr. Bauder, the idea of a convoy to protest public health measures materialized as early as August 2021. In the previous chapter, I describe how Mr. Bauder organized a convoy to Ottawa dubbed “Operation Bearhug” under the banner of “Canada Unity.” That convoy arrived in Ottawa on December 5, 2021. As the Facebook page for that convoy explains, it was intended to denounce vaccine passports, mask mandates, and lockdowns. Mr. Bauder testified that Operation Bearhug was also a response to mandates that he expected would be imposed on the trucking industry in December 2021.

Tamara Lich lives in Medicine Hat, Alberta, and has worked primarily in oil and gas logistics and administration. She has held leadership positions as a board member of Wexit Alberta and Wexit Canada — political parties intended to promote Western Canadian interests or to seek independence.³ She also participated in the Yellow Vest movement protesting energy policies, which I discuss in the previous chapter. Ms. Lich testified that she and most of her colleagues were laid off in early January 2022, when their workplace closed amid shutdowns in response to the Omicron variant and an economic downturn. Moreover, her parents owned a pilot truck business that was impacted by the cross-border vaccine mandate. Ultimately, Ms. Lich stated that her experiences in hearing the stories of people affected by public health measures motivated her to get involved with the Freedom Convoy.

Before moving on to how the organizers set the convoy in motion, I pause to recognize that Mr. Barber, Ms. Belton, Mr. King, Mr. Bauder, and Ms. Lich may not recognize one another as leaders of the Freedom Convoy, nor did they always act in unison. In his evidence, Mr. Barber described a power struggle with Mr. King, which began at the outset of their involvement, and he expressed his belief that Mr. Bauder had always represented Canada Unity without being part of the Freedom Convoy. According to

³ Wexit Canada is now known as the Maverick Party.

Ms. Belton, Mr. Bauder was part of the leadership group, but Ms. Lich was neither a leader nor an organizer. Ms. Lich, in turn, described herself as a supporter and saw Mr. Barber and Ms. Belton as the founders of the Freedom Convoy. Nonetheless, I have focused on each of them because it is largely through their combined actions and experience that the convoy to Ottawa assumed the shape it did.

As noted at the outset of this chapter, these were not the only individuals who were involved in organizing convoys to Ottawa or who played important roles in the events that took place there. I introduce many additional key actors in later chapters of this Report. For now, it is enough to focus on this core group that devised a plan for a protest convoy and set it in action.

3. Planning and logistics

Collaboration between the organizers appears to have begun in early January 2022, when Ms. Belton contacted Mr. Barber using TikTok. The pair had no prior relationship. In their discussions, they initially envisioned a slow roll campaign and made a flyer calling for slow rolls that would begin on January 23 and continue until public health restrictions were lifted. Within days, Ms. Belton learned of Mr. Bauder and his organization, Canada Unity, which was also in the process of planning a protest convoy to Ottawa. After speaking with Mr. Bauder by telephone, Ms. Belton decided to work with him since he had led a convoy before, was a good salesperson, and had resources on which to draw. Mr. Bauder, in turn, informed Ms. Belton that Mr. King wished to connect with her. The three spoke on January 12.

On January 13, Mr. King hosted a Facebook Live event entitled “All Canadian truckers from all provinces going to shut down Canada and heading to Ottawa JAN 23RD.” Mr. Barber, Ms. Belton, and Mr. Bauder were present, along with other supporters. This forum allowed organizers to discuss their vision for the Freedom Convoy and to gain further traction for their plan on social media. At one point during the Facebook Live event, Mr. King stated that viewership of the broadcast had reached 3,000 people.

On January 13, Ms. Lich reached out to Mr. Barber by phone and offered to help by drawing on her background in logistics and administration. The following day, January 14, Ms. Lich created a Facebook page and a GoFundMe campaign for the Freedom Convoy. That web presence added to Mr. King's and Mr. Bauder's considerable social media following. By January 17, the Freedom Convoy had received a significant number of donations. Ms. Lich and the organizers created a finance committee to promote transparency and accountability. I examine the topic of fundraising by Ms. Lich and others in Chapter 13 of this Report.

Mr. Bauder's convoy experience helped the organizers in planning routes. By the time the Freedom Convoy organizers participated in the Facebook Live event, Canada Unity had planned their stops and had a website through which to disseminate Freedom Convoy information. The Freedom Convoy also began to use so-called "road captains" early on to act as a second level of convoy leadership. There were approximately two road captains per province who could organize trucks and whom participants could approach with concerns. Once the convoy reached Ottawa, road captains would purchase supplies for participants.

On January 22, two contingents of Freedom Convoy participants departed for Ottawa from Prince Rupert and Vancouver, British Columbia, respectively. The western convoy planned to arrive in Calgary, Alberta on January 24 and Regina, Saskatchewan on January 25. Once in Ontario, they planned to arrive in Kenora on January 26, Sault Ste. Marie on January 27, and Arnprior, just outside of Ottawa, on January 28. Additional contingents of the Freedom Convoy would depart from Nova Scotia and Southwestern Ontario on January 27. The convoy from Southwestern Ontario, led by Ms. Belton, travelled on Ontario Highway 402 to Highway 401 and finally, Highway 416 leading into Ottawa.

Freedom Convoy participants maintained contact with one another through FM and CB radios, smartphones, and social media. They also maintained daily communication with police agencies along their route to Ottawa. The western convoy was met with

an Ontario Provincial Police (OPP) escort when it reached the Ontario border. Once they entered Ontario, the organizers maintained daily contact with the OPP and the Ottawa Police Service. Ms. Belton's convoy from Southwestern Ontario had also been in contact with the OPP along their route to Ottawa.

4. Motivations and expectations

It should be clear by now that the Freedom Convoy was born of a collective effort by individuals dissatisfied with what they perceived as government overreach, particularly regarding responses to the COVID-19 pandemic. While public health measures had impacted each of them differently, their common frustration brought the organizers together and attracted supporters. However, while united in their overall motivation for spearheading the Freedom Convoy, their perspectives differed at times on what exactly the convoy should accomplish and how.

Turning first to overall goals, some of the organizers who appeared before me presented more ambitious visions of what "success" would mean than others. They provided their evidence with the benefit of hindsight, so it is difficult to assess how their goals might have evolved between the origins of the protests and their testimony several months later. Mr. Barber testified that he wanted his voice heard about cross-border vaccination requirements for truckers and that he did not hope to achieve anything by participating in the Freedom Convoy beyond being heard. Mr. Bauder, on the other hand, publicized Canada Unity's Memorandum of Understanding (MOU) in the planning stages of the convoy and testified before the Commission that he never wanted to withdraw it. The MOU called for an agreement whereby protests would end if the Senate and the Governor General abolished all COVID-19 mandates, among other measures. I discuss the MOU in more detail in the previous chapter.

The extent to which other organizers' goals aligned with Canada Unity's MOU is unclear, but the evidence suggests a limited agreement. Mr. Barber, Ms. Belton, and Ms. Lich all testified that they have never read the MOU, or never read it in full. Mr. Barber and

Ms. Belton were nonetheless present at the January 13, 2022 Facebook Live event when Mr. Bauder introduced the MOU. During that event, Mr. Bauder shared a digital copy of the MOU on the screen and suggested that, upon their arrival in Ottawa, the Freedom Convoy could deliver the MOU to the Senate and the Governor General. Ms. Belton also testified to signing the MOU “just as support.”⁴ I do not take the other organizers’ silence during the Facebook Live event as a tacit endorsement of the MOU. Indeed, many of the witnesses gave me the distinct impression that they were attempting to disassociate themselves from the MOU without fully denouncing it. I take the whole of the evidence as demonstrating that the organizers did not speak with one voice but were sufficiently aligned not to denounce each other’s goals. In essence, there were occasions where some organizers were willing to overlook aspects of the others that they found problematic because they believed that co-operation would more effectively further their own ultimate goals.

I received further evidence outside the MOU context about protest organizers overlooking aspects of each other with which they did not agree. It appears that on January 24, 2022, Ms. Lich and Mr. Barber became concerned with Mr. King’s involvement in their movement because of controversial statements Mr. King had made in the past, including references to bullets, that seemed to condone the use of violence against politicians. Mr. King told Ms. Lich and Mr. Barber, and maintains to this day, that the statements were taken out of context by the media reporting on them. Having viewed a video compilation of the comments and Mr. King’s testimony explaining them, I believe the criticisms of Mr. King’s rhetoric have been fair.

Although neither Mr. Barber nor Ms. Lich testified to it in their examinations, a written timeline of events submitted by the group with which they have standing in these proceedings tells the story of a confrontation between Mr. King and Ms. Lich on January 28, 2022, at a rest stop in Sudbury, Ontario.⁵ Ms. Lich apparently told Mr. King to check his ego and asked that he not continue with the group to Ottawa.

⁴ Evidence of Brigitte Belton, Transcript, Vol. 14, p. 251.

⁵ Descriptions from Freedom Convoy Timeline, HRF00001221, p. 5.

Mr. King testified that he was never asked to not go to Ottawa. He did agree that he had a conversation with Ms. Lich on January 28, in which he at one point suggested that he was responsible for organizing the convoy, and Ms. Lich told him that it was not all about him. Whatever the content of the discussion, Mr. King continued on to Ottawa. It seems that Mr. Barber and Ms. Lich were prepared to talk to Mr. King about his rhetoric, but because of Mr. King's large social media and personal following within the movement, they were reticent to disavow him outright.

Given the differences in the organizers' goals, it is not surprising that the way they envisioned reaching those goals varied as well. For instance, the organizers do not appear to have agreed on the duration of their stay in Ottawa. Ms. Belton testified that, when she arrived in Ottawa, she expected to stay 24 – 48 hours. She rejected counsel's suggestion that she would stay until the prime minister responded to her demands. Mr. King, on the other hand, had stated during the January 13, 2022 Facebook Live event that protesters would not leave until their demands were addressed or the Government was "fired." Others had not considered how long to remain in Ottawa, even after arriving. Mr. Barber testified that things were moving quickly, and he had not thought about it much. Ms. Lich, when asked if she had considered how much longer she was willing to stay once negotiations began with the City of Ottawa, around February 10, 2022, answered that she had not.

Similarly, the organizers do not appear to have agreed on where convoy vehicles would park or how much they would disrupt traffic. Mr. Barber and Ms. Lich both testified that the idea was never to gridlock the city. Instead, Mr. Barber thought trucks would be parking in two staging areas and that this arrangement would be better than parking on the main streets. Mr. Bauder, on the other hand, testified that the original plan was for the trucks to be on Wellington Street, with traffic lanes remaining open. Where vehicles would park was not an issue to which all organizers had turned their minds. Ms. Belton testified that she was following Mr. Bauder's direction on this matter and thought the organizers had permits but was not sure.

The organizers appear to have been more united in their intention that the protest be peaceful, at least in the sense of avoiding physical violence. They identified this need well before arriving in Ottawa. On January 20, 2022, Mr. Barber recorded a TikTok video and made it clear that the Freedom Convoy was a peaceful protest movement and that anyone who participated was required to adhere to the rules of the convoy. The organizers created a Code of Conduct for participants to sign and follow. The Code required truckers to, among other things, “[d]isplay support in a respectful manner. This is to be a peaceful convoy, and everyone must encourage that.”⁶ I accept that maintaining a peaceful protest was important to many of the organizers and that they believed violence or threats of violence would discredit the movement and drain it of popular support.

When the convoys began to arrive in Ottawa in late January, they were led by a loose group of individuals without a well-defined structure or hierarchy. Some, like Mr. Barber, were independent operators, while others, like Mr. Bauder, represented pre-existing organizations. Many had supporters that were gained through social media, though some, like Ms. Lich, did not come to the table with an existing group of backers. The planning of the convoy required real skill, but the organization of the event arose organically, not within a structured framework. The organizers shared many common views in addition to those about public health measures. Many of the organizers — particularly those from Western Canada — shared common economic grievances related to the Federal Government’s environmental policies. But in the details of what each of the organizers wanted the convoy to achieve, or how it should go about achieving it, there were important differences.

It is also worth noting that the organizers did not anticipate the level of participation that ultimately occurred. While some of the organizers had lofty goals that they hoped to achieve, they seemed genuinely surprised by the number of Canadians who chose

⁶ Affidavit of Tamara Lich, sworn on March 28, 2022, Exhibit A, HRF00001346, p. 47.

to participate in the convoy and the protests, as well as the number of people who supported the protest in other ways, such as through donations.

The importance of these observations is not in the details of each individual's beliefs, intentions, or expectations. Rather, it is that the Freedom Convoy was never a monolithic movement. From its very beginnings, it was a collection of different groups and people, and not a unified movement. This is an important theme that arose time and time again during the Inquiry. As the protests in Ottawa evolved, it became increasingly clear that there was no one group of protesters. There were many groups with unique characteristics and overlapping but differing goals and beliefs.

The Commission heard evidence from Steeve Charland that exemplifies how various groups began shaping the protests' composition from the earliest days. Mr. Charland lives in Grenville-sur-la-Rouge, Quebec, and describes himself as a writer, speaker, and blogger who is active on social media. He has experience advocating alongside different groups, including as a former board member of La Meute, an advocacy group that is often associated with the far right. Mr. Charland says he left La Meute over disagreements about its internal governance processes and because he felt it should be run as a non-profit. He is now involved with the group Les Farfadaas. Mr. Charland described Les Farfadaas as a protest movement that fights for justice and takes care of those whom society has forgotten. He also said in his testimony that the group's supporters view him as their spokesperson.

Mr. Charland arrived in the National Capital Region with a convoy from Quebec on January 29, 2022, the first Saturday of the protest. He testified that, when he first heard about the Freedom Convoy and its mobilization around cross-border vaccination requirements for workers, he had little interest in the cause. Instead, when describing his motivation for eventually joining the protest, Mr. Charland referenced what he believed was government overreach in the form of restrictions on hosting guests at home and curfews, among other initiatives. The latter public health measure was unique to Quebec. Mr. Charland's evidence about why he and other participants who



travelled with him joined in the protests reveals that distinct groups with overlapping but different goals and beliefs began arriving in Ottawa from the earliest days of the protest.

Similarly, the protests that occurred in other places in Canada, while often inspired by the Freedom Convoy, appear to have been distinct groups, each with their own complex internal dynamics. Understanding the Freedom Convoy movement, therefore, is not about describing an organization. It is about mapping out the complicated web of actors and ideologies that emerged from deeper social grievances and came together in January and February of 2022.

Chapter 7

Early Intelligence and Police Preparation for the Arrival of the Freedom Convoy

Early Intelligence and Police Preparation for the Arrival of the Freedom Convoy

1. Introduction

As the Freedom Convoy approached Ottawa, Ontario in late January 2022, few within the Ottawa Police Service (OPS) expected that demonstrators would remain for a protracted period. The chief of the OPS, his two deputy chiefs, and other high-ranking members testified that they expected the vast majority of Freedom Convoy participants to disperse within a few days, and that the OPS had planned accordingly. Based on this understanding, the OPS developed an operational plan. These types of plans tend to be informed by intelligence and adapted as new information arises. They set out what is known about the expected disruption, the officers who will be in command, the tactics that will be used, and the resources that will be available.

During the hearings, I heard evidence that various police services and other entities had collected intelligence suggesting that protesters would remain in Ottawa for a considerable time. I also heard that the operational plan on which the OPS relied during the first weekend of demonstrations focused primarily on traffic management, with comparatively little focus on the possibility of a prolonged stay or risks beyond traffic disruptions.

In this chapter, I begin by describing the structure of the OPS and some of its key players. I then review the sources of intelligence that were available to the OPS before protesters arrived and how that intelligence was disseminated, assessed, and used.

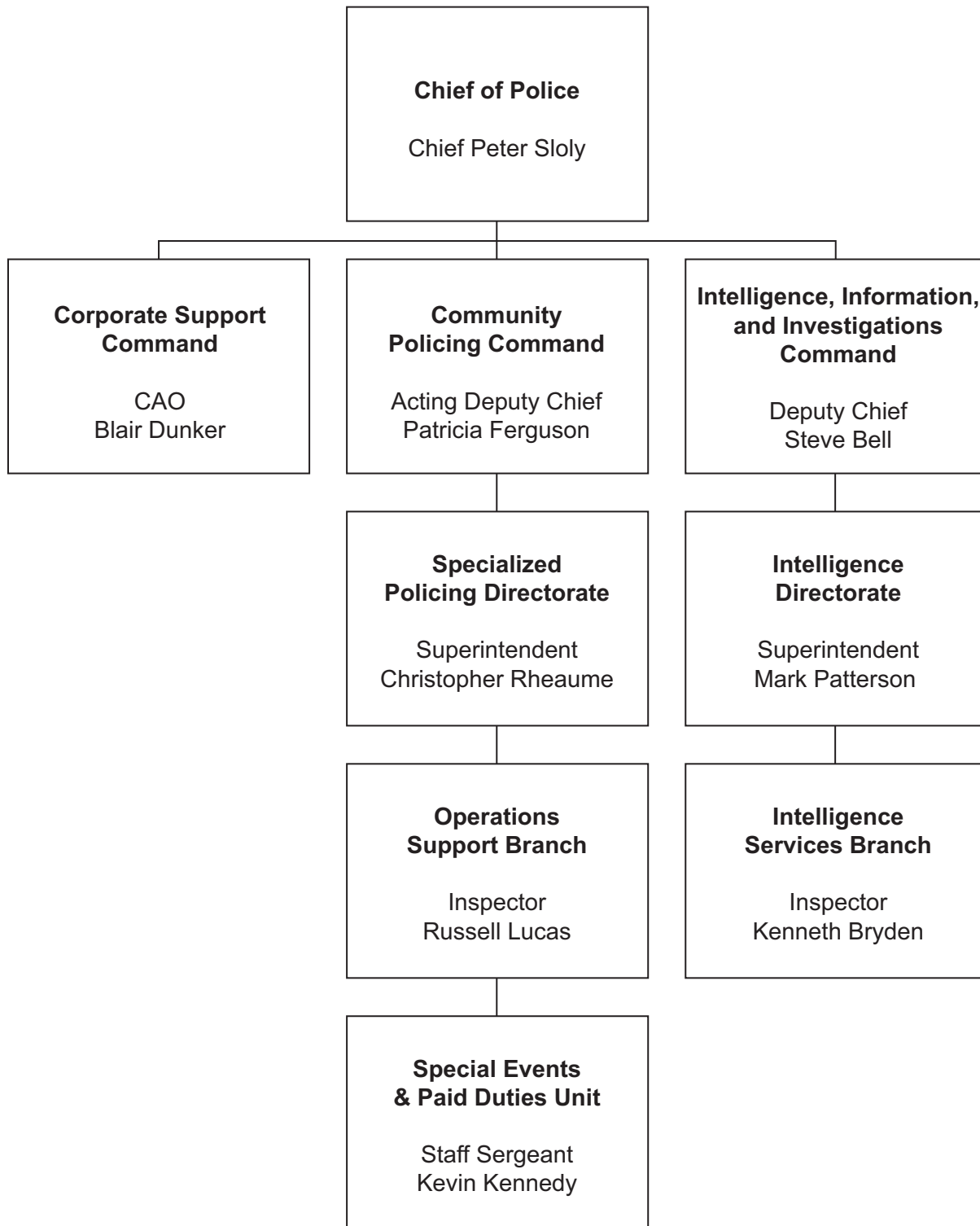


2. Structure of the OPS and roles of key OPS players

2.1 Branches of the OPS and the command team

The OPS is overseen by a chief of police, who is supported by two deputy chiefs and a chief administrative officer (CAO). Together, they constitute the command team. One deputy chief oversees the Community Policing Command, which encompasses the Frontline Policing Directorate, the Neighbourhood Policing Directorate, and the Specialized Policing Directorate. The other deputy chief oversees command of the “Three I’s” encompassing the Intelligence Directorate, the Information Directorate, and the Investigations Directorate. The CAO plays an administrative role and oversees the Corporate Support Command.

The following is a simplified organizational chart of the OPS's structure as of February 2, 2022.



The following table summarizes the roles of key OPS members as of January 2022, before the protesters arrived in Ottawa. Names are listed alphabetically and not in order of seniority or rank.

| | |
|--|---|
| Deputy Chief Steve Bell | <ul style="list-style-type: none"> oversaw the Intelligence, Information, and Investigations Command was appointed as Interim Chief of Police upon Chief Sloly’s resignation on February 15, 2022¹ |
| Acting Deputy Chief Patricia Ferguson | <ul style="list-style-type: none"> oversaw the Community Policing Command had executive oversight for planning and operations during the Freedom Convoy |
| Inspector Russell Lucas | <ul style="list-style-type: none"> oversaw the Operations Support Branch (including the Special Events Unit) and served as Incident Commander during the Freedom Convoy reported to Superintendent Rheaume |
| Superintendent Mark Patterson ² | <ul style="list-style-type: none"> oversaw the Intelligence Directorate, which was responsible for gathering intelligence on protests reported to Deputy Chief Bell |
| Chief Peter Sloly | <ul style="list-style-type: none"> was Chief of the OPS from October 28, 2019 to February 15, 2022, with the roles and responsibilities of a municipal police chief under the <i>Police Services Act</i> |

¹ Steve Bell will be designated as “Deputy Chief” when discussing events prior to February 15, 2022 and as “Interim Chief” for events after February 15.

² The Commission had intended to call Supt. Mark Patterson as a witness, but his counsel advised the Commission that Supt. Patterson was unable to testify for medical reasons. The Commission did its due diligence to ascertain whether he could testify, with or without accommodation, in the proceedings. That due diligence included seeking and reviewing the opinions of two medical experts bearing on his health. The Commission was satisfied, in the circumstances, that it would not be appropriate to call him as a witness. See TR.00000013 at pp. 310 and 311.

The OPS historically had a great deal of experience managing and responding to large-scale protests and demonstrations. However, in the years preceding the 2022 protests, there had been a lull in large-scale events in Ottawa. Multiple factors had contributed to a loss of expertise at senior levels, including retirements, resignations, and the suspension of a deputy chief in March 2020, which caused Chief Peter Sloly to rotate superintendents through the position of acting deputy chief.

At the time of the protests, most senior officers within or overseeing the Intelligence Directorate were new to their roles. Deputy Chief Steve Bell took over the Intelligence, Information, and Investigations Command in December 2021. Superintendent Mark Patterson took the lead of the Intelligence Directorate in early January 2022, and Inspector Kenneth Bryden was transferred to the Directorate on January 5, 2022. The turnover at the executive level and the loss of expertise through the retirement of experienced officers explain, to some extent, why the OPS lacked optimal cohesion, operational capacity, and institutional expertise in January 2022.

2.2 The Incident Command System

The Incident Command System (ICS) is a model sometimes used by law enforcement in response to incidents, including protests and demonstrations. While different law enforcement agencies use other terminology, the model is usually composed of three levels of command: strategic, operational, and tactical. Those levels are responsible for establishing an objective, determining how to achieve the objective, and carrying out the tasks to accomplish the objective, respectively.


Chiefs of police usually play a limited role within the ICS and delegate most of their authority to other officers at the strategic and operational command levels. As Chief of the OPS, Chief Sloly was responsible for administering the OPS and overseeing its operations under Ontario's *Police Services Act*. He exercised this responsibility by delegating strategic command authority over planning and operations to Acting Deputy Chief Patricia Ferguson and strategic leadership of intelligence to Deputy Chief Bell.

He delegated operational command authority to lower-ranking officers. Chief Sloly's role within the ICS was to provide a higher level of oversight that complemented the oversight provided by the strategic commanders. He retained the ability to intervene if members of the ICS team were unable to effectively perform their roles. In that scenario, he could reassign the role to someone else, request the assistance of another police service, or provide direction to the extent that he was qualified and capable of doing so.

Strategic command for OPS planning and operations in response to the Freedom Convoy was assigned to Acting Deputy Chief Ferguson. She was also responsible for ensuring that the operational commander had the requisite resources to accomplish the goals that she set. Acting Deputy Chief Ferguson testified, and other witnesses agreed, that the autonomy of an operational commander is important. Operational commanders need autonomy because they have more awareness of the situation on the ground than strategic commanders and are ultimately responsible for approving the operational plan for an event.

Operational command at the outset of the protests was not precisely defined. There were two operational commanders: an event commander and an incident commander. Deputy Chief Bell told the Commission that the role of event commander was not clearly documented, although I heard suggestions that an event commander receives updates from a variety of sources and makes sure that resources are sent to the right place. The incident commander also has an operational decision-making role, and so falls somewhere in between the strategic and tactical levels. This absence of clearly defined roles and responsibilities before the arrival of the protesters led to confusion within the OPS chain of command.

The tactical level in January and February involved units that focused on implementing the operational command's plan. This included the Public Order Unit (POU), the Police Liaison Team (PLT), and the Traffic Unit. No one was specifically in charge of coordinating these units at the tactical level prior to the arrival of the Freedom Convoy.



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Multiple witnesses described the relationship between the incident commander (i.e., the operational level commander), the PLT, and the POU as a triangle. As I explain in Chapter 4, the incident commander is at the top of the triangle, and the PLT and the POU are on either side. This refers to the fact that the incident commander has the option of negotiating through the PLT or using force through the POU if necessary. These options can also be used in conjunction, e.g., the PLT may assist in “shrinking the footprint” — reducing the number of protesters and/or the area in which they are present — prior to a public order event, which makes POU actions easier and safer.

In fall 2021, OPS PLT officers received training from the Ontario Provincial Police (OPP) on the Canadian Association of Chiefs of Police National Framework for Police Preparedness for Demonstrations and Assemblies (National Framework). That framework features PLT engagement with protest organizers and participants before, during, and after a demonstration. It is built on the measured approach principle, which “emphasizes deliberate employment of proactive engagement, communication, mitigation, and facilitation measures” and attempts to minimize impacts of the demonstration on the community.³ Under the National Framework, the PLT builds trust with demonstrators through engagement, identifies win-win scenarios, and tests compliance by identifying who can lead other demonstrators to work with police.

At the time of the convoy events, the OPS PLT had no formal reporting structure. The OPS neither trained senior officers on the National Framework nor adopted a specific PLT strategy. During the Freedom Convoy, 14 OPS members with PLT training devoted most of their time to PLT work.

POUs are typically deployed for planned events, although they sometimes respond to emergencies. POU officers generally have other full-time responsibilities in the OPS. Like other large Ontario municipalities, the OPS has a POU. It had approximately 90 deployable POU officers at the time of the Freedom Convoy.

³ Canadian Association of Chiefs of Police, *National Framework for Police Preparedness for Demonstrations and Assemblies*, COM00000666, pp. 3 and 8.

3. Sources of pre-arrival intelligence

The OPS had access to multiple sources of intelligence before the Freedom Convoy arrived in Ottawa. These included reports from the OPP and the Parliamentary Protective Service (PPS), which provides physical security within the Parliamentary Precinct, open-source information, data from a local hotel association, and other details collected by the OPS. While each piece of information individually might not be sufficient to show that a large number of protesters would stay beyond the first weekend, when taken together, it is clear that there was a strong possibility, if not likelihood, that this would occur.

3.1 Project Hendon

Project Hendon is a joint intelligence project that was created around February 2020 by the OPP's Provincial Operations Intelligence Bureau. It collects information, produces intelligence, and disseminates intelligence regarding protest events that could present a public safety impact. Each Project Hendon report contains a section listing information collected, as well as a section analyzing that information. There is no federal equivalent to Project Hendon, although the Royal Canadian Mounted Police (RCMP) and other federal intelligence officers are engaged in Project Hendon.

Project Hendon's focus has evolved since its formation. It initially focused on Indigenous protests. However, during the pandemic, it began to address public safety challenges posed by opposition to COVID-19 public health measures, including anti-government sentiment. While the sources of threats shifted, Project Hendon's attention remained on large-scale protests with potential public safety issues.

Multiple agencies from across Canada, including the OPS and the RCMP, received Project Hendon reports regularly. All chiefs of police at major Ontario police services, including Chief Sloly, were added to the distribution list in January 2021. As I discuss later in this chapter, the leadership of the OPS Intelligence Directorate also received

these reports, although some members did not begin receiving them until late January due to the recent leadership transition.

In addition to producing reports, Project Hendon hosted teleconferences where the Freedom Convoy was discussed. The first of these teleconferences was on January 21, 2022, and was followed by mostly daily calls starting on January 24. Initially, lower-ranking OPS Intelligence Directorate officers attended these calls, but on January 26, Superintendent Patterson and Inspector Bryden began participating.

Project Hendon produced multiple reports between August and December 2021, discussing potential protests in Ottawa related to COVID-19 mandates. It first reported on the Freedom Convoy on January 13, 2022. A section on “key information” at the beginning of this report states that “[i]nformation shared through social media networks indicates some of the participants of this action may be mobilizing from across the country to arrive in Ottawa for a mass anti-government protest calling for an end to all COVID-19 mandates.”⁴

As early as the next Hendon report, on January 20, 2022, there was mention that the Freedom Convoy might attempt to disrupt the workings of government and that some participants intended to stay in Ottawa until their demands were met. The “key information” section states that “[s]ome participants in these convoys may attempt to disrupt the business of government at both the provincial and federal level by blocking access to government legislatures and Parliament.”⁵ The report also identified open-source information indicating that some Freedom Convoy participants’ stated intent was to “surround and block access to the City of Ottawa and to Parliament” until the Federal Government lifted all mandates.⁶ The assessment section concluded that “this goal is likely to prove unrealistic in the long term,” but that “even a small number

⁴ Hendon Report, January 13, 2022, OPP00001600.

⁵ Hendon Report, January 20, 2022, OPP00001028, p.1.

⁶ Hendon Report, January 20, 2022, OPP00001028, p. 2.


of tractor trailers parked at Parliament Hill will almost certainly be disruptive in the short term.”⁷

Subsequent Hendon reports, which were produced daily as of January 22, 2022, reinforced the January 20 report’s assessments and highlighted additional risks. From as early as January 22, several reports indicated that the convoy had not identified an exit strategy after arriving in Ottawa. As of January 28, Hendon reports stated that there continued to be indicators that some protesters would stay beyond the January 29 – 30 weekend and that protesters intended to stay in Ottawa until at least February 4.

Project Hendon also reported that the convoy enjoyed significant support, both in terms of fundraising and sheer numbers of supporters. During the week before the convoy’s arrival, the Hendon reports highlighted a steady and significant increase in fundraising — from CAD\$700,000 on January 20 to CAD\$7.1 million by January 28. The funds amassed by the protesters indicated that the demonstration would be unlike any other, even though the intended use of the funds remained unknown. The January 20 Hendon Report indicated that the widespread online support that the convoy had attracted would likely materialize into more in-person support than would be usual for a protest.

Moreover, Hendon reports from January 26, 2022 onward indicated that numerous convoys would be travelling to Ottawa. The January 26 report flagged that there were 471 vehicles in the western convoy and that additional convoys with unknown numbers of vehicles would be travelling to Ottawa. The January 27 Hendon Report confirmed that 551 vehicles from three convoys would be travelling to Ottawa, and identified 10 additional convoys with unknown numbers of vehicles. By January 28, it was also clear that at least 1,352 vehicles from seven convoys would arrive in Ottawa, and that three additional convoys with unknown numbers of vehicles were travelling to Ottawa.

⁷ Hendon Report, January 20, 2022, OPP00001028, p. 4.



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Hendon reports from late January 2022 also suggested that demonstrators would have access to heavy equipment. The January 27 report indicated that protesters coming from the west were transporting some pieces of heavy machinery. While the January 28 report stated that the reasons for transporting the equipment were unknown, the January 27 report assessed that it was “highly unlikely that heavy machinery would be transported ... if there was no intent to use it.”⁸ That report concluded that heavy equipment could be used not only to damage property and block roadways, but also to secure access to strategic positions in Ottawa and to facilitate a long-term occupation.

Finally, Hendon reports suggested that individuals with fringe ideologies were also joining the Freedom Convoy, which could increase the level of threat to public figures, property, the public, and law enforcement. Hendon reports dated January 27 and 28, 2022, identified these elements as potentially the greatest public safety risk the protests posed and assessed that the Freedom Convoy organizers could not likely control or discipline them. It should be noted that fringe elements often attach themselves to broader events and that it is unclear whether this intelligence, on its own, was cause for heightened concern. As late as January 28, Hendon reports stated that it “has not identified any concrete, specific, or credible threat with regard to the Freedom Convoy protest.”⁹

Collectively, the Hendon reports from late January 2022 provided considerable information on the protests that could be expected in Ottawa. Some content left room for interpretation. No Hendon report before January 28 referenced a specific date to which the protests would last. However, the reports did suggest that the protests would be highly disruptive, that a significant number of protesters intended to stay in Ottawa beyond the weekend of January 29 – 30, that they had no exit strategy, and that heavy machinery could facilitate a longer-term stay. Many of the features of

⁸ Hendon Report, January 27, 2022, OPP00001611, p. 4.

⁹ Hendon Report, January 28, 2022, OPP00000815, p. 8.

the protests that were expected before the convoy's arrival in Ottawa pointed to an unprecedented, protracted, and significant event.

3.2 Other sources of information

In addition to the Hendon reports, the OPS had access to other sources of information, some of which tended to support the intelligence contained in those reports. First, as early as January 17, 2022, and more clearly as of January 25, PPS assessments articulated the Freedom Convoy's intent to stay, its unprecedented support, its ability to cause disruption, and the potential for it to overwhelm the OPS. On January 17, a PPS agent advised the RCMP that the pace of fundraising was significantly outside the norm. The RCMP forwarded this information to the OPP and OPS later that day, adding that open-source information indicated that the protesters planned to block Parliament Hill until all vaccine mandates were removed and that locals would be providing truckers with food and places to shower.

On January 25, 2022, the PPS shared with the OPS an assessment from its Protective Intelligence Unit that, after summarizing and analyzing information concerning the upcoming protests, concluded that the Freedom Convoy intended to disrupt Ottawa's downtown core on January 29 and the following week to induce the Federal Government to end public health mandates. While Deputy Chief Bell testified that the Project Hendon reports did not warn that protesters intended to disrupt downtown Ottawa as leverage to achieve their goals, the PPS report did warn of this risk. The PPS report further highlighted that organizers' ability to control participants was limited and that "participants may seek to leverage overwhelming numbers to occupy further roadways and obstruct additional areas ... contrary to organizer and police direction."¹⁰ The report noted that there was no specific credible threat of planned violence, but warned that the protest was likely to attract individuals predisposed to

¹⁰ Parliamentary Protective Service, Risk Identification Report, January 29, 2022, OPS00003020, p. 2.

ideologically motivated violent extremism and that there was a risk of spontaneous and/or opportunistic violence that could spread.

The OPP PLT also provided information to the OPS concerning the number of vehicles in the convoys and the protesters' intent to stay. The OPP PLT began engaging with Freedom Convoy organizers and participants shortly after January 10, 2022, and shared information that it learned with the OPS. On January 26, the OPP PLT advised that 11 convoys were travelling to Ottawa and that the western Freedom Convoy included 480 vehicles. By January 26, an OPP PLT officer had told Acting Deputy Chief Ferguson that she believed that a core group of protesters would remain in Ottawa until all mandates were lifted.

The OPS collected intelligence that supported Project Hendon's assessment of the number of protesters, their intent to stay, and their ability to cause disruption. On January 21, an email from a sergeant in the Special Events Unit discussing the arrival of a convoy to Ottawa was passed up through the chain of command to the OPS command team. This email reported that "[t]he goal of the convoy [was] to remain in Ottawa until the [vaccine mandate] restrictions [were] repealed" and that the convoy intended to disrupt downtown Ottawa to achieve that goal.¹¹ The sergeant informed his commanders that there could be upwards of 100 trucks per province arriving and advised that the OPS "may have to limit the numbers of trucks entering the City due to space."¹² On January 27, the OPS confirmed that farmers had cleared massive areas to allow Freedom Convoy trucks to park outside Ottawa. This intelligence supported the information that large numbers of vehicles would be arriving.

The OPS received ambiguous information from the Ottawa Gatineau Hotel Association concerning the protesters' ability to cause disruption and their intent to stay in Ottawa. The Association had received an email on January 25, 2022, indicating that Freedom Convoy participants were planning to book hotels for 30 – 90 days and that 10,000

¹¹ Email from Sean Kay to Kevin Kennedy and others, January 21, 2022, OPS00002880.

¹² Email from S. Kay to K. Kennedy and others, January 21, 2022, OPS00002880.

– 15,000 people would be active in the protests. The next day, the president of the Association advised the OPS that two Freedom Convoy road captains had told him that the Freedom Convoy intended to completely shut down Ottawa. The protesters’ plan appeared to be to chain their trucks in place and attempt to block access to the city. On January 29, however, hotels advised the OPS that groups had only booked stays for Friday and Saturday, and were leaving on the Sunday. This corroborated the OPS’s own investigation of the information that it had previously received. I accept that the information concerning hotel bookings was ambiguous and difficult to assess.

The OPS also learned of protester promotional material calling for protesters to storm Parliament. While the information was of questionable veracity, there nonetheless was a risk that some protesters might take this rhetoric at face value. This promotional material, while of limited reliability and credibility, was also one of the factors used by the PPS to assess that the protests might threaten the security of the Parliamentary Precinct and would likely disrupt Parliamentary operations.

4. Assessment of pre-arrival intelligence

The OPS relied on two intelligence assessment bodies to analyze the information it received. First, a Joint Intelligence Group (JIG) was set up to assess intelligence that other agencies sent to it. Second, the OPS’s own Intelligence Directorate prepared an intelligence assessment that was incorporated into the OPS’s operational plan.

4.1 Joint Intelligence Group

Shortly before the Freedom Convoy’s arrival in Ottawa, the OPS established the JIG with other law enforcement agencies that operate in the National Capital Region.¹³ Information received by the OPS was fed to the JIG for assessment. The OPS was

¹³ The JIG is sometimes called the “Combined Intelligence Group,” or “CIG.”

originally the lead agency for the JIG, although the RCMP took the lead on January 31, 2022.

The JIG met on January 26, 27, and 28, 2022, although it formulated no recommendations following these meetings. At the meetings, participants shared information concerning various convoys and vehicles and discussed unconfirmed social media and online chatter about violence, firearms, and American truckers joining the protests. JIG participants also shared information on the party atmosphere in Ottawa once the Freedom Convoy vehicles began to arrive on January 28.

4.2 OPS intelligence assessment

The OPS Intelligence Directorate played a more significant role in shaping the OPS's preparations for the arrival of the convoy. Prior to the protests, the Intelligence Directorate was responsible for preparing an overall intelligence assessment for strategic and operational command to consider. OPS Sergeant Chris Kiez was in charge of preparing this assessment. In this document, he identified the potential scale of protests and its capacity to disturb downtown Ottawa but did not significantly address the risks of protesters remaining for a prolonged period, of attracting fringe elements, or of using heavy equipment. In this assessment, Sergeant Kiez expressed what could reasonably be seen as sympathy for the protesters' cause. This sympathy may have influenced his assessment.

Sergeant Kiez completed the initial version of his intelligence assessment on January 25, 2022. He shared it with his superiors at the Intelligence Directorate and with some members of the Special Events Unit on the same day. Copies were provided up the chain of command the next day. He produced a few updated versions of the intelligence assessment, the last of which was produced on January 28.¹⁴ Very few changes were made between the various versions of the intelligence assessment.

¹⁴ OPS Intelligence Assessment, January 29, 2022, OPS00004039.

Sergeant Kiez’s assessment warned of the Freedom Convoy’s size and resources. The assessment stressed that this event would be of an unprecedented scale, with “numbers of people beyond the norm,” and added that the convoy would “be able to stop and effectively shut down movement if they desire.”¹⁵ It stated that “[i]n 6 years of working large demonstration events from the intelligence point of view, the writer has never seen such widespread community action.”¹⁶

The January 25 version of the assessment contained warning signs that protesters might remain in Ottawa after the January 29 – 30 weekend, although it did not expressly state that protesters might stay long term. For example, it referred to a growing financial fund that could pay for food, lodging, fuel, and legal costs. The January 28 version contained few updates and a limited discussion on whether Freedom Convoy participants would stay beyond the January 29 – 30 weekend. The only additional reference to their intent to stay was a statement in the appendix that “Convoy members appear to be stocking up on food and supplies which could indicate that they have long-term plans to stay in Ottawa.”¹⁷ Like the initial version, the January 28 version did not expressly discuss the protesters’ intent to stay until their demands were met, how many of them might stay beyond January 31, or for how long. While the assessment’s discussion of protesters staying after the weekend was limited, the various risks identified therein were still sufficient to put the operational and strategic commands on notice that they should plan for that possibility.

Chief Sloy understood the intelligence about protesters staying in Ottawa “to mean that the protest would primarily take place over one weekend, with a small group remaining after the weekend.”¹⁸ However, I am of the view that if even a small proportion of the participant numbers reported by Project Hendon — 1,352 vehicles and three additional convoys with unknown vehicle counts — remained in Ottawa, it could have

¹⁵ OPS Intelligence Assessment, January 25, 2022, OPS00003086, pp. 3 and 5.

¹⁶ OPS Intelligence Assessment, January 25, 2022, OPS00003086, p. 5.

¹⁷ OPS Intelligence Assessment, January 29, 2022, OPS00004039, p. 8.

¹⁸ Interview Summary of Chief Peter Sloy, WTS.00000040, p. 7.

been significant and warranted a contingency plan. Indeed, Inspector Bryden also commented that he was concerned about the possibility that protesters might stay in Ottawa beyond the weekend. There did not seem to be an understanding that any protesters who remained would be staying with the large rigs in which they came, nor was there an appreciation for the disruption that this would cause.

Other risks posed by the Freedom Convoy featured less prominently in the intelligence assessment, and Sergeant Kiez's own views on the protest's merit may account for this fact. In particular, Sergeant Kiez's use of language and the sources on which he relied raise questions about his objectivity. The intelligence assessment relies on impressionistic statements by partisan newspaper commentators and contains language suggesting that Sergeant Kiez may have been sympathetic to the Freedom Convoy's cause, such as referring to the Freedom Convoy as a "silent majority" and contrasting it with the "usual sad players" in other protests.

The initial version of the intelligence assessment downplayed the presence of fringe elements in the Freedom Convoy movement. It characterized online commentary advocating violence as the work of persons trying to "troll" legitimate protesters. On January 25, shortly after sharing the first version of the intelligence assessment, Sergeant Kiez expressed the view to his superiors that Diagon was of low concern. Diagon is an organization with a disputed character that I address in more detail in Chapter 11, when discussing the protests that took place in Coutts, Alberta. The RCMP and the OPP consider Diagon to be an extremist, militia-like organization. Sergeant Kiez wrote that Diagon referred to convoy members who were "trying to achieve the goal of a life free of nanny-state government intervention in our daily lives" and explained that Diagon was founded by the head of the website "Raging Dissident."¹⁹ Surprisingly, Sergeant Kiez's analysis did not discuss the fact that the founder of Diagon, Jeremy Mackenzie, was reported to have made veiled threats against the prime minister, as outlined in the following day's Hendon Report.

¹⁹ Email from Chris Kiez to M. Patterson, Kenneth Bryden, and others, January 25, 2022, OPS00003180.


The January 28 version of Sergeant Kiez's assessment did little to expand on the discussion of fringe elements in the January 25 version. The only substantive addition to the assessment was the reference that persons with extremist political views were increasingly supporting the Freedom Convoy on social media. The appendix, which was absent in the initial version, mentioned that Mr. Mackenzie may be in Ottawa and is reported to have extreme views, but did not mention his close ties to Diagon.

The January 28 version also did not analyze the presence of heavy equipment or the risks it posed. This is surprising given the January 27 Hendon Report's assessment of the presence of heavy equipment as the piece of new information posing the most serious potential threat. Instead, on January 28, after some Freedom Convoy participants had already begun to arrive, Sergeant Kiez circulated an additional assessment focused on heavy equipment, which stated that he was "unable to provide an exact threat assessment of the impact of the heavy vehicles" because of the unknown purpose of the equipment, but that its presence and availability posed a significant public safety risk.²⁰ Sergeant Kiez recommended that planners use checkpoints at main arteries into the city to determine the reason for the heavy equipment and advise drivers that the equipment could be stored at sites outside the city but within the National Capital Region. This was meant to be a compromise between turning away a driver who had spent days getting to Ottawa and the public safety risk posed by allowing heavy equipment into the city. In my view, Sergeant Kiez's suggestion was sensible.

4.3 Internal concerns regarding the assessment of intelligence

Some concerns were raised internally, notably by Chief Sloy, regarding the levels of threat expressed in relation to the upcoming Freedom Convoy protests. These concerns pertain to a briefing note and the threat assessment section of the OPS's operational plan.

²⁰ Email from C. Kiez to K. Bryden, January 28, 2022, OPS00004435.



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On January 26, after receiving an email from a concerned citizen about the potential violence of the protests, Chief Sloly wrote to his command team, describing the concerns raised and adding: “Yet our briefing note as of last night says that there is no intelligence to indicate that this demo straying [*sic*] will be violent?”²¹ Chief Sloly then requested that all available information be reviewed to “ensure we have the most accurate threat assessment and the most appropriate operations plan for the event.”²² In his testimony, Chief Sloly confirmed that he had not seen the intelligence assessment prepared by Sergeant Kiez and that his comment of the “briefing note as of last night” probably referred to an email that had been circulated the night before. There does not appear to have been significant change to Sergeant Kiez’s intelligence assessment after Chief Sloly expressed his concerns.

A partial summary of Sergeant Kiez’s intelligence assessment was incorporated into the OPS’s operational plan, in a section of the plan titled “Threat Assessment.” On January 28, after receiving a copy of the plan, Chief Sloly asked Acting Deputy Chief Ferguson to “review and improve the language and content in the Threat Assessment.”²³ Deputy Chief Bell appears to have shared the desire to improve the threat assessment. He was concerned about whether it matched the level of threat and that information about activists was missing.

The OPS had determined earlier that the threat level was low because there was no intelligence of a specific threat of violence. On January 28, the OPS Intelligence Directorate determined that, given the number of people and vehicles, and the amount of supplies, it was a bigger movement than expected, and the threat level had changed. However, the OPS Intelligence Directorate continued to believe that there was no specific threat of violence or major risk at that point, despite Chief Sloly’s concerns from January 26 outlined earlier in this section. Even the OPS’s initial assessment

²¹ Email from P. Sloly to Patricia Ferguson, S. Bell, and others, January 26, 2022, OPS00003073, p. 3.

²² Email from P. Sloly to P. Ferguson, S. Bell, and others, January 26, 2022, OPS00003073, p. 3.

²³ Email from P. Sloly to P. Ferguson and others, January 28, 2022, OPS00003748.

of “low threat” is surprising in light of the OPP’s characterization of the protest as a “**High Risk Event,**” which the OPS had received as early as January 21.

Despite the concerns raised regarding the threat assessment’s adequacy, it does not appear to have been significantly altered or bolstered as a result. It seems that the planning team operated on the basis of a suboptimal threat assessment, which adversely affected the police response to the protests.

5. Use of intelligence by the operational command

Multiple witnesses testified that there was a disconnect between the intelligence I have discussed earlier in this chapter and the OPS’s operational plan for the Freedom Convoy’s arrival. In their view, by anticipating a weekend event and focusing primarily on traffic management, the plan was not responsive to the intelligence suggesting that demonstrators would remain until their demands were met and that identified risks beyond traffic congestion. In other words, as Acting Deputy Chief Ferguson testified, the operational plan was not intelligence-led.

In this section, I discuss how the operational command did not act on some of the intelligence it received and how, as a result, the operational plan did not address key risks. During the Freedom Convoy, OPS Inspector Russell Lucas oversaw the Operations Support Branch and served as incident commander for the demonstrations. In this position, and as a member of the operational command, he was responsible for approving the OPS’s operational plan. As I explain in this section, the disconnect between available intelligence and the operational plan appears to have flowed, at least in part, from the operational command prioritizing the OPS’s own experience with protests over the intelligence it received.

5.1 Dissemination of and reaction to initial intelligence

While the OPS learned of the Freedom Convoy on January 13, 2022, it only took significant steps to prepare once Inspector Lucas began to act as incident commander on January 21. The delay left the OPS with less than one week to prepare for the Freedom Convoy and significantly disadvantaged the planning team in the OPS Special Events Unit, which is responsible for major event planning. As Inspector Lucas testified, the OPS was used to spending months to prepare for large events.

Despite these delays, the Special Events Unit took steps on January 21 to ensure that it was receiving intelligence and preparing an initial intelligence update for Inspector Lucas. On that date, the Special Events Unit arranged for the Intelligence Directorate to prepare the OPS intelligence assessment that I referred to earlier and met with the OPP and the RCMP to coordinate intelligence sharing. Further, the Special Events Unit sent Inspector Lucas an initial situation report on the Freedom Convoy that summarized the intelligence shared with the Special Events Unit, including the convoy's intent to remain in and disrupt downtown Ottawa until its demands were met.

Inspector Lucas discounted the initial intelligence that the Freedom Convoy would remain in and disrupt downtown Ottawa until its demands were met because it did not align with his experience of anti-vaccine protests by local truckers in 2020 and 2021. Those protesters also said they would stay in downtown Ottawa until their demands were met, but they left within a day. The Freedom Convoy's co-operative relationship with police, as it travelled to Ottawa, appeared to support Inspector Lucas's assumption that the OPS could manage the Freedom Convoy and that it did not pose a public safety risk.

Instead, Inspector Lucas focused planning and preparation on traffic management, which he identified as the principal risk posed by the convoy. To mitigate that risk, he and the Special Events Unit decided, on January 21, to stack Freedom Convoy trucks

in the city's core and direct vehicles that could not fit downtown to overflow staging areas from which protesters could shuttle downtown.

On January 26, OPS traffic planners shared with Inspector Lucas a traffic sub-plan that implemented this approach by outlining stacking areas downtown and elsewhere for Freedom Convoy vehicles to park. The traffic sub-plan was based on the assumption that the Freedom Convoy would be a weekend event and that the OPS could afford to lose the stacking areas for the weekend.

Under the traffic plan, the OPS would first fill up Wellington Street between Kent and Metcalfe streets on a "first-come basis" with 75 tractor trailers and would then stack trucks on O'Connor, Kent, and Metcalfe streets in the downtown core. Freedom Convoy vehicles that could not fit downtown would be directed to the Sir John A. Macdonald Parkway and, potentially, the Sir George-Étienne Cartier Parkway. The OPS also made provisions to park Freedom Convoy vehicles at 300 Coventry Road near Raymond Chabot Grant Thornton Park. Convoy participants who parked farther from the downtown core could take a protester-operated shuttle bus service or public transit to get to Parliament Hill. The traffic sub-plan also outlined egress routes for each of the staging areas. The OPS planned to permit tractor trailers to park on Wellington Street, but only those with boxed trailers.

By the time Inspector Lucas received the traffic plan on January 26, he had developed "heightened" concerns about the Freedom Convoy because of the intelligence he had received from several sources, including the OPS intelligence assessment, Intelligence Directorate meetings on January 26 and 27, daily situation reports from the Special Events Unit, and from partner agencies. There is no evidence, however, that Inspector Lucas and the Special Events Unit received the Project Hendon reports. Inspector Lucas knew that Project Hendon was holding teleconferences, but he did not attend, and only appears to have received a summary of one of them. While the Hendon reports contained OPP assessments that the Special Events Unit could have used, the Intelligence Directorate did not share these reports, because it acted

as the gatekeeper of intelligence provided by partner agencies. In short, intelligence was flowing to the Special Events Unit, even though there were some dissemination barriers.

Even without being privy to the Hendon reports, Inspector Lucas and his team received sufficient intelligence from the OPS and its partners to understand three principal risks that the Freedom Convoy posed. First, there were anti-government elements joining the Freedom Convoy, and social media messaging indicated that some participants might attempt to storm Parliament Hill.

Second, some Freedom Convoy participants, especially the 480-vehicle western convoy, had expressed an intent to remain in Ottawa beyond the weekend. Inspector Lucas stated on January 27 that hundreds, if not thousands, of trucks would stay because of the large sums of money they had raised and the intensity of their commitment.

Third, support for the Freedom Convoy was increasing, with 11 convoys arriving in Ottawa, and approximately 10,000 protesters participating in the January 29 demonstration, some of whom were transporting heavy equipment. Inspector Lucas agreed with the Intelligence Directorate's initial assessment that the Freedom Convoy would be larger than previous protests in Ottawa, that there was a groundswell of support, and that the protests would be characterized by passionate emotions. Because the OPS's staffing was limited, Inspector Lucas anticipated that the OPS could be overwhelmed by the sheer number of participants that might arrive if those participants did not honour agreements with the PLT. Only 599 of the OPS's 1,479 sworn officers were front-line officers available for operational duties, and many of those officers were needed to police the rest of Ottawa.

5.2 Failure to translate intelligence into the operational plan

Some intelligence did inform the operational plan and the OPS's preparations. Inspector Lucas responded to the concern about fringe elements storming Parliament

Hill by planning to deploy the OPS's POU officers and requesting POU reinforcements from other police services. On January 27, following Inspector Lucas's request, Chief Sloly secured POUs from the OPP and four municipal police services. The OPP diverted its two POUs to Parliament Hill, and Inspector Lucas kept the remaining POUs in reserve. These POU reinforcements were sufficient to secure Parliament Hill and helped to mitigate the potential for the OPS to be overwhelmed.

Further, Inspector Lucas engaged the PLT to de-escalate potential issues. At his direction, as of January 25, OPS PLT members were embedded in the OPP PLT that had been engaging with the Freedom Convoy since earlier that month. The OPS began discussions with Freedom Convoy leaders regarding potential exit plans and negotiated to keep emergency lanes open.

However, the operational command did not plan for the potential that the OPS might be overwhelmed by the number of Freedom Convoy participants and the potential for those participants to remain in Ottawa beyond the weekend. Indeed, the operational plan that Inspector Lucas approved on January 27 mentioned neither the potential for Freedom Convoy participants to remain in Ottawa after the January 29 – 30 weekend nor the supporting intelligence identified by Project Hendon and other sources. Deputy Chief Bell, Acting Deputy Chief Ferguson, and Inspector Lucas all admitted that the plan should have addressed this risk.

Because the operational command did not anticipate a demonstration that would spill into the next week, it continued to permit large vehicles to enter downtown Ottawa. The "Execution" section of the operational plan was based on the traffic sub-plan and its stacking areas for large vehicles in downtown Ottawa. As the staff sergeant in charge of the Special Events Unit wrote, the traffic sub-plan's stacking areas were the "meat and potatoes" of the operational plan, and the rest was "gravy."²⁴ Inspector Lucas continued to stack Freedom Convoy vehicles in downtown Ottawa to minimize

²⁴ Email from K. Kennedy to Susan Ann Goulet Powell, January 28, 2022, PB.NSC. CAN.00001166_REL.0001.

the convoy's impact on Ottawa residents, maintain hospital access, and reduce the footprint of the convoy. But the traffic sub-plan was based on an assumption that the intelligence did not support; namely, that Freedom Convoy vehicles would leave after the weekend. By continuing to follow the traffic sub-plan and allowing large Freedom Convoy vehicles to enter the downtown core, the operational command permitted the potential for protesters to entrench themselves.

I pause here to note that there were practical alternatives to stacking protesters in the downtown core. While Deputy Chief Bell testified that it would have required massive resources, which the OPS lacked, to divert the Freedom Convoy from Ottawa without the organizers' co-operation, that drastic step may not have been required because more feasible alternatives existed. In fact, such alternatives were partially incorporated into the operational plan, which contemplated staging protesters who could not fit downtown into more outlying locations and having them take public transit to the city core. The RCMP has frequently employed a similar approach for major summits. Indeed, the OPS was aware that the protesters themselves had identified and cleared out vehicle parking space in farm fields near Ottawa, which may suggest that some of them were prepared to stage outside of the downtown. Similarly, instead of excluding all protester vehicles from Ottawa, the OPS could have attempted to exclude them from specific regions of the downtown area, as the OPS subsequently did with success during the April 2022 Rolling Thunder protests.

Notably, the operational plan in January 2022 did not contain contingency plans to respond if the protesters and vehicles that the OPS permitted downtown did in fact stay after the weekend. While Inspector Lucas testified that other aspects of the plan adequately addressed the risk that protesters would stay beyond the weekend, those aspects merely mentioned the potential need to expand staffing and extend the exit period. Further, while Inspector Lucas testified that contingency plans were being developed, it seems that none were ultimately created. Acting Deputy Chief Ferguson and Deputy Chief Bell were unaware of any such plans, and Acting Superintendent

Robert Bernier testified that he did not identify any when he catalogued the OPS's plans on February 3.

The operational plan also did not contain contingency plans for protester non-compliance with police direction and PLT requests concerning staging areas and keeping heavy equipment out of the downtown core. Inspector Lucas received a request from the PPS to prevent trailers from parking on Wellington Street but determined that this would not be feasible and merely planned for the OPS to ask protesters to keep certain heavier trailers off that street. He employed the same approach for heavy equipment. There was thus no contingency plan if Freedom Convoy participants did not comply with the PLT's requests. While Superintendent Patterson had shared Sergeant Kiez's suggestion concerning the storage of heavy equipment outside the downtown core with Deputy Chief Bell and advised him that it would be shared with the planning team, it is unclear whether the recommendation made its way to Inspector Lucas.

In short, some of the intelligence that the operational command was privy to was not reflected in the operational plan that it approved. Indeed, during an Intelligence Directorate meeting on January 27, Inspector Lucas stated that he was praying for "really cold weather" so that few participants would remain. But without contingency plans, the operational plan counted on the best and did not plan for the worst.

6. Intelligence dissemination and strategic oversight by the strategic command

The strategic command did not correct the apparent disconnect that multiple witnesses identified between the intelligence and the operational plan. In part, this may reflect barriers to the dissemination of intelligence to and within the OPS's senior leadership.

6.1 Barriers to the dissemination of intelligence

As the convoy approached Ottawa, no member of the OPS executive had access to a complete or accurate intelligence picture, which made it more difficult for them to challenge the intelligence assessment or to provide strategic oversight to ensure that the operational plan was intelligence-led. Specifically, there were three principal barriers to the dissemination of intelligence to and within the OPS executive.

First, the executive's engagement with intelligence was delayed. Chief Sloly began receiving intelligence on January 13, but Deputy Chief Bell only began receiving intelligence briefings from Superintendent Patterson around January 20. Similarly, Acting Deputy Chief Ferguson only began receiving updates, including on intelligence, from the Special Events Unit on January 21.

Second, the OPS lacked a system to ensure that intelligence reports were disseminated to the entire executive, and individual executive members did not consistently share the materials they received with each other. The Project Hendon reports illustrate this. The receipt and dissemination of these reports within the OPS was disorganized and raised concerns about who read what and when. On February 10, Chief Sloly asked his executive assistant to request copies of all previous Hendon reports from the Intelligence Directorate. The executive assistant's email contained "questions from the Chief" concerning the use of Hendon reports by the OPS that cast doubt on whether Chief Sloly was previously familiar with them, although Chief Sloly denied asking his executive assistant to pose those questions. When the Intelligence Directorate subsequently requested them from the OPP, Project Hendon's director was confused because Chief Sloly had been receiving Hendon reports since January 2021. At the very least, this incident demonstrates confusion within the OPS concerning who read which Hendon reports and where those reports were stored.

Due to this disorganization, access to Project Hendon reports at the executive level was uneven. Chief Sloly received all of the Hendon reports on the Freedom Convoy,

although he did not read all of them in detail and may not have read some because he expected that the Intelligence Directorate was thoroughly reviewing them. However, his deputies did not receive them until January 27, shortly before the Freedom Convoy arrived, and never received the pre-January 27 reports. In Deputy Chief Bell's case, the Intelligence Directorate's recent leadership transition may have contributed to this uneven access, as Inspector Bryden also did not begin receiving those reports until January 25.

Moreover, the OPS lacked a system to ensure dissemination of the OPS intelligence assessment and the Intelligence Directorate's daily intelligence briefings to the OPS executive. As a result, Deputy Chief Bell had access to both, but Chief Sloly's and Acting Deputy Chief Ferguson's access was more limited. Acting Deputy Chief Ferguson only received an earlier version of the OPS intelligence assessment, and Chief Sloly appears to have never received it. Similarly, Chief Sloly and Acting Deputy Chief Ferguson were not privy to the daily intelligence briefings that the Intelligence Directorate's head, Superintendent Patterson, gave to Deputy Chief Bell, and only received a single briefing from Superintendent Patterson during the week of January 24.

The OPS similarly lacked a system to disseminate Special Events Unit situation reports, and Acting Deputy Chief Ferguson did not circulate most of these reports to Chief Sloly and Deputy Chief Bell. As I mentioned earlier, the Special Events Unit sent Inspector Lucas the first such report on January 21, which summarized important intelligence on the Freedom Convoy's goal of staying in Ottawa. Acting Deputy Chief Ferguson shared that report with the OPS executive after Inspector Lucas forwarded it to her. Inspector Lucas asked Acting Deputy Chief Ferguson whether he should share subsequent situation reports with the rest of the executive, a question indicating that the OPS lacked a protocol governing the dissemination of these reports. Acting Deputy Chief Ferguson told him that it was unnecessary to do so and did not circulate subsequent situation reports warning that the OPP did not know the Freedom Convoy's exit strategy, that the PPS expected the Freedom Convoy to be larger than

any demonstration in recent history, and that current and former police and military personnel had joined the Freedom Convoy. Instead, she informed Inspector Lucas that she would provide verbal updates on command calls. Given her testimony that she was unaware that the OPP was reporting that the Freedom Convoy lacked an exit strategy and had declared an intent to stay until mandates were lifted, it is unclear if she provided these updates or if her updates accurately captured the situation reports.

Third, before January 27, the OPS executive did not hold dedicated meetings to discuss intelligence to ensure that each member of the executive was on the same page. Instead, Deputy Chief Bell provided brief intelligence updates on the Freedom Convoy during daily command calls on which the Freedom Convoy was only one of many agenda items. He briefed the command team that only a small number of Freedom Convoy participants would stay after the weekend. Chief Sloly testified that these updates were high-level briefings that gave an intelligence overview. Due to their concise and high-level nature, these meetings were not suited to a discussion of intelligence that potentially undercut Deputy Chief Bell's assessment, and there is no indication that Deputy Chief Bell shared this intelligence, such as the protesters' declared intent to stay, their stockpiling of food and supplies, and the presence of heavy equipment.

6.2 Strategic oversight

These barriers to the dissemination of intelligence to and within the OPS executive made it more challenging for the executive to provide effective strategic oversight of the operational plan to ensure that it was intelligence-led. The executive became engaged in planning on January 27 – 28. It met on the morning of January 27 to discuss planning and intelligence, after which Acting Deputy Chief Ferguson sent the draft operational plan to Chief Sloly, and they discussed it on the morning of January 28.

Acting Deputy Chief Ferguson neither identified nor raised concerns about a disconnect between intelligence and the operational plan to Chief Sloly. Instead, as Chief Sloly testified, Acting Deputy Chief Ferguson presented the operational plan to him without reservations. I accept that Acting Deputy Chief Ferguson may not have been well placed to identify an intelligence-planning disconnect because she relied on Deputy Chief Bell's verbal briefings that the Freedom Convoy would be a weekend event and was not privy to the Hendon or PPS reports that undercut that assessment.

Deputy Chief Bell was privy to more intelligence than Acting Deputy Chief Ferguson but also did not raise concerns about a disconnect between intelligence and the operational plan. He read the plan but did not ensure that the plan's threat assessment section reflected the risk that the Freedom Convoy would remain after the weekend, despite acknowledging in his testimony before the Commission that this risk should have been included. Further, he knew that there was no contingency plan if the Freedom Convoy stayed, but there is no evidence that he raised this as a concern with the command team.

In contrast, Chief Sloly identified two important concerns at the January 27 meeting before he reviewed the plan: (1) the presence of heavy equipment; and (2) the potential for protesters to remain in Ottawa after the weekend. He stated that heavy equipment could be used to take down barriers, and that its presence indicated a level of pre-planning that they did not normally see and that was not consistent with a lawful protest. Further, he highlighted the need for the OPS to undertake "planning for extended demo and digging in around parliament," and mentioned that the OPS should "do a clear demobilization assessment" before sending officers home.²⁵ He also commented that the OPS needed "to reduce expectations that this is a normal demonstration."²⁶

²⁵ Truck Convoy Meeting Notes, January 27, 2022, OPS00014559.

²⁶ Truck Convoy Meeting Notes, January 27, 2022, OPS00014559.

However, Chief Sloly told the Commission that when he received the plan, he agreed with it and did not propose significant changes. Acting Deputy Chief Ferguson testified that he said the plan looked fine, and the team proceeded with that plan. Chief Sloly did provide feedback, but it did not address the lack of contingency plans and instead focused on other matters. As mentioned, he also requested revisions to the plan's threat assessment, but it is unclear whether these revisions covered the risks of heavy equipment and of protesters staying after the weekend. The final version of the plan that Inspector Lucas sent to Chief Sloly on the evening of January 28 still did not mention these risks. Further, while Chief Sloly expected that the PLT's role was to convince protesters to leave at the end of the January 29 – 30 weekend, the plan did not assign this role to the PLT.

I note that Chief Sloly was playing a higher-level strategic oversight role and that he relied on Deputy Chief Bell, Acting Deputy Chief Ferguson, and Inspector Lucas to ensure that the plan was intelligence-led. Multiple witnesses testified that Chief Sloly respected Inspector Lucas's autonomy as incident commander and did not unduly direct planning before the Freedom Convoy arrived.

7. Impact of legal advice on planning

The OPS executive sought and received legal advice that may have fostered a misunderstanding about its authority to restrict access to downtown Ottawa. Chief Sloly testified that by January 26, the OPS's general counsel advised him that the OPS lacked authority to prevent Freedom Convoy trucks from entering downtown Ottawa. On January 28, the general counsel gave the OPS executive a formal opinion that neither confirmed nor clearly dispelled that impression. That memorandum did advise the OPS executive that it had authority to direct traffic, tow vehicles, and prevent protesters from blocking roads. However, it did not mention the OPS's authority to close roads or restrict traffic. Moreover, the memorandum's executive summary linked the OPS's authorities to public safety risks requiring immediate action, and this may have left Chief Sloly with the impression that the OPS only had "authority to close

roads and restrict traffic if there were public safety concerns” and that “closures and restrictions had to be commensurate to actual threats or reasonably predictable threats.”²⁷

Further, the memorandum did not directly address the OPS’s authority to restrict trucks from entering downtown Ottawa. Perhaps as a result, Chief Sloly seemingly equated this issue with denying protesters access to the downtown core. He told the Commission that the “OPS did not have the legal authority to deny the Freedom Convoy access to downtown Ottawa” because the *Charter of Rights and Freedoms* entitled convoy participants to protest there.²⁸ Yet these issues are distinct: the OPS may have had the authority to restrict trucks from entering downtown Ottawa even if they could not prevent protesters themselves from travelling to the downtown core to protest.

However, the legal advice and whatever confusion existed at the executive level as to the OPS’s authority does not appear to have influenced the operational command’s decision to allow Freedom Convoy vehicles into downtown Ottawa. Rather, Inspector Lucas, who made the decision to allow the trucks into the downtown core, told the Commission that he believed he had authority to close Wellington Street, but decided not to. He decided to concentrate Freedom Convoy vehicles on Wellington Street to keep them away from residential areas, with the view that the OPS had successfully policed truck protests in downtown Ottawa in the past. Deputy Chief Bell shared this view.

8. Preparation by OPS partners

The OPS was not the only police service that was preparing for the arrival of the Freedom Convoy. On January 22 and 24, the OPP developed a communications plan and appointed Superintendent Craig Abrams as Strategic Commander in

²⁷ Interview Summary of P. Sloly, WTS.00000040, p. 15.

²⁸ Interview Summary of P. Sloly, WTS.00000040, p. 15.

charge of policing the Freedom Convoy for Ontario's East Region. On January 24, Superintendent Abrams activated the East Region Emergency Operations Centre (EOC). The EOC was a place for various OPP sections to work and coordinate the tasks required to successfully police the Freedom Convoy.

On that same day, the EOC adopted a traffic plan that concentrated on policing highways and communities under OPP jurisdiction. The traffic plan focused on keeping the peace, ensuring public and officer safety, and maintaining the safe flow of traffic. The OPP expected to hand off responsibility for policing the Freedom Convoy to the OPS when the vehicles entered the City of Ottawa.

The OPP also deployed a critical incident commander to the National Capital Region Command Centre (NCRCC) to assist with coordinating the deployment of police resources with the OPS and other police partners. I discuss the NCRCC in more detail in Chapter 8. As strategic commander, Superintendent Abrams was responsible for acting as a liaison between the OPP critical incident commander and OPP senior leadership, as well as other police services. In this role, Superintendent Abrams had strategic oversight over the OPP deployment in Ottawa. Deputy Chief Bell was Superintendent Abrams' primary contact with the OPS.

Starting on January 24, Superintendent Abrams communicated with the City of Ottawa and the OPS to coordinate their efforts. He also participated in INTERSECT calls. INTERSECT is a police-led information-sharing program to coordinate interagency responses to major events in the National Capital Region.

On January 25, the Freedom Convoy entered Ontario, and in the following days, convoys from other sites of origin moved toward Ottawa. OPP members ensured public safety by engaging with protesters and following the OPP's Highway Blockade Strategy and Operational Plan to mitigate risks of dangerous highway conditions.

Similarly, the Sûreté du Québec (SQ) and the Service de police de la Ville de Gatineau (SPVG) prepared to manage Freedom Convoy vehicles travelling from Quebec to

Ontario. The SQ, aware of the convoy from Project Hendon reports and its own intelligence services, developed traffic management plans for the convoys heading from various places in Quebec to Ottawa.

The SPVG also prepared an operational plan. Around January 25, the SPVG learned that approximately 500 – 1,000 protesters from Quebec were heading to Gatineau to join the planned protest in Ottawa. The SPVG, which was not part of Project Hendon, anticipated that the protesters would leave on the day following their arrival, as was usually the case for similar protests. Consistent with that expectation, the SPVG prepared an operational plan to mitigate the risk of traffic congestion and shared that plan with the OPS. The operational plan included a POU sub-plan, but the SPVG did not anticipate that protesters would remain for a prolonged period.

In the period prior to the arrival of the convoy in Ottawa, the RCMP was monitoring the situation in a variety of ways. In addition to obtaining information through interjurisdictional mechanisms like Project Hendon and INTERSECT, it also gathered information on the convoy independently. The RCMP's Ideologically Motivated Criminal Intelligence Team collected intelligence and began to produce special threat advisories on the convoy starting on January 25, 2022. Most of the RCMP's efforts at this stage were directed at raising situational awareness, briefing other federal agencies, and ensuring that it could discharge its mandate to protect federal institutions and high-ranking officials in Ottawa. I discuss the RCMP's activities during this time in more detail in Chapter 14.

9. Communication of the OPS plan to partners

The OPS informed the OPP and the RCMP of the plans it was developing at a January 27 INTERSECT meeting. The OPS advised that it was planning to allow up to 3,000 vehicles into Ottawa and would allow trucks to park on Wellington Street and elsewhere in the downtown core. It was apparent to Superintendent Abrams and RCMP Deputy Commissioner Mike Duheme, who both attended the call, that the OPS

was planning for a weekend event at most. The two did not question this plan, as they trusted that the OPS was comfortable with any agreements it had made with the convoy organizers to let those vehicles enter downtown Ottawa. Superintendent Abrams testified that the OPS representatives were confident in their plan and that it was not his place to question it. They were the police of jurisdiction and they had considerable experience with major events. Indeed, some in the OPP appear to have shared the OPS's confidence in the plan and the assumptions that it was based on. A January 27 OPP situation report described the OPS's plan as "robust," and the OPP deputy commissioner responsible for intelligence appears to have shared the OPS's view that the Freedom Convoy would be mainly a weekend event. Similarly, the SPVG did not find it unusual that the OPS permitted trucks to be downtown, because it too expected protesters to leave after the weekend.

Commissioner Thomas Carrique, the highest-ranking member of the OPP, did not learn of the OPS's plan before the Freedom Convoy arrived. Rather, he was advised that the OPS would be directing large commercial vehicles to staging areas outside the downtown core, where drivers would park and shuttle downtown. Commissioner Carrique testified that if he had known of the OPS's plan, he would have asked additional questions about the need for more resources and the integrity of the Parliamentary Precinct. Commissioner Carrique's impression likely reflects a miscommunication within the OPP, as Superintendent Abrams learned that the OPS was planning to allow large commercial vehicles to enter the downtown core on January 27.

However, making Commissioner Carrique aware of the OPS's intention would not likely have made a difference because Chief Sloy believed that the OPS had sufficient resources to execute its plan and did not request additional resources. On January 28, Chief Sloy texted Commissioner Carrique that he had everything he needed. Commissioner Carrique would not have asked additional questions if the OPS had assured him that it had sufficient resources, because operational planning and decision making remained the OPS's responsibility. Similarly, the RCMP offered



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assistance before the Freedom Convoy arrived, but the OPS did not request RCMP resources.

Chapter 8

Ottawa's Preparation for the Arrival of the Convoy



Ottawa's Preparation for the Arrival of the Convoy

1. Introduction

Preparations for the Freedom Convoy's arrival in Ottawa, Ontario involved a host of officials. In the previous chapter, I focus on how police prepared for the impending disruptions. This chapter turns to the City of Ottawa's plans for the convoy's arrival and the steps it took — unilaterally and in collaboration with other actors — as protesters approached.

I begin by providing information on the National Capital Region's physical and legal geography. I then explain the City of Ottawa's framework for responding to emergencies and describe some of the measures it took to prepare for the convoy. Lastly, I assess the extent to which the Ottawa Police Services Board (OPSB) received information as it exercised its oversight functions.

2. The geography of the National Capital Region

2.1 Ottawa's physical geography

Parliament Hill is in the downtown core of the City of Ottawa, on the banks of the Ottawa River. Immediately south of Parliament Hill is Wellington Street. Wellington Street is home to several important institutions including the Office of the Prime Minister and Privy Council building, the Senate, the Bank of Canada, and the Supreme Court of Canada. Given its proximity to Parliament, Wellington Street is often the site

of protests, and many people expected this to be the Freedom Convoy’s destination. Upon arrival, however, the protests not only took over Wellington Street, but also extended into the residential neighbourhoods south of Parliament Hill.

As Wellington Street goes east and crosses the Rideau Canal, it becomes Rideau Street. Two blocks east of Parliament Hill is the intersection of Rideau Street and Sussex Drive. That intersection separates the downtown core from areas east of the Rideau Canal, including the ByWard Market. The Rideau Centre, Ottawa’s largest shopping mall, is located at this intersection. The Rideau and Sussex intersection became a location of particular concern for law enforcement, who experienced significant difficulties managing the group of protesters that came to occupy the intersection.

Between Wellington Street and the Rideau and Sussex intersection is Elgin Street, which runs north – south. On the east side of Elgin Street, about four blocks south of Wellington Street, is Confederation Park. Immediately south of the park is Ottawa City Hall as well as the Ottawa Courthouse. Confederation Park became an encampment for some protesters in the early days of the protest.

As I set out in more detail in this chapter, part of the Ottawa Police Service’s (OPS) initial plan was to have protesters whose vehicles could not fit on Wellington Street or other designated downtown streets park outside of the downtown core and use public transit to travel to Parliament Hill. To accomplish this, officials designated several alternative parking sites. This included Sir John A. Macdonald Parkway and Queen Elizabeth Driveway, both of which are under the jurisdiction of the National Capital Commission (NCC). The City also designated a City-owned parking lot off Highway 417 on Coventry Road. The Coventry Road site — located east of the downtown core and approximately five kilometres from Parliament Hill — became a key staging area for protesters and, like the intersection of Rideau Street and Sussex Drive, served as a home base to a more difficult-to-manage group of protesters.

Protesters occupied these key locations at various times. They also conducted multiple “slow roll” protests across the city and used other sites outside of Ottawa as staging areas. These include locations in the towns of Arnprior and Vankleek Hill, which are approximately 66 km and 100 km from Ottawa, respectively.

2.2 Ottawa's legal geography

As the national capital, Ottawa is a particularly complicated city from a legal and jurisdictional perspective. It is one of Ontario's largest municipalities and the seat of the Federal Government. Major federal government institutions, as well as Parliament itself, are situated within the municipality. Ottawa is also closely integrated with the neighbouring municipality of Gatineau, located in the province of Quebec. Multiple levels of government operate side by side within a relatively small, dense urban space. Ottawa is a uniquely complicated place when viewed in terms of the various legal jurisdictions that are exercised there. During the Freedom Convoy protests, law enforcement jurisdiction presented a clear example of these complexities.

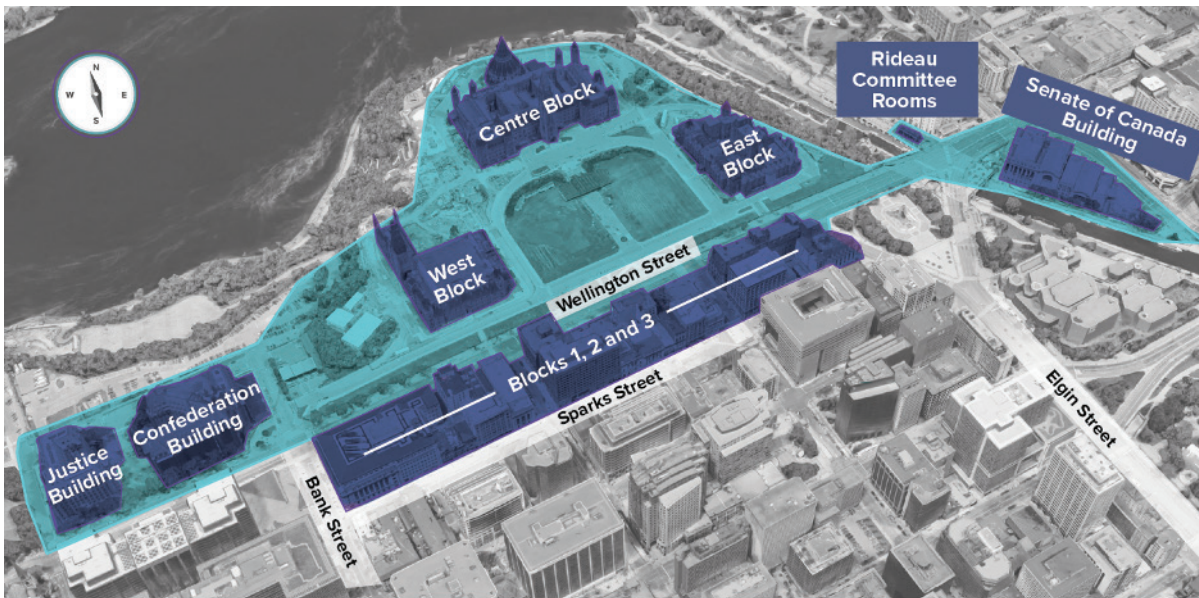
Multiple law enforcement agencies have jurisdiction and policing responsibilities in the National Capital Region. The OPS is the police of jurisdiction in the City of Ottawa. As such, it is responsible for providing policing services throughout Ottawa, including on Wellington Street, on Parliament Hill, within the Parliamentary Precinct, and on NCC lands.

The Ontario Provincial Police (OPP) is Ontario's provincial police force. OPP officers have authority to enforce the *Criminal Code* and provincial legislation anywhere in Ontario. The OPP is responsible for policing provincial highways in the City of Ottawa and maintains a detachment in Ottawa for this purpose.

The Royal Canadian Mounted Police (RCMP) is a national police force with authority to enforce federal laws and regulations anywhere in Canada. In Ontario, it does not enforce provincial offences or municipal by-laws unless individual members are designated as special constables by Ontario officials. In Ottawa, the RCMP

is responsible for protecting senior federal government officials and diplomats, investigating national security-related offences, and conducting traffic enforcement on parkways owned by the NCC. In January 2022, the RCMP maintained 60 patrol officers in the National Capital Region and had 1,000 – 1,100 officers at RCMP National Headquarters in Ottawa.

The Parliamentary Protective Service (PPS) is responsible for physical security on Parliament Hill and in the Parliamentary Precinct. It is not a law enforcement agency, and therefore calls on the OPS to investigate and lay charges if necessary. The Precinct includes all lands south of the Ottawa River and north of Wellington Street between the Rideau Canal and Kent Street, all lands north of Sparks Street and south of Wellington Street between Elgin Street and Bank Street, the Rideau Committee Rooms at 1 Wellington Street, and the Senate of Canada Building at 2 Rideau Street. Wellington Street is not part of the Parliamentary Precinct. A map of the buildings included in the Parliamentary Precinct is shown in the corresponding image.



NCC conservation officers conduct parking and property offence enforcement on NCC properties, but they rely on the OPS and the RCMP to investigate criminal matters. NCC conservation officers do not have jurisdiction outside NCC properties.

In the Quebec portion of the National Capital Region, the Service de police de la Ville de Gatineau (SPVG) is responsible for municipal policing in Gatineau, and the Sûreté du Québec (SQ) is responsible for highway patrol and assisting the SPVG. In municipalities like Gatineau, which have their own police force, the SQ may engage in law enforcement where the municipal force requests assistance, when it is directed by Quebec's Minister of Public Security, or with respect to certain matters that exceed the responsibility of the local police. Neither SQ nor SPVG officers may enforce laws in Ontario unless designated as special constables.

Ottawa City Council may pass by-laws pursuant to its authority under the *Municipal Act, 2001*. The City had many by-laws relevant to the protests that took place in January and February 2022, including those regulating the use of city streets, special events in public spaces, noise levels, idling, and open-air fires. Within the City, by-laws may be enforced by the City of Ottawa's own by-law officers or by the OPS.

3. Ottawa, the Ottawa Police Service, and the Ottawa Police Services Board

Understanding how Ottawa and the OPS prepared for and responded to the convoy protests requires an appreciation of the relationship between the City and its police force. The OPS is not simply another department of the municipal government. It is an independent law enforcement agency that has a relationship not only with the City of Ottawa, but also with the Ottawa Police Services Board (OPSB) and, through it, the Government of Ontario.

The basic structure of this relationship is set out in Ontario's *Police Services Act (PSA)*. Under the *PSA*, municipalities have the duty to provide adequate and effective police services in accordance with their needs. This includes, at minimum, crime prevention, law enforcement, assistance to victims of crime, public order maintenance, and emergency response. One of the ways in which municipalities discharge this duty is by establishing a municipal police force. Where a municipality establishes its

own police force, the *PSA* requires the creation of a municipal police services board. Boards have numerous duties under the *PSA* including the duty to appoint members of the municipal police force, determine objectives and priorities with respect to police services in the municipality, establish policies for the management of the municipal police force, and direct the chief of police.

This last duty, however, is subject to a significant limitation. A board may not direct a chief of police with respect to specific operational decisions or on the day-to-day operation of the police force. Those decisions remain within the authority of the chief. However, as the Honourable John W. Morden correctly noted in his 2012 *Report of the Independent Civilian Review into Matters Relating to the G20 Summit*, this prohibition does not prevent a board from obtaining information, including operational information, from the chief of police. Nor does it prevent a board from discussing, expressing its opinions, or making suggestions to the chief of police regarding any matter relating to policing in the municipality.¹

The size and composition of police services boards varies depending on the size of a municipality. The largest municipalities, such as Ottawa, have a seven-person board. In January 2022 and until February 16, 2022, the OPSB was composed of three members of City Council appointed by Council, one member of the public appointed by Council, and three persons appointed by the Provincial Government. Under the *PSA*, the head of a municipal council has the right to act as one of the municipal council members of a board. If they do not exercise this right, council appoints another member in their place. In the case of Ottawa, Mayor Jim Watson chose not to sit as a member of the OPSB. The Chair of the OPSB, at all relevant times up to February 16, was Councillor Diane Deans. As I discuss in Chapter 16, the Board’s membership changed substantially on February 16. The newly composed Board did not have significant involvement in the response to the demonstrations.

¹ The Hon. John W. Morden, *Report of the Independent Civilian Review into Matters Relating to the G20 Summit* (2012), COM00000616, p. 5.

While municipal councillors serve on police services boards, councils and boards are independent entities. Neither controls nor directs the other. The only role municipal council has with respect to the police services board's operation is in establishing an overall budget. That said, police services may still have close ties to the municipalities that they police. Police services may, for example, brief municipal officials with respect to matters that are of interest to both of them.

This system of policing services has additional levels of supervision and oversight that are provided by two bodies: the Ontario Civilian Police Commission (OCPC) and Ontario's Ministry of the Solicitor General. In certain circumstances, the Ontario Provincial Police (OPP) may also become involved in the provision of policing services within a municipality.

The OCPC is a provincial agency established under the *PSA*. It has a range of duties and responsibilities with respect to the investigation and review of policing matters in the province. Like municipalities and police services boards, the OCPC plays a role in ensuring that adequate and effective police services are provided within Ontario's municipalities. Whereas boards supervise police services, the OCPC supervises both police services and police services boards. If a board does not provide adequate and effective police services, the OCPC may direct a board to take measures that the OCPC considers necessary. If a board does not comply with that direction, the OCPC may request that the commissioner of the OPP give assistance to the municipal police. A police services board may also request that the OPP assist a municipal police force. The chief of a municipal police force may also request OPP assistance, but only if the chief believes that an emergency exists in the municipality. When a request for assistance is made, the *PSA* requires that the commissioner of the OPP shall give "such temporary or emergency assistance as he or she considers necessary."²

The Ministry of the Solicitor General of Ontario provides a different form of oversight and support in the provision of policing services. The solicitor general is responsible

² *Police Services Act*, R.S.O. 1990, c. P.15, s. 9(8).

under the *PSA* for monitoring, consulting with, and advising municipal police services boards. It is responsible for monitoring to ensure that adequate and effective police services are provided at the municipal level. Much of this work is provided through police services advisors, who generally attend all board meetings and are available to offer advice and guidance with respect to questions around board governance, the *PSA* and its regulations, and other relevant standards. Police services advisors report to the inspector general of policing for Ontario who, in turn, reports to the deputy solicitor general. In January and February 2022, Kenneth Weatherill and Mario Di Tommaso were the inspector general and the deputy solicitor general, respectively.

4. The City of Ottawa's framework for responding to emergencies

4.1 Ottawa's emergency response framework

The City of Ottawa's response to the protests was led by the Department of Emergency and Protective Services and its General Manager, Kim Ayotte. Mr. Ayotte reported to City Manager Steve Kanellakos, who was the highest ranking unelected official in Ottawa. Mr. Kanellakos, in turn, reported to Mayor Jim Watson and the City Council.

Under Ontario's *Emergency Management and Civil Protection Act*, every municipality is required to develop and implement an emergency plan, as well as an emergency management program that includes training programs and public education components. Ottawa's emergency response plan is an all-hazard emergency program, designed to be used during planned or unplanned situations. It applies to any incident, event, emergency, or disaster that requires an extraordinary or emergency response. According to this plan, each City of Ottawa department has at least one on-call duty officer who acts as the single point of contact for their department or service area. At the city-wide level, the corporate duty officer coordinates the duty officer network.

The City has four levels of emergency response: Monitoring, Enhanced Operations, Activated Operations, and a State of Emergency. Each level was engaged in response to the demonstrations in January and February 2022.

When the City enters a Monitoring response level, City departments, partners, and stakeholders are informed of a situation. The corporate duty officer and some or all departmental duty officers may be notified and engaged. The aim is to understand how the situation that is being monitored may impact normal operations.

If an imminent or occurring situation could threaten public safety, public health, the environment, property, critical infrastructure, or economic stability, the City enters an Enhanced Operations response. The corporate duty officer and some or all departmental duty officers will be notified and engaged in an Enhanced Operations scenario. However, senior City leadership is not necessarily involved in the response.

If a situation requires the engagement of the City's senior leadership team, the City moves to Activated Operations and mobilizes its Emergency Operations Centre (EOC). The EOC is a central facility that provides overall policy direction for the City's response and coordinates all extraordinary resource requests. The EOC has two fundamental roles: (i) ensuring continuity of City operations; and (ii) supporting the response to the situation. When the City moves to Activated Operations, it also alerts the Ontario Provincial Emergency Operations Centre and Federal Government Operations Centre, either of which may or may not respond to the situation, depending on the circumstances.

The EOC is composed of two distinct groups: the EOC Control Group (EOCCG) and the EOC Operations Group. The EOCCG provides the overall policy direction for the City's response to a situation. It is chaired by the City manager and is composed of the City's senior leadership team and others such as the fire chief and paramedic chief. In addition, the EOCCG includes external partners and agencies, such as the Ottawa police chief and the medical officer of health.

The duty officer network transitions into the EOC Operations Group once the EOC is mobilized. These duty officers staff the EOC, ensure continuity of operations across the city, support departmental Command Centres, provide recommendations to the EOCCG, and develop strategies for implementing EOCCG objectives. Duty officers provide updates from the EOC Operations Group to their respective departmental Command Centres, which may be mobilized to monitor resource requests and ensure continuity of City operations during an emergency.

The final and most elevated level of response is a State of Emergency. Under the *Emergency Management and Civil Protection Act*, the head of council of a municipality — in Ottawa’s case, the mayor — may declare that a State of Emergency exists. Once a State of Emergency has been declared, the mayor may take such action and make such orders as they consider necessary, and are not contrary to law, to implement the municipality’s emergency plan and to protect property and the health, safety, and welfare of the inhabitants of the emergency area. Generally speaking, a declaration does not grant the mayor any additional powers beyond those already provided by law or authorized by a by-law.³

4.2 The Incident Management System

In responding to emergency situations, Ottawa implements Ontario’s Incident Management System (IMS). The IMS is a framework that organizations (including the City, through its EOC) use to coordinate a structured response to a situation of any scale. It exists outside the four levels of emergency response described previously. The IMS framework may be used to coordinate response to an emergency within a single department, city-wide (as when the EOC is mobilized), between several organizations, and even between jurisdictions.

³ For example, s. 23 of Ottawa’s *Procurement By-law* provides the City with authority to sole-source goods and services in the event of a “special circumstance,” which would include an emergency situation.

As part of the IMS framework, an incident commander has overall authority and responsibility for all activities that take place at the site of the emergency. This role includes developing objectives, strategies, and tactics, as well as ordering and releasing resources. The incident commander (also known as incident command) is the single point of command for the response. In any situation in which the IMS is applied, the selection of incident command depends on the nature of the hazard. This is not necessarily a decision that is made formally, but one that flows naturally from the hazard in question.

If an emergency impacts multiple incident sites, an area command may be set up. Area command determines the overall objectives and strategies for the response and provides logistical and administrative support to the incident commander.

Where there are multiple incident sites that require a police-led response, unique difficulties arise due to the National Capital Region's complex web of policing jurisdictions. In order to coordinate such multi-jurisdictional policing responses, an entity known as the National Capital Region Command Centre (NCRCC) will act as Area Command. The NCRCC is police-led and is composed of representatives from the various organizations involved in the response including the RCMP, the OPP, the OPS, the PPS, and the City. The City of Ottawa has liaison officers embedded at the NCRCC. Those liaison officers bring information and resource requests back to the City's EOC. As a result, during the protests, the NCRCC both housed the OPS operational command centre and functioned as an information-sharing and coordination forum.

5. Preparations by Ottawa for the arrival of the convoy

5.1 Information sharing, coordination with police, and emergency response

When preparing for the Freedom Convoy protests, the City of Ottawa relied primarily on information provided by law enforcement agencies. Much of this information came from the OPS, including information shared with City officials through the EOC and the NCRCC. In addition, the City received information from an initiative called INTERSECT, an OPS-led information-sharing initiative in the National Capital Region. Members include the National Capital Region law enforcement agencies as well as the cities of Ottawa and Gatineau. During the events of January and February 2022, INTERSECT provided members, including Ottawa, with daily updates or multiple updates per day.

City departments were engaged with respect to the approaching convoys as early as January 14, when the City’s Traffic Incident Management Group (TIMG) began planning for the Freedom Convoy’s anticipated arrival. The TIMG is another inter-jurisdictional body that is focused on traffic-related matters. It is made up of representatives from the City of Ottawa Public Works Department, Ontario’s Ministry of Transportation, the Quebec Ministry of Transportation, the OPS, the SPVG, the RCMP, the OPP, and the Sûreté du Québec, as well as the Ottawa – Carleton Regional Transit Commission (OC Transpo), and Fire and Paramedic Services from Ottawa and Gatineau.

Mr. Ayotte, Ottawa’s General Manager of Emergency and Protective Services, was first advised sometime between mid-January and January 21 that the City was monitoring potential demonstrations associated with the Freedom Convoy. He believes that the information he received came through the TIMG, and likely originated from the OPS. Mr. Ayotte passed on this information to Mr. Kanellakos, the City Manager, around this time.

On January 21, City officials received a first INTERSECT update advising of a demonstration planned for the weekend of January 28 – 29. The update noted that the demonstration was expected to have a major impact on traffic but would be peaceful. After reading this update, Mr. Ayotte still anticipated that the convoy would be a regular protest. Nevertheless, it appeared that there was some uncertainty in the reporting around this time. A January 24 update received through INTERSECT indicated that the situation remained fluid. Law enforcement expected to have a more accurate picture of the anticipated events by the afternoon of January 26, 2022.

Also on January 24, the OPS provided the City with information about their own plans for responding to the convoy protests. The OPS reported that they were planning for a large-scale demonstration involving more than 300 vehicles and a three-day operational deployment from January 28 to 30, 2022. The OPS advised that participants intended to protest on Parliament Hill, but that vehicles might not be limited to Wellington Street.

Information that painted an uncertain picture about the actual intent of the convoy protesters continued to come to the attention of City staff. While most of the information being provided to the City came from law enforcement, it was also receiving intelligence from other sources that suggested a different picture of what the protests might look like. For example, on January 24, a man who indicated that he was associated with the convoy advised the City that upwards of 50,000 people were expected to attend in Ottawa. He also advised that protesters intended to camp out at Parliament Hill indefinitely and planned to attempt a citizens' arrest of Prime Minister Justin Trudeau. The individual advised that organizers would not be obtaining a permit. He reported that the head of the convoy was Patrick King, and identified a woman named Sandy Sable as another organizer. Ms. Sable was associated with a group called Take Action Canada, which advocated against vaccine mandates and other public health measures. As I examine in Chapter 13, Ms. Sable was also involved in discussions among some organizers about managing the finances of the Freedom Convoy. It is

unclear whether the City considered this information reliable, or if it passed it on to the OPS.

On January 25, City officials, including Mr. Ayotte, Mr. Kanellakos, and the mayor’s office, received information from the president of the Ottawa Gatineau Hotel Association, as I describe in Chapter 7. This information suggested a larger and more entrenched protest than what had been anticipated earlier. The City forwarded this information to the OPS, but City officials could not recall whether they raised this information in their discussions with the OPS leadership.

That same day, Mr. Ayotte received a copy of a written briefing that the OPS had provided to the OPSB. The OPS advised that the demonstration would be “a significant and extremely fluid event that could go on for a prolonged period.” The number of participants and the anticipated length of their stay was said to be unknown.⁴

On January 25, the City entered its Monitoring response level. The City’s duty officers met with the OPS to obtain information about the situation as the OPS understood it, and to discuss mitigation activities, coordination requirements, and potential impacts on City operations.

On January 26, Ottawa Police Chief Peter Sloly briefed Mayor Watson, Mr. Kanellakos, and Mr. Ayotte on what to expect in the coming days. Mayor Watson recalled that it was unclear during that briefing how many vehicles were coming to Ottawa, what plan the protesters had, and how long they intended to stay. From the outset, Mayor Watson had the sense that protest organizers were not united. During this meeting, Mr. Ayotte advised the OPS that Ottawa By-law and Regulatory Services (BLRS) would not be enforcing or ticketing protesters in any situations that were dangerous. The OPS agreed with this approach.

⁴ Email from Patricia Ferguson to Kim Ayotte, January 25, 2022, 4:58 p.m., OTT00000091.0001.

An INTERSECT update provided to the City on the same day advised that protesters had raised more than \$5 million on GoFundMe. I return to the topic of the protesters' fundraisers in Chapter 13. At this point, it is sufficient to note that the protesters had launched a fundraising campaign that had raised a surprising sum of money. The INTERSECT update reiterated that this would be a "significant and extremely fluid event that could go on for a prolonged period." The update described the OPS and its partners' efforts to prepare for the event, including that they were "planning for a range of risks."⁵ However, both Mayor Watson and Mr. Kanellakos testified that their understanding of the OPS's assessment as of the January 26 briefing was that the demonstrations would last the weekend, with some protesters possibly staying until early the following week.

On January 27, the City escalated its response level to Enhanced Operations. The OPS liaison to the EOC advised that the OPS was expecting a minimum of 800 vehicles and that it was unclear when protesters were expected to leave. The OPS also advised that tow companies would have operators available for BLRS to remove trucks, as required. The OPS liaison speculated that some protesters might leave after Sunday because organizers did not yet have access to GoFundMe funds. However, as I discuss in Chapter 13, that same day, GoFundMe authorized the release of \$1 million to Tamara Lich, the GoFundMe campaign organizer.

City officials relied on the assessment provided to them by the OPS leadership and planned for a weekend event, with a small number of protesters potentially remaining at the beginning of the following week. City officials, while regularly briefed by the OPS, were not privy to the details of the OPS's risk assessment or its operational plans.

There is no doubt that the City directly received some information that could have caused them to doubt the OPS's assessment — the report of the local hotel

⁵ Email from INTERSECT to undisclosed recipients, January 26, 2022, 2:35 p.m., OTT00000259.0001.

association is a notable example. City officials, who were in regular contact with the OPS leadership, would have been wise to directly bring these reports to their attention and to inquire about the OPS’s contingency plans for the event. That said, having none of its own expertise in intelligence matters, it was reasonable for the City to rely on the OPS’s assessment in planning its own response.

5.2 City-led responses

January 28 was the first day that convoy participants began to arrive in Ottawa. The OPS assumed the role of Incident Command for the protests, and the NCRCC was mobilized as Area Command. The City had liaison officers embedded within the NCRCC. They were responsible for taking information and resource requests back to the City’s EOC. The role of the City’s EOC at that time was two-fold: to manage City service impacts and to support the NCRCC. The overall response to the convoy was police-led, and as a result, the OPS operational commander at the NCRCC set the overall objectives and strategies for the response to the convoy. Other than escalating its emergency response and maintaining situational awareness in order to monitor impacts on City services, the City itself took few steps to prepare for the demonstrations. This is not to say that the City did nothing to prepare. Rather, most of the preparation was done by the police, with City actions being more supportive or peripheral.

One of the early concerns identified by the City was maintaining emergency lanes through downtown for emergency services vehicles. In collaboration with the OPS, the City’s Traffic Incident Management Group (TIMG) identified streets running north – south and east – west that would require emergency lanes. The City used concrete barriers or heavy vehicles to block protester access to emergency lanes. Mr. Ayotte confirmed that convoy organizers had agreed to maintain emergency lanes and, after the first weekend, did generally maintain these lanes. I address this in greater detail in Chapter 9.

One of the other issues that the City grappled with was how to manage the large concentration of protesters who were expected to converge on Parliament Hill. The City's efforts were largely directed at managing the consequences of the protest activities, rather than preventing them from taking place.

For example, the City did not seek to rely on its permitting system to prohibit protest activities, notwithstanding that the Freedom Convoy was technically in violation of the relevant rules. Ottawa has a *Special Events on City Streets* by-law which requires a permit for any special event occurring on a highway or city street, including protests. Permits may be denied if there is any reason to believe that the event may result in a breach of the law or may be in any way against the public interest. No permit was ever issued to the Freedom Convoy, and it appears that convoy organizers never applied for one. However, the City does not normally fine or otherwise penalize demonstration organizers for failing to complete an application form or obtain a permit. The City's position is that, given the right to freedom of expression enshrined in the *Charter*, a permit is not a mandatory prerequisite to the right to demonstrate. The City did not consider the mere absence of a permit enough to deem the protest an unlawful assembly.

Similarly, the City did not use its authority under municipal by-laws to close roads to prevent the entry of vehicles associated with the demonstrations into the downtown core. The evidence is that the OPS decided to allow vehicles into the downtown core, and the City followed this decision. City officials had understood from Chief Sloy that attempts to prevent entry of vehicles into the downtown core would interfere with freedom of mobility under the *Charter* and would require a legal justification. The City did not conduct its own legal analysis of this issue. The City also understood that the OPS had an operational interest in allowing vehicles to concentrate in the downtown core. Mr. Kanellakos explained that the OPS wanted to restrict the footprint of the protesters to allow a more efficient use of its resources. A similar strategy had previously been adopted to respond to a farmers' protest involving large tractors.

The hope was that the protesters would occupy the downtown core in non-residential areas.

It is unclear to what extent the City questioned or challenged the OPS’s plan. Mr. Ayotte’s evidence is that the City raised concerns about letting trucks into the downtown core but that they received “hard pushback” from the OPS. Conversely, Mr. Kanellakos told the Commission that, while the City was not consulted on the plan, he considered it a reasonable approach based on the information the OPS had relayed to him at the time and his experience with previous protests.

In any event, the evidence is that, without support from police, the City would likely have been unable to conduct the kinds of street closures necessary to exclude vehicles from the downtown core. The City ultimately never asked for such assistance, though in light of the position that the OPS took, it is questionable whether it would have been provided. The City ultimately followed the OPS’s lead in planning for the arrival of the convoys and depended on the OPS’s assessment of the available intelligence. The City therefore focused on measures that would mitigate the impact of a large protest in the downtown core. As Mr. Ayotte told the Commission, measures included installing a small number of portable washrooms in the downtown core and clearing some downtown streets of snow.

Another measure the City took, which would turn out to have some significance to the dynamics of the protests, was establishing the Coventry Road parking site, which I briefly discussed at the outset of this chapter. On January 25, the OPS asked staff in the City’s Recreation, Cultural and Facility Services group to use a City-owned parking lot adjacent to the Raymond Chabot Grant Thornton Stadium for overflow parking. This appears to have been consistent with past practice whereby the City’s Traffic Services group worked with the OPS to secure overflow space when a protest was expected in the downtown core. Police could then work with organizers to direct traffic to the overflow space, as needed. Both public and private property had been used in the past.

The City approached the Ottawa Titans Baseball Club, who use the parking lot, to obtain permission for the OPS to use the lot the same day. The Coventry Road lot was not intended to be used for long-term or overnight stays. The request by the OPS was to only use the area between the evenings of Friday, January 28 and Sunday, January 30. The plan was for protesters who could not fit on Wellington Street or on other designated downtown streets to park there and commute via public transit to Parliament Hill, to relieve congestion in the downtown core. Permission was given by the Titans, and the officials made plans to direct incoming protesters to this site.

As I discuss in Chapter 9, the Coventry Road site was transformed from an overflow parking area to an overnight encampment and staging area for the protesters. Police came to view it as a particularly problematic location, occupied by volatile protesters who held more extreme views than others. It would come to play an important role in how the protests evolved.

5.3 Ottawa's efforts to work with residents and businesses to prepare

Ottawa's status as the nation's capital means that it is a frequent site of protests. When protests do take place, they can have an impact on local businesses and communities. Some impacts are minor, but others can be significant. In recognition of this, the City tries to communicate with residents and businesses ahead of demonstrations so that they know what to expect and can, where necessary, make plans to deal with disruptions. In the case of the convoy protests, Ottawa residents and businesses did not receive adequate information to assist them in planning for what was, ultimately, a very significant event.

On January 26, the City issued a public service announcement advising residents to plan for the possibility of significant traffic and transit delays or disruption surrounding the expected arrival of a demonstration over the weekend. This messaging did not

reflect the magnitude of the events to come. This is most likely because, at that time, the City did not foresee the size and scope that the convoy protests would reach.

However, I heard other evidence suggesting that the City also failed to effectively communicate the information it did have to stakeholders. The heads of the local business associations that were most directly impacted by the protests testified that they did not receive the type of information that the City normally provides them ahead of a major protest.

On January 26, the executive director of the ByWard Market Business Improvement Area (BIA) wrote to Mathieu Fleury, City Councillor for the area, to raise several concerns ahead of the anticipated demonstration and to request information on the City's plan to assist businesses during the protests. The executive director also sought confirmation that extra law enforcement personnel would be deployed, including by-law officers, to ensure compliance with the public health measures that were in force in Ottawa at that time. Councillor Fleury forwarded this communication to the attention of Chief Sloy, Mr. Ayotte, and Roger Chapman, Director of Ottawa By-law and Regulatory Services.

Councillor Fleury does not specifically recall the response to these concerns. He generally recalled that the information he and other councillors received from the OPS prior to the arrival of the convoys was very limited. He does not recall being provided with specific information on what measures the OPS was putting into place to ensure that local businesses could operate during the demonstrations. This limited the information that he and other City councillors could pass on to their constituents.

Nathalie Carrier, Executive Director of the Vanier BIA, who has experience with large event planning in the city, explained that stakeholders normally receive more detailed information than the public about City and OPS plans prior to significant events such as Canada Day. In this case, the most impacted BIAs felt that they were only being given the same general information as members of the public, as opposed to more

detailed information such as traffic plans, which they could use to more meaningfully prepare themselves. The business community felt that it had not received the information needed to plan for the event, despite making multiple requests. I am satisfied, based on the evidence from City councillors and BIA executive directors, that local businesses did not receive the type of information they would normally receive from the City and the OPS ahead of a major event.

6. Information provided to the Ottawa Police Services Board

In the lead-up to the arrival of the Freedom Convoy, the police were not only briefing the City, but also the Ottawa Police Services Board (OPSB). The information received by the Board with respect to the anticipated size and character of the protests was mixed. While the Board received some information that suggested a large, longer-term protest, the main thrust of the information was that the protests would be manageable and would only last for the weekend.

Sometime around January 24, OPSB Chair Diane Deans was first informed of the Freedom Convoy and its anticipated arrival by Chief Sloy and the OPS's Executive Director of Strategy and Communications, John Steinbeck. She did not receive many details other than the fact that the OPS was aware of the upcoming demonstration and was working to gather intelligence and plan for the convoy's arrival.

On January 25, the OPSB received a written briefing from Acting Deputy Chief Patricia Ferguson indicating that the OPS was expecting a peaceful demonstration, but that it would be a "significant and extremely fluid event that could go on for a prolonged period." The note stated that the number of trucks or protesters was unknown, as was the intended length of their stay in Ottawa.⁶ The same briefing note was shared with Mr. Ayotte at the City. This message from Acting Deputy Chief Ferguson was tempered

⁶ Email from P. Ferguson to K. Ayotte, January 25, 2022, 4:58 p.m., OTT00000091.0001.

by a one-on-one telephone call later that day in which, according to Chair Deans, Chief Sloly said that he would be “very surprised if they are still here on Monday.” Chief Sloly told the Commission that he told Chair Deans that he would be surprised if the bulk of the protest proceeded into Monday, January 31.

Chair Deans called a special public meeting of the OPSB on January 26. This was the first and only meeting held prior to the arrival of the convoy in which the Board discussed the upcoming protests. Chair Deans called the meeting because she felt, from information she had received through media and social media, that the upcoming protest was going to be different from the ones typically experienced in the National Capital Region. City councillors, even those who do not sit on the Board, were invited to ask questions of the OPS command. For the Board to receive an adequate summary of the intelligence available to the OPS at the time, it would have been necessary for at least part of the meeting to be held *in camera*; however, neither the Board itself nor Chief Sloly requested this.

During the meeting, Chief Sloly briefed the Board. Chair Deans understood from that briefing that the OPS had no reason to believe that the protest was going to become a prolonged occupation. The OPS expected that the demonstration would last the weekend, with a small group of protesters possibly remaining into the beginning of the next week. Chief Sloly stated that the OPS was expecting 1,000 – 2,000 people to attend the protest.

Acting Deputy Chief Ferguson also advised that information obtained through contacts with protest organizers indicated that “it would be a fluid event that could go on for an extended period.” This message of a drawn-out protest appears to be in contrast with the one that Chief Sloly had just delivered. The Board seemingly failed to raise this potential discrepancy at the meeting, despite its obvious importance.

Chair Deans recalls later raising this potential discrepancy with Chief Sloly during a one-on-one call. She testified that Chief Sloly answered that he did not feel that any of

the intelligence the OPS was receiving would lead them to conclude that this would be anything other than a protest that would come and go in a typical fashion. Chief Sloly told the Commission that, at the time, Deputy Chief Steve Bell had briefed him that most Freedom Convoy activity would end on January 30.

The Board did not receive any summary of the intelligence that had been provided to the OPS in the Project Hendon reports. As I discuss in Chapter 7, these OPP-generated reports, while they had limitations, would have alerted the Board to the risk of a longer-term, occupation-style protest that Ottawa might be facing. In hindsight, Chair Deans explained that she would have asked for an *in-camera* briefing on this intelligence had she known it existed. It is clear that if Chief Sloly had requested an *in-camera* meeting to provide a summary of the intelligence available to the OPS, that request would have been granted by the Board.

The Board did not receive detailed information on the OPS's operational plan at the January 26 meeting. In discussions with Chief Sloly, Chair Deans was led to believe that there was a plan in place. Her impression was that Chief Sloly did not want to share the plan in too much detail and, at this juncture, the Board did not make requests for details. Chair Deans explained that the Board agreed with the OPS's priorities for the operation at this early stage. Specifically, the Board supported the OPS's plan to facilitate the right to protest while protecting against loss of life and serious injury.

No resourcing concerns were communicated by the OPS at this board meeting. Chair Deans understood from her interactions with Chief Sloly that the OPS had the resources needed to manage the protests. However, that view appeared to assume that the protests would not last much longer than the weekend. Chair Deans does not believe that there were any discussions with Chief Sloly or the OPS regarding the OPS's plan to ramp up the police response in case the protests lasted longer than originally anticipated. As I discuss in Chapter 9, staffing would become one of the core problems confronting the OPS even during the first weekend, and certainly as the protests continued into the week.

Chief Sloy did not inform the Board that there was intelligence suggesting that the protest might go on for more than a weekend. Instead, he downplayed this risk. In fact, the OPS would later tell the Board, during a meeting on February 11, that “there was no intelligence that suggested the demonstration would turn into the occupation that it had become.”⁷ Furthermore, the OPS leadership stated that it was expecting 1,000 – 2,000 people to attend the protest. In fact, by January 27, the OPS had planned to accommodate 3,000 vehicles in the downtown core. There is no evidence that this figure was ever provided to the Board, nor was a more accurate count of the number of people expected, even though the OPS was anticipating the arrival of approximately 10,000 people by January 26.

⁷ Ottawa Police Services Board Meeting Minutes, February 11, 2022, OPB00001648.

Chapter 9

The Ottawa Protests



The Ottawa Protests

1. Introduction

Previous chapters in this Report address how the Freedom Convoy originated, and how police and government officials prepared for the protesters' arrival in Ottawa. In this chapter, I describe the events that took place in Ottawa from the first weekend of the protests to the invocation of the *Emergencies Act*. Working through these events chronologically, I weave together the perspectives of police, government, protesters, residents, and businesses. This chapter illustrates how complex dynamics within and between groups shaped the events in Ottawa.

The Federal Government's perspective is dealt with in more detail in Chapter 14.

2. Arrival and the first weekend: January 28 – 30, 2022

As I discuss in Chapter 6, the Freedom Convoy was not a unified group of protesters represented by a single organization or leader. It was composed of diverse groups with certain shared grievances. The lack of centralized leadership led to communication and organizational challenges, which further manifested as the protesters arrived in Ottawa. Their arrival could fairly be described as chaotic, and over the course of the first weekend in Ottawa, the chaos became unmanageable.

2.1 Protesters' preparation for the convoy's arrival

As the convoy travelled from different regions across the country toward the nation's capital, individuals and groups sympathetic to their cause were on the ground in

Ottawa preparing to welcome the truckers. One such effort was the Adopt-A-Trucker campaign, organized by Chris Garrah. Adopt-A-Trucker had two roles: fundraising and coordinating volunteers. I discuss its fundraising work in Chapter 13. In its volunteer coordination role, Adopt-A-Trucker matched truckers with Ottawa residents willing to provide food, showers, laundry, and accommodations.

Mr. Garrah was initially involved with security and liaising with police but subsequently passed those roles on to Daniel Bulford, another convoy supporter. Mr. Bulford, a former Royal Canadian Mounted Police (RCMP) member, had worked as a sniper / observer on the National Division Emergency Response Team. Mr. Bulford left the force in December 2021 when his security clearance was revoked for speaking out against federal vaccine mandates.

On January 27, 2022, Mr. Bulford introduced himself by email to the Ottawa Police Service (OPS), the RCMP, and the Parliamentary Protective Service (PPS), which provides security services to the Parliamentary Precinct in Ottawa. He advised that, moving forward, he would be the main point of contact regarding volunteer security and invited these agencies to raise any concerns with him. Mr. Bulford further stated that the organizers expected protesters to be respectful and lawful, and that the largest concern of everyone involved was that outside influences would attempt to instigate an action that would damage the credibility of the official convoy group and its supporters.

On January 27, the OPS provided Mr. Bulford with maps identifying where trucks could park in the downtown core. Mr. Bulford forwarded the maps to another convoy organizer, Tamara Lich, who was driving to Ottawa with fellow organizer Chris Barber. A copy was also sent to James Bauder, co-founder of Canada Unity, a group that opposed COVID-19 mask and vaccine mandates, who helped plan and publicize the convoy's routes across the country.

2.2 The organization of Ottawa's response

The City of Ottawa-led Emergency Operations Centre (EOC), and the police-led and interjurisdictional National Capital Region Command Centre (NCRCC), played important roles in managing the municipal and police response to the arrival of the convoy in Ottawa. I discuss these bodies in Chapter 8.

On January 28, at 8 a.m., the NCRCC was activated as the command centre to support OPS incident commander Inspector Russell Lucas. The EOC was also mobilized to manage impacts specifically affecting city services and to act as a support to the NCRCC. The Traffic Incident Management Group (TIMG) — a body composed of representatives from the cities of Ottawa, Ontario and Gatineau, Quebec, as well as various law enforcement bodies — was also mobilized on January 28.

The OPS had the overall leadership role in the management of the protests and command of the event. The City and partner agencies, such as the Ontario Provincial Police (OPP) and the RCMP, understood that handling the protests fell entirely within the responsibility of the OPS. In the City's view, its role, including that of the EOC, was to support the OPS and mitigate the impact of the protests on residents and businesses.

2.3 The arrival of the convoy

Prior to the arrival of the convoy, the City recommended that residents avoid unnecessary travel in the downtown area. The organizers' original plan was for convoys travelling from the west, east, and south to converge in the town of Arnprior, Ontario, on January 28 for staging, and then travel to Ottawa as a united convoy the following day. However, some vehicles began arriving in Ottawa on January 28, one day ahead of schedule.

Mr. Barber testified that he was surprised by the presence of large commercial vehicles in downtown Ottawa in advance of the convoy's scheduled arrival. I heard different

explanations for why some vehicles arrived a day ahead of schedule. Mr. Barber testified that some of the early arrivals were semitruck operators who did not participate in the convoy as it crossed the country, but happened to be in the Ottawa area and joined the protest. Mr. Bauder, on the other hand, indicated that the arrival was split over two days because the convoy was so large. Regardless, the result was what Mr. Barber described as “unorganized chaos,” with trucks and other vehicles “everywhere.”¹

Initially, the OPS was able to facilitate the orderly arrival of protesters. Protester vehicles secured prominent positions on Wellington Street in front of Parliament as the OPS traffic sub-plan provided, and by-law officers were stationed throughout downtown Ottawa to ensure that emergency routes were kept clear. The OPS remained in regular contact with many convoy organizers, including Mr. Bauder and Mr. Barber, to learn about their plans and to ensure that protesters had information on safe driving routes and appropriate locations to park. Protesters were co-operative and followed police directions to the designated staging areas. By the afternoon of January 28, approximately 150 trucks had reached downtown, including 20 on Wellington Street and 70 – 75 on Metcalfe Street. An additional 50 trucks parked at the Coventry Road site, where protesters set up large tents and food preparation equipment, and organized shuttles to downtown.

As vehicles began to move onto Wellington Street, emergency lanes were mostly kept clear, although some towing by the City was required to maintain them. However, the sheer number of vehicles that began to arrive caused serious challenges, including significant traffic impacts in the immediate area of Wellington Street and on the Sir John A. Macdonald Parkway (SJAM). By the evening of January 28, Wellington Street was stacked with tractor trailers and other vehicles. Police imposed movement restrictions on the SJAM and Booth Street, which caused some protesters to feel “stranded” due to their distance from the main protest on Wellington Street. Mr. Bulford worked

¹ Evidence of Chris Barber, Transcript, November 1, 2022, p. 64.

with the OPS Police Liaison Team (PLT) overnight to identify suitable locations in the downtown core for additional trucks.

As the City and the OPS struggled under the strain of arriving protesters, they were also aware that the situation would soon become even more difficult. According to INTERSECT — the National Capital Region’s multi-jurisdictional, all-hazards emergency preparedness sharing initiative that I discuss in Chapter 7 — more than 3,000 additional vehicles were expected to arrive in Ottawa by the afternoon of Saturday, January 29.

During the night of January 28 – 29, there were warning signs that some protesters were willing to engage in disruptive behaviour. First, protesters on Wellington Street warned the OPS that “all Hell’s going to break loose,” and tractors would break through roadblocks to get to Wellington Street because the OPS had not let enough vehicles in. Second, the OPS pulled its officers out of Queen Street to de-escalate the situation after a group of protesters blocked the street and reacted with hostility to police efforts to move them. Third, there were reports of protesters verbally abusing and intimidating police and, in one case, surrounding a police cruiser. Fourth, some protesters committed by-law violations, including setting off fireworks at the National War Memorial, setting up an outdoor fire on Wellington Street, and honking an airhorn at midnight. The OPS night-shift operational commander wrote in a briefing note that small factions of protesters appeared determined to disrupt traffic flow, and the OPS would likely struggle to maintain emergency lanes on January 29.

The OPS expected large numbers of protesters and vehicles to arrive on January 29 but did not anticipate that they would be overwhelmed. OPS Inspector Lucas expected that approximately 4,000 – 5,000 vehicles and 10,000 protesters would participate in the demonstration. Notwithstanding the large numbers of vehicles and protesters predicted to arrive, OPS Chief Peter Sloly was briefed at 10 a.m. on January 29 that the traffic sub-plan was still working and that convoy participants were honouring agreements with the PLT concerning where to park. At this time, OPS Chief Sloly’s

principal concern was that a handful of convoy participants might remain after the weekend, as had occurred with previous protests, and set up 5 – 20 tents in a park.

Many of the protesters who arrived on January 29 wanted to park near Parliament Hill, where the weekend's events were scheduled to take place. Some protesters were able to secure parking spots nearby. For example, police escorted Mr. Barber from the Queensway (Highway 417) and permitted him to park on Wellington Street, near the Supreme Court of Canada. This was as far as he could advance, because tractor trailers were parked from that point to Parliament Hill. Vehicles also found locations to set up in other areas of the downtown core. Mr. Bauder parked his recreational vehicle at Confederation Park. According to Mr. Bauder, he obtained permission to use Confederation Park as a staging area, as he had during a convoy protest that he had organized the previous fall. It is unclear whether this was true. A separate group of protesters, mainly from Quebec, parked at the intersection of Rideau Street and Sussex Drive.

Thousands of vehicles gridlocked the downtown core. The OPS tried to keep additional vehicles from entering downtown. After Mr. Barber was allowed onto Wellington Street, for example, the OPS stopped the other vehicles in the convoy he was travelling with on the SJAM at Booth Street. This frustrated drivers who wanted to park closer to Parliament Hill.

Within a few hours of the OPS's January 29 morning command call, the number of convoy vehicles and participants that arrived overwhelmed the police. Some protesters began to park outside of the designated staging areas, disregarding police directions, and bypassing police barriers. The sheer number of vehicles combined with the many ways to enter the city made it impossible to fully control their movements. As noon approached, traffic officers reported that they were being overwhelmed. By 12:21 p.m., with additional convoys still *en route*, OPS Inspector Lucas reported that all available security officers, traffic officers, and the PLT had been exhausted and that the OPS was beginning to deploy public order units (POUs) to conduct foot patrol to conceal

their staffing shortages. This left the POUs unavailable for their usual policing duties, tasks that only they had the training and equipment to perform.

By mid-afternoon, the entry points to downtown Ottawa were blocked and impassible. Bridges between Ontario and Quebec were also affected over the weekend. A checkpoint was established at the Chaudière Bridge to ensure that essential workers from Quebec could access Ottawa. Emergency vehicles could still access the downtown core with some difficulty.

There were, by this point, an estimated 6,000 people on Parliament Hill, with another 6,000 – 7,000 people gathered along Wellington Street, although these numbers fluctuated throughout the weekend. Peak attendance on Parliament Hill on Saturday was thought to be close to 8,000. There were smaller gatherings of protesters in Confederation Park, the Rideau Centre, and the surrounding area. In an email update to City Council, Ottawa Manager of Emergency and Protective Services Kim Ayotte also noted the existence of “roaming convoys” driving through the city, sounding their horns, and disrupting traffic in surrounding areas.

Chief Sloly testified that this loss of control in the downtown core “punched [OPS] right in the nose” and knocked it to the ground.² Both he and Inspector Lucas compared the OPS’s attempts to respond to “drinking from a firehose.”³

The overwhelming influx of protesters had several consequences on OPS operations on January 29. First, as Chief Sloly testified, the traffic plan collapsed, and the OPS began to lose the ability to manage downtown core streets. Throughout the day, the OPS lost control of Kent Street and Rideau Street, several north – south streets, and of the emergency lane on Wellington Street.

² Evidence of Peter Sloly, Transcript, October 28, 2022, p. 54.

³ Evidence of Russell Lucas, Transcript, October 25, 2022, pp. 36 and 37; Evidence of P. Sloly, Transcript, October 28, 2022.

Second, the OPS was unable to prevent the entry of heavy equipment into downtown Ottawa. As I discuss in Chapter 7, while the OPS planned to permit trucks into the downtown core, they intended to divert heavy equipment away from the area. However, by the morning of January 29, a boom truck — a heavy truck with a flatbed back used to lift and deliver construction equipment — had entered the city’s core. The boom truck carried a large crane with a small ball attached to it. Protesters extended the crane to hoist a Canadian flag outside the top window of the Prime Minister’s Office and used the flatbed as a stage for events. While the truck was not used to damage buildings, Superintendent Craig Abrams, the strategic commander in charge of policing the Freedom Convoy for the OPP’s East Region, testified that misuse of the boom truck would pose serious danger to persons or property. On January 30, protesters did use the boom truck to remove barricades, which further undermined the ability of the OPS to control the situation. When asked, OPS Deputy Chief Steve Bell did not explain how the boom truck entered downtown Ottawa despite the OPS’s plans to divert heavy equipment.

The third consequence of these events was that the OPS largely lost the capacity to conduct enforcement. When confronted with illegal activities by protesters, the OPS lacked the capacity to issue tickets, lay charges, or make arrests. OPS Inspector Lucas determined that the volume of protesters forced the OPS to “pick battles,” and he focused on public safety and attempting to restore stability rather than enforcement. While this may have been a prudent course given the circumstances, the lack of enforcement contributed to a general sense of lawlessness that would come to characterize how many residents experienced the protests.

The evening of January 29 and the early morning of January 30 presented new challenges. Law enforcement reported that some small groups were not keeping the peace, and paramedics reported experiencing aggression from protesters. Law enforcement was having difficulty maintaining road closures as some protesters were harassing officers and creating blockages with their trucks. One City of Ottawa heavy

vehicle was damaged. There was a report of someone adding an accelerant to the Centennial Flame on Parliament Hill.

Even as the situation escalated throughout January 29, the OPS did not appear to recognize that they were facing what would become an entrenched, long-term disruption to the city. The OPS executive (i.e., the chief and deputy chiefs) still expected that most protesters would soon leave. Command meeting minutes, taken on the evening of January 29 and the morning of January 30, identified the OPS's principal challenge as facilitating the departure of protesters, rather than responding to protesters who wanted to stay.

By not recognizing the gravity of what it was facing, the OPS missed out on early offers of support from other law enforcement agencies. On January 29, OPP Superintendent Abrams began planning for a protracted event because he recognized that many protesters intended to stay. He offered 18 front-line OPP constables to assist the OPS, which was all the OPP could deploy at that time without jeopardizing front-line policing elsewhere. The OPS executive declined the offer because it was of the view that the OPS did not need these officers.

2.4 The Ottawa Police Service's response

The influx of Freedom Convoy vehicles and the disruptive behaviour by some protesters threw the OPS operational command at the NCRCC into a state of dysfunction. OPS Inspector Lucas described the atmosphere at the NCRCC as chaotic and explained that he and his team had neither the capacity to process the incoming information nor the resources to respond to the needs it was facing. In the late afternoon of January 29, the OPP's representative at the NCRCC, Inspector Dawn Ferguson, reported to OPP Superintendent Abrams that OPS members in the NCRCC were panicked and were swearing and yelling orders at each other and at partner agencies. In her view, the event was clearly beyond the OPS's capabilities, and the OPS was losing control. The OPS was unsure of how to respond to the events, including how to effectively

allocate resources. It was apparent to OPP Superintendent Abrams that the OPS's initial operational plan had collapsed and that the OPS was struggling to determine its next plan. Nonetheless, the OPS still expected the protesters to leave in the next day or so and declined the help offered by the OPP. By January 30, OPP Commissioner Thomas Carrique had been briefed on the dysfunction in the OPS operational command at the NCRCC and the collapse of the OPS's plan.

OPS Inspector Lucas attempted to restore normalcy by asking partner agencies to divert incoming vehicles away from the downtown core and locking down access to that area. On the afternoon of January 29, the OPP diverted the western convoy onto the SJAM, and the Sûreté du Québec and the Service de police de la Ville de Gatineau diverted another Ottawa-bound convoy into Gatineau. Similarly, the OPS used officer-staffed checkpoints as well as City-provided heavy equipment and concrete barriers to block access to the downtown core.

However, the OPS had difficulty blocking access to the downtown core because of insufficient staffing and protester attempts to push past officers and disrupt barricades. Some dayshift officers were on duty for more than 15 hours, and some officers were not relieved by replacement shifts that night. The OPS command centre also could not confirm that all officers had safely completed their shifts. During the night of January 29 – 30, the OPS had to withdraw officers from a traffic point at the intersection of Wellington Street and Elgin Street because it could not promptly reinforce those officers when a group of protesters and trucks threatened to push past them. Further, protesters attempted to disrupt unescorted City of Ottawa heavy trucks that the OPS used to block traffic and remove concrete barriers. That night, the OPS received reports that protesters were abusing, intimidating, throwing rocks at, and attempting to bribe drivers of the City trucks. The next day, protesters used their boom truck on Wellington Street to remove a large concrete barrier protecting access to the Supreme Court of Canada. This protester behaviour prompted the OPS to assign officers to traffic checkpoints, which increased the OPS's staffing challenges.

The OPS compounded its lack of contingency plans and staffing shortages by adopting an all-or-nothing approach to negotiations with protesters. OPS PLT Lead Staff Sergeant John Ferguson commented that the OPS adopted a positional mindset and did not embrace give-and-take with protesters during the weekend.

The OPS demonstrated this mindset by rejecting two negotiation proposals by protesters. First, the OPS rejected an offer by protesters to reopen traffic on the SJAM if the OPS permitted them to join the rest of the protester vehicles downtown. An OPS commander at the NCRCC informed Staff Sergeant Ferguson that the OPS would not agree to this type of engagement because protesters had not shown good faith in their actions to date. Second, on the evening of January 30, the OPS PLT advised that while Freedom Convoy organizers were determined to stay, they had offered to move Freedom Convoy trucks to the side of Wellington Street. The OPS also rejected this proposal and insisted that the trucks leave Wellington Street entirely. The OPS was only prepared to facilitate pedestrian protests on Wellington Street.

2.5 By-law enforcement

The City of Ottawa's By-law and Regulatory Services (BLRS) is a by-law enforcement body with the authority to remove vehicles pursuant to the City's Traffic and Parking by-law, to close roads to pedestrian or vehicular traffic, and to issue fines. These responsibilities are shared with the OPS. Since the OPS was the lead agency for the event, it took on all operational and enforcement decisions. This included decisions and actions normally within the City's jurisdiction, such as decisions to ticket or tow vehicles, to enforce by-laws, and to restrict the flow of traffic by closing streets.

Prior to January 29, Ottawa's BLRS had been exercising its authority to issue tickets and tow vehicles independently from the OPS; however, it supported OPS operations and would act at its direction if required. By-law officers were instructed to proceed carefully, as the OPS had communicated to BLRS that any point of contact could lead to a serious incident or a riot. On the first weekend, 24 passenger vehicles, but no

trucks, were towed. At all times, the City had towing capacity for passenger vehicles; however, the vehicles were only towed if they were blocking an emergency lane.

On January 29, the OPS directed the City to instruct by-law officers not to ticket or tow vehicles anywhere in the downtown core without police approval. Later, this direction extended to any area of the city and any vehicle that could reasonably be thought to be associated with the convoy. The OPS also determined whether Ottawa Fire Services would enforce the fire code. As I discuss earlier in this chapter, the OPS largely lost the capacity to conduct enforcement as of January 29.

By January 30, it was apparent that law enforcement and City officials were concerned that the conduct of protesters could escalate further, and that Ottawa might be facing a riot if the protests were not handled with diplomacy. In an email to City Manager Steve Kanellakos, Mr. Ayotte indicated that he believed ticketing and towing vehicles “could be the tipping point.”⁴ Similarly, OPS Chief Sloly advised the City that the OPS had limited capacity to conduct enforcement and towing and that doing so posed risks. For safety reasons, the OPS would escort all responders who needed access to the inner perimeter, including first responders and heavy equipment operators.

2.6 Protesters during the first weekend

A consistent theme in the evidence of protest organizers and participants was that the protests had a party-like atmosphere. Organizers described scenes of people hugging and dancing in the streets. Convoy organizer Patrick King described it as like Woodstock. The protesters’ evidence also disclosed a sense of relief in connecting with others in person after the isolation brought about by the pandemic.

However, the first weekend was not a party for many of the residents and businesses of Ottawa. While most protesters were non-violent, they were disruptive. There were reported incidents of conduct by protesters relating to the National War Memorial,

⁴ Email from Kim Ayotte, January 30, 2022, OTT00001239.

the Tomb of the Unknown Soldier, and the Terry Fox statue that many residents found inappropriate and upsetting. The Ottawa Paramedic Service reported treating 17 patients associated with the demonstration. Seven of them were transported to hospital. The Shepherds of Good Hope, a shelter for individuals experiencing homelessness, reported that staff had been harassed for meals by protesters and that a service user and a security guard had been assaulted by individuals seemingly associated with the protest.

Protesters also interfered with important infrastructure. Pedestrians crowded on highways and forced the temporary closure of Highway 417. Large crowds of protesters at the Rideau Centre — many of whom were unmasked in defiance of public health measures — forced it to close, along with 175 businesses that employ some 1,500 workers. The Rideau Centre would not reopen for 25 days.

On January 30, Freedom Convoy organizers held a press conference during which they addressed the events of the first weekend. Tamara Lich and Chris Barber participated, along with Benjamin Dichter.

Mr. Dichter is a trucker and podcast producer from Toronto. He has a long history in politics, having run unsuccessfully for both Toronto City Council in 2014 and as the Conservative candidate for Toronto – Danforth in the 2015 federal election. He also founded the organization LGBTory, an advocacy organization for LGBT+ Conservatives. Ms. Lich asked Mr. Dichter, whom she had known for several years, to assist her with media relations, including preparing press releases and managing social media.

During the press conference, Mr. Dichter observed that the “overwhelming number of trucks” had created a “logistics nightmare,” which he described as “great.” He continued: “That’s what we want. We want a logistics nightmare for the government because they solve all of our problems, right? Well, they can solve this problem for

us.”⁵ Mr. Dichter further commented that the truckers intended to stay for the long term, and that they had the financial ability to do so.

The press conference also addressed media reports of concerning behaviour by protesters. Mr. Barber and Ms. Lich denied that anyone associated with their group was involved in defacing monuments or urinating on war memorials. Mr. Dichter added that there was nothing controversial about the protesters adorning the Terry Fox statue near Parliament Hill with a sign that said, “Mandate Freedom” and a Canadian flag. Mr. Dichter dismissed reports of protesters flying Nazi and Confederate flags as “hoax hate” and emphasized the diversity among protesters and organizers.

While the organizers disavowed hate symbols and stated that bad actors were being used to unfairly cast the protesters in a negative light, many of the organizers themselves had, as Mr. Barber put it, “skeletons in the closet.” I discuss the concerns Ms. Lich had about fellow organizer Mr. King’s online rhetoric in Chapter 6. Mr. Barber had a history of posting what he himself described as “nasty, distasteful memes” containing racist and anti-Muslim content.⁶ Mr. Dichter, for his part, had said in a speech in 2018 that “the adaptation of political Islam is rotting away at our society like syphilis.”⁷

There is an obvious tension between the organizers’ own statements and their desire to attribute hateful symbols and problematic behaviours to outsiders. When confronted with their statements at the hearings, Mr. King and Mr. Dichter sought to explain them away. Only Mr. Barber was prepared to acknowledge the problems with his past comments and expressed a desire to change.

⁵ Transcript of January 30, 2022 Press Conference, COM00000895, pp. 3 and 4.

⁶ Evidence of C. Barber, Transcript, November 1, 2022, pp. 49 and 50.

⁷ Evidence of Benjamin Dichter, Transcript, November 3, 2022, pp. 62 and 63.

2.7 The first weekend concludes and some protesters remain

During the January 29 – 30 weekend, the core group of protesters began to establish encampments in downtown Ottawa, mainly on Wellington Street. Other groups established themselves near the National War Memorial; by the intersection of Rideau Street and Sussex Drive; on Metcalfe, Bank, Kent, and Lyon streets; on the SJAM; and at 300 Coventry Road. On Sunday, police reported that there were approximately 50 vehicles on Wellington Street, 40 on the SJAM, 200 in the downtown core, and a gridlock of 400 vehicles on Kent Street. Many of the vehicles in the downtown core and on Kent Street were in residential areas. Around the same time, the OPS learned that other protesters were re-booking hotels for the February 5 – 6 weekend. Together, these two developments forecast what would occur over the next two weeks: A core group would remain in downtown Ottawa during the week, and thousands of additional protesters would come to reinforce them on the weekends.

In his testimony before the Commission, OPS Chief Sloyly stated that, on January 29, he expected five to ten percent of protesters and vehicles to stay behind. It does not appear that he, OPS Deputy Chief Bell, or OPS Acting Deputy Chief Patricia Ferguson thought through that if ten percent of the 4,000 – 5,000 vehicles the OPS expected stayed after the weekend, it meant that up to 500 vehicles would remain in Ottawa, clogging the downtown core. By January 30 or 31, Chief Sloyly determined that what had begun as a demonstration had become an occupation of the streets of Ottawa.

2.8 The difficulties staffing an extended operation

The OPS lacked plans that reflected the Freedom Convoy organizers' intent to remain in Ottawa after January 30. While the OPS had prepared a demobilization plan on January 29, it was a brief, four-page document that merely contained exit routes for drivers who wanted to leave and lacked public order, towing, and arrest plans to remove protesters who remained.

The OPS only identified the need to develop these plans after it realized, on the evening of Sunday, January 30, that protesters were staying. As recorded in the minutes of the January 30, 5:30 p.m. command call: “Protesters don’t appear to be leaving; need plan.”⁸ Later that evening, OPS Chief Sloy identified three options: (1) negotiate with the organizers; (2) shut the convoy down and remove people; and (3) a City-obtained injunction. He requested that plans to pursue each option be developed.

There was a mismatch between the plans that Chief Sloy requested and the staffing available to the OPS to execute them. The core problem facing the police was a lack of capacity, a problem that was inextricably linked to inadequate planning. As OPS Acting Deputy Chief Ferguson testified, the OPS had only planned to staff the Freedom Convoy through Monday, January 31, at noon. During a command meeting on the evening of January 30, Chief Sloy, Deputy Chief Bell, and Acting Deputy Chief Ferguson identified that the OPS could not sustain their existing level of policing effort and had no capacity to carry on after February 2. Later that evening, OPS Inspector Lucas reported that the OPS command centre was still trying to devise contingency plans for staffing. Similarly, the OPS only had three to five tow trucks on hand, which was insufficient to remove the number of protester vehicles that remained.

On January 30, at noon, the OPS finally requested OPP front-line officers and advised that more requests for assistance would follow. The OPS was so overstretched, however, that it was unable to effectively deploy the OPP officers who began arriving that day. OPP Superintendent Abrams supplied the OPS with 10 officers, but the OPS only deployed two of them. Superintendent Abrams withdrew all 10 officers as a result. He perceived that the OPS’s command dysfunction and poor coordination prevented it from using OPP resources effectively.

The OPS’s insufficient resources and lack of pre-developed contingency plans reflected a vicious cycle. Because the OPS did not develop contingency plans before the Freedom Convoy arrived, it had not secured enough officers to execute

⁸ Notes from Command Briefing #6, OPS00004878.

them. Thus, as OPP Superintendent Abrams testified, even if the OPS had been able to promptly develop contingency plans, it still would have lacked the resources to implement them. Similarly, as OPS Chief Sloly testified, by the time the convoy arrived, it was too late to request and receive the significant number of resources from partner agencies in time to promptly respond.

3. The experience of Ottawa residents

Before continuing with a detailed description of the events that took place in February 2022 in Ottawa, it is important to describe the overall impact of the protests on the city of Ottawa and its residents.

The Freedom Convoy protest in Ottawa involved tens, if not hundreds of thousands of people, each with their own experience. No public inquiry could ever collect a comprehensive set of firsthand accounts of an event like this. Much of the evidence before me was necessarily anecdotal and hearsay, but this was not a barrier to my ability to get an understanding of what occurred. I heard a range of evidence from law enforcement professionals, government officials, and area residents, and received contemporaneous documents that described the experience of Ottawa residents. I accept that this body of evidence, taken as a whole, paints an accurate picture of how the protests impacted many people in Ottawa.

3.1 Noise

The honking that characterized the Freedom Convoy's drive across Canada continued upon its arrival in downtown Ottawa. It took a considerable toll on residents. While there were many sources of noise during the protests, the most significant was the use of air horns and train horns by the trucks that had entered the city. Throughout the first week of the protests, the honking was almost constant, continuing throughout the day and, at times, into the night.

The negative impact of the honking was obvious, including to protesters. Some protest organizers tried to implement “quiet hours” from 8 p.m. to 8 a.m. There was conflicting evidence about the extent to which this was successful. Even when enforced, having 12 quiet hours did little to quell the discomfort that residents experienced throughout the other 12 hours of the day. Some protesters seemed to enjoy the harm that the noise was causing. In one video, Mr. King laughed when referring to residents’ inability to sleep due to the horns.

Noise readings were taken on the streets of downtown Ottawa throughout the protests. According to data obtained and analyzed by Canadian data visualization firm Spatial Media, most of the downtown protest sites had average daytime noise levels of 90 – 110 decibels in the first week. Ottawa resident Zexi Li, who eventually obtained an injunction to stop the honking, as I discuss later in this chapter, testified that she measured noise levels as high as 85 – 90 decibels inside her tenth-floor condo unit. Ms. Li alleges, as part of a class action lawsuit against protest participants, that the noise caused serious physical and psychological harm.

Victoria De La Ronde, another downtown resident, testified that the noise level in Ottawa caused her to experience difficulty sleeping, anxiety, hearing loss, vertigo, and hearing “phantom” honking. Fireworks were another source of noise during the protest. Ms. De La Ronde testified that fireworks sprayed against her windows and that she was terrified that they would break.

3.2 Fumes

Many of the trucks in the downtown core were left idling much of the time in order to keep protesters warm, given the low temperatures in Ottawa at that time of year. A significant effect of this idling was the emission of diesel fumes. Fumes were a serious issue in downtown protest sites, not only permeating the outdoor areas where the trucks were located, but also infiltrating people’s homes. These fumes were a nuisance, and likely affected people’s breathing. The situation became sufficiently

dangerous that Ottawa Public Health ultimately issued a caution on February 18 about the potential for negative health impacts.

3.3 Traffic and City services

The protests disrupted traffic in Ottawa, and travel to and from Quebec was particularly challenging. Local hospitals advised the City that health care workers were experiencing long commutes, and so were patients. The Children’s Hospital of Eastern Ontario reported that its cancer patients had difficulty accessing chemotherapy and radiation treatment. The City worked with health care partners to find hotel accommodations outside the downtown core for a small group of higher-risk home and community care clients, whose level of care was compromised because of the traffic issues.

Parked trucks were not the only source of problems. During the protests, there were slow roll demonstrations throughout the city, including in residential neighbourhoods. Images and video evidence show large trucks parked on sidewalks and, at times, being driven in an unsafe manner.

City services, particularly those downtown, were also seriously disrupted by the protests. This included access to City Hall, local libraries, COVID-19 vaccination clinics, snow removal operations, community and social services, and public transit. Two municipal childcare centres located in the downtown core were forced to close during the protests, affecting numerous families.

3.4 Public safety, threats, and violence

I heard witnesses describe a general state of lawlessness in the downtown area. There was a breakdown of order and social norms, including reports of public urination and defecation, streets blocked by trucks, idling trucks, open fires, and fireworks being set off during the day and night. There were also activities that put public health and safety at risk. The handling of flammable and explosive substances was an example

of this. I heard evidence of open fires being used by protesters to stay warm, with diesel, propane, and fireworks stored close by.

During the protests, Ottawa's 911 services were overwhelmed. In addition to a higher than usual number of legitimate calls, there were also many false 911 calls, which posed a clear public safety risk.

OPS Chief Sloly described a wide array of social disorder which he referred to as “assaultive” including “threatening and intimidating behaviours, physically and psychologically assaultive behaviour, and yes, hate related behaviour” by some convoy participants.⁹ This conduct included but was not limited to assault under the *Criminal Code*. I accept that these behaviours occurred. I have heard credible reports of residents feeling threatened and being harassed by protesters. This was particularly true for those who wore masks in public, as they were at times subjected to harassment and threats of violence. In some instances, protesters physically attempted to remove residents' masks, resulting in physical altercations. There were also reported physical altercations at public transit stations between residents and persons believed to be associated with the protest. Some City staff who attended the protest area were also harassed or threatened, including paramedics who endured racial slurs and had rocks thrown at their vehicle.

Public figures were also threatened. On February 3, an individual was criminally charged for uttering threats against Ottawa Mayor Jim Watson. The same individual was alleged to have made a death threat against OPS Chief Sloly. Mr. Ayotte and his family, Ottawa Police Services Board (OPSB) Chair Diane Deans and her staff, and City councillors Catherine McKenney and Mathieu Fleury also received threats. In fact, a group of protesters drove to Councillor Fleury's home in two pick-up trucks with flags, yelling “absurdities” to intimidate him and his family. As a result, Councillor Fleury relocated his family until the protests subsided.

⁹ Evidence of P. Sloly, Transcript, October 31, 2022, pp. 47, 80, 83, and 236.

Counsel for the protest organizer group pointed to low numbers of charges under the *Criminal Code* to suggest that little to no violence, harassment, or other illegal conduct was taking place. However, OPS Chief Sloly testified that there were challenges in investigating many alleged offences, including because the OPS was overwhelmed and had limited investigative capacity. He agreed that “any available data regarding criminal activity which was investigated and resulted in charges, is not necessarily a reliable indicator of the scope of criminality in the course of the occupation.”¹⁰ I accept this explanation, and therefore do not come to the conclusions that the protest organizers asked me to draw from the arrest data.

3.5 Symbols of hate and intolerance

Some residents felt particularly targeted by protesters. At the hearings, I heard evidence of homophobic and transphobic slurs being directed at residents, and of racialized residents feeling targeted. The actions of certain protesters also drew condemnation from Indigenous groups.

Residents saw symbols of hate in their community, including swastikas and Confederate flags. The presence of these symbols in the community caused many to feel intimidated and fearful.

One symbol that was present, but had disputed meaning, was the flag of a group called Diagonon. Diagonon was created by Jeremy Mackenzie, a podcaster and online personality. Mr. Mackenzie was present in Ottawa with other members of the group during the first weekend of the protests. While in Ottawa, Mr. Mackenzie promoted Diagonon and handed out business cards bearing its logo.

Law enforcement and intelligence agencies view Diagonon as a militia-like extremist organization. Mr. Mackenzie described Diagonon as a community of his fans and explained that law enforcement has labelled it an extremist organization because he

¹⁰ Evidence of P. Sloly, Transcript, October 31, 2022, pp. 100 and 164.

has been critical of the RCMP. He also attributed the negative perception of Diagon to work done by the Canadian Anti-Hate Network, which he described as not credible. The Canadian Anti-Hate Network, on hearing his testimony, responded with an affidavit in which it described Diagon as an extremist organization with antisemitic and Islamophobic tendencies.¹¹

3.6 Fear and anxiety

Some residents were too afraid to leave their homes. Vulnerable residents were particularly affected. Ms. De La Ronde, who is visually impaired, testified about her loss of independence due to the serious disruptions in the streets and her inability to navigate by relying on auditory cues. Women experiencing homelessness felt significant anxiety and distress, with some residents of Cornerstone Housing for Women admitting themselves into hospital due to the increased trauma from the noise and fear.

These fears were compounded by the seeming inability of the police to protect the public and preserve law and order. Residents expressed dismay about the lack of police presence and enforcement action in residential areas of the convoy-occupied zone.

3.7 Impact on businesses and the local economy

Downtown businesses were also affected. The protests came at a particularly difficult time, as businesses were still recovering from the impact of COVID-19 and public health measures.

As the capital of Canada, the city of Ottawa is often used as a location for protests. Businesses there do not typically close during protests. However, after the first Saturday of the Freedom Convoy protest, many downtown businesses closed. They

¹¹ Affidavit of Evan Balgord, COM00000939.

did this for several reasons, including pervasive violation of public health measures by protesters, and threats to staff and customers. Businesses that stayed open had to enforce public health restrictions or risk being fined. According to the executive director of the Sparks Street Business Improvement Area (BIA), approximately 85% of the businesses on Sparks Street remained closed for the duration of the protests. A broader survey of downtown BIAs indicates that a little more than half of the businesses stayed open.

More than three-quarters of businesses surveyed about the protests reported lost revenues. By some estimates, lost business revenue and lost wages totalled between CAD\$150 million and CAD\$210 million. I have no difficulty accepting that the losses suffered by downtown businesses were significant. The government relief funds available to those businesses could not likely make them whole.

Ultimately, the City estimates its total costs associated with the protests, not including policing costs, at CAD\$7,060,717. The OPS estimated that its costs totalled CAD\$55,479,044.

4. The protesters after the first week

4.1 Protesters on the ground

January 31 represented the start of a cycle that would characterize the Ottawa protests: During the week, a hard-core group of protesters would remain in the city. On weekends, additional protesters would join them. At a granular level the dynamics were more complicated: Individual protesters were constantly entering and exiting Ottawa, additional convoys were still arriving, and the situation on the ground was dynamic.

Convoy participants who stayed in Ottawa were organized around a system of “block captains.” The block captains parked on various blocks in downtown Ottawa and

held daily meetings with their respective groups to go over various issues and safety concerns.

While there had been a significant reduction of vehicles compared to the first weekend, there continued to be substantial traffic congestion downtown and at some interprovincial bridges. The OPS was working to prevent newly arriving truckers from filling the open spaces that departing truckers left, which resulted in tension with protesters. Trucks remained outside of people's homes along residential streets.

Throughout the first week, the total number of vehicles downtown remained around 500. By mid-week, there were only about 50 – 100 people on Wellington Street and streets around Parliament Hill. However, the protesters continued to create problems for police and residents. The City's EOC Operations Group reported that the protesters at Rideau Street and Sussex Drive were becoming more aggressive. There had also been issues on Kent Street at Queen and Albert streets, with occupying truckers not allowing police vehicles through. They were, however, allowing access for other emergency services. Protesters continued to entrench themselves, including at Coventry Road and along Queen Elizabeth Drive between the Laurier Avenue Bridge and the National Arts Centre.

During this week, there were reports of more convoys set to arrive by the end of the week, including one made up of 60 – 70 farm vehicles. On Saturday, February 5, the number of protesters surged. INTERSECT reported that there were an estimated 10,000 people in the downtown core. In addition, 13 more convoys arrived in Ottawa, with some drivers refusing to park in designated overflow spaces.

With this influx of protesters came new concerns for the police. The OPS reported that on the night of February 6, demonstrators had exhibited extremely disruptive and unlawful behaviour, which presented risks to public safety and unacceptable distress for Ottawa residents. POUs were required to manage a large crowd at Rideau Street

and Sussex Drive at 12:30 a.m. Protesters opened fencing that had been erected around the perimeter of Confederation Park to gain access.

Moreover, protesters in the downtown core had begun to run low on fuel for their vehicles early in the week of January 31. The OPS prevented them from bringing fuel trucks or tanks downtown. Protesters adapted by purchasing fuel from bulk fuel suppliers, converting the Coventry Road site into a fuel depot, and transferring fuel by jerry cans into the downtown core.

4.2 Hotels and command centres

While many of the protesters slept in the cabs of their vehicles, others stayed in hotel rooms that had been provided by financial supporters of the protests. Joseph Bourgault, a Saskatchewan-based businessman, reportedly spent CAD\$100,000 on rooms at the ARC Hotel. Other Freedom Convoy organizers took rooms at the Sheraton and Swiss hotels. Hotels were used by organizers as “command centres.” Groups based in each of the hotels took on responsibilities for different aspects of the protests, and over time, the hotels began to represent different factions within the protest leadership.

Mr. Dichter stayed at the Sheraton Ottawa Hotel. Mr. Garrah, Mr. Bulford, and a group of other organizers associated with the Adopt-A-Trucker campaign established headquarters at the Swiss Hotel. A number of volunteers at the Swiss Hotel were former military, law enforcement, and first responders. Using their experience, they implemented an incident command system model to coordinate their activities. The volunteers at the Swiss Hotel focused on the immediate needs of truckers in Ottawa, including distributing food, maintaining portable toilets, shovelling sidewalks, and collecting waste. They also managed security and worked with police. Each morning, volunteers would meet at the Swiss Hotel to discuss incidents that had occurred overnight and address anticipated logistical issues, safety concerns, and special events.

A second command centre took shape at the ARC Hotel. Several groups set up in this location, and among them were Ms. Lich and Mr. Barber.

The ARC Hotel was also home to leaders of the anti-mandate group Taking Back Our Freedoms (TBOF). Mr. Bauder and the “executive team” for Canada Unity also set up in this location. The ARC Hotel was host to a daily “Team Canada” meeting, which included organizers from the Freedom Convoy, Canada Unity, and TBOF.

4.3 The Freedom Convoy's professional advisors

Early in the first week, Ms. Lich concluded that she needed legal advice regarding her GoFundMe fundraiser. She was put in touch with the Justice Centre for Constitutional Freedoms (JCCF), an Alberta-based legal organization. On February 1, the JCCF contacted Edmonton-based lawyer Keith Wilson, KC, and asked if he would represent some of the convoy organizers. At that time, Mr. Wilson was already working with the JCCF on litigation challenging federal vaccination rules for air travellers. Mr. Wilson agreed to lead a team of lawyers, including Eva Chipiuk. The team flew to Ottawa on February 2 together with Chad Eros, an accountant who agreed to assist Ms. Lich in dealing with the GoFundMe campaign. Three TBOF organizers were also on the flight, as was Ms. Lich's husband. Because some of these individuals were unable to travel on commercial carriers due to vaccine requirements, the group chartered a private plane.

During the flight to Ottawa, Mr. Eros briefed Mr. Wilson on the status of the GoFundMe campaign. At that point, the total donations exceeded CAD\$10 million. GoFundMe had raised concerns about the campaign and was hesitant to release funds to Ms. Lich. It was around this time that Mr. Eros incorporated the Freedom 2022 Human Rights and Freedoms Non-Profit Corporation (Freedom Corporation), which was intended to receive and manage the GoFundMe donations. On February 2, GoFundMe made the decision to suspend the fundraising campaign, a topic that I address in Chapter 13.

Mr. Wilson began to draft a response to GoFundMe while flying to Ottawa. Upon arrival, the legal team met with Ms. Lich, Mr. Barber, Mr. Eros, and other Freedom Convoy organizers at the ARC Hotel to discuss that response.

Ms. Lich was feeling exhausted and under increasing pressure regarding the donations she had received. She was fielding requests for funds from individual protesters and organizations like TBOF, some of which were unrelated to paying for fuel, food, and lodgings for truckers. For example, she received a request for CAD\$150,000 to purchase a sound system, which she considered inappropriate.

Ms. Lich was also concerned that TBOF was attempting to take over the movement. She testified that they showed up with bags of swag and pulled her into meetings and conference calls regarding crowdfunding, which made her uncomfortable. As well, she was told that TBOF had rented a room adjacent to hers at the ARC Hotel and was monitoring the comings and goings from her suite. Ms. Lich explained that she was rapidly becoming aware that she needed to be careful about who she trusted.

During their initial meeting, Mr. Wilson told Ms. Lich that he was there because he had concerns for the future and for his children. Ms. Lich felt that Mr. Wilson was genuine and that he was there to help. She immediately liked and trusted him.

4.4 The February 3 press conference

Ms. Lich told Mr. Wilson that TBOF had arranged for her to speak at a press conference the following day, which made her anxious. Unlike the press conference on January 30, where organizers excluded outlets like the *CBC* and *Toronto Star*, members of the mainstream media would be present at this press conference. Ms. Lich felt unprepared to assume this responsibility and asked Mr. Wilson for his assistance. The press conference went ahead, with Mr. Wilson taking the lead. He introduced Ms. Lich as the “spark that lit this fire and the leader of this organization.”¹²

¹² Press Conference Video, JCF00000155.

This was a characterization that other protest organizers would not have agreed with, but it served to further cement Ms. Lich's status in the public eye as a central figure in the Freedom Convoy.

While Ms. Lich trusted Mr. Wilson, others did not. The press conference deepened the suspicions some had about the role that Mr. Wilson and the JCCF were playing. Mr. Dichter felt that Mr. Wilson's message was too negative. Mr. Dichter had been working to cultivate a positive message over the previous weeks and thought the press conference had undermined that work. This led to a confrontation between Mr. Dichter and Mr. Wilson over the Freedom Convoy's messaging.

Mr. Eros was also skeptical of Mr. Wilson. He was shocked at the press conference because Mr. Wilson knew that Ms. Lich was uncomfortable being in front of mainstream media. Mr. Eros was also concerned that Mr. Wilson was in a conflict of interest. Mr. Wilson was acting for former Newfoundland and Labrador Premier Brian Peckford in his challenge to the federal vaccination mandate for air travellers. Mr. Peckford was the chair of the TBOF board, and like Ms. Lich, Mr. Eros had concerns about the role that TBOF was trying to play in the protests. In Mr. Eros's view, Mr. Peckford and Ms. Lich had divergent interests. In time, Mr. Eros came to believe that Mr. Wilson, Ms. Lich, and others with roots in the Alberta sovereigntist movement had taken over the narrative of the Freedom Convoy, which threatened to delegitimize the protest.

5. Policing the first week of the protests

By the morning of Monday, January 31, the OPS considered that the protests had turned into an occupation, and the mayor realized that the OPS did not have the unprecedented resources required to deal with the Freedom Convoy. A number of witnesses agreed that the Ottawa protests represented a "paradigm shift" or an entirely new type of public order event that municipalities and police forces had to face.

The OPS was, in OPS Deputy Chief Bell’s words, “exceptionally unprepared” for what occurred.¹³ OPS Acting Deputy Chief Ferguson described the OPS as “floundering.”¹⁴ Despite efforts to increase the number of available officers, it was difficult for the OPS to police the Freedom Convoy and still respond to other service calls.

While the OPS realized that the protests had become a more serious policing problem than it had expected, it did not develop an overall operational plan to end them. Instead, it focused on developing a public order sub-plan that was disconnected from a broader resolution strategy. Even the efforts to develop this sub-plan were delayed and unsuccessful due to a breakdown of command and control at the OPS.

5.1 The absence of a plan to respond to the “paradigm shift”

As I note earlier in this chapter, the OPS’s initial operational plan only covered the January 29 – 30 weekend. When it realized that the protests would continue, the OPS had no plan in place to deal with the situation. Notes from an OPS command briefing on the morning of January 31 indicate that the police response needed to pivot. The command team’s stated priority was to work on a new plan and to hold the line in the meantime. Despite this stated priority, the OPS did not develop an operational plan to end the Freedom Convoy protests during the week of January 31.

The OPS sought to develop options to address the situation and prevent protests from spilling out of the downtown core. During a January 31 INTERSECT meeting, OPS Superintendent Mark Patterson, who oversaw the Intelligence Directorate, outlined four potential ways to move forward: (1) managing the *status quo*; (2) encouraging people to leave through the PLT; (3) removing trucks from the inner core; and (4) obtaining an injunction.

¹³ Interview Summary of Steve Bell, WTS.00000029, p. 10.

¹⁴ Evidence of Patricia Ferguson, Transcript, October 20, 2022, pp. 109 and 158.

At this point, the PLT and injunction options were not the OPS's preferred courses of action. Inspector Lucas, the OPS operational commander, initially wanted to use PLTs to compress protesters onto Wellington Street. If successful, this would have reopened some roadways and may have generated positive negotiation momentum with the protesters. However, after the proposal went up the chain of command, Inspector Lucas was told that the OPS would not give "one inch" to the protesters.¹⁵

OPS Inspector Lucas testified that he was told the direction came from OPS Chief Sloy, while Chief Sloy testified that he gave no directions with respect to PLT actions. It is unnecessary for me to resolve this conflict. It is enough to note that no trucks were moved onto Wellington Street on January 31, and that this was an early signal that the OPS did not fully understand the important role that PLTs could play in managing the protest. I return to this topic later in this chapter.

The OPS also appears to have put the injunction option on hold after OPS Chief Sloy spoke with RCMP Commissioner Brenda Lucki and OPP Commissioner Carrique on January 31. Commissioner Lucki warned that an injunction could spark protests elsewhere in Canada, and both commissioners expressed concern that the OPS lacked the resources and plans to enforce an injunction. OPS Chief Sloy testified that obtaining an injunction was not a high priority item at this time. The possibility of an injunction was discussed with City officials earlier, and this change of position by the OPS was not clearly communicated to the City.

The OPS continued the all-or-nothing approach to engagement with protesters that it had adopted during the first weekend. The minutes of the February 1 OPS public order meeting recorded that the OPS would offer "zero room to negotiate" and that trucks that did not clear the roads and stop honking would be removed.¹⁶ OPS Chief Sloy attended this meeting but did not recall who made this comment or why there was zero room to negotiate. This emphasis on enforcement over negotiation, which

¹⁵ Evidence of R. Lucas, Transcript, October 25, 2022, pp. 98 and 99.

¹⁶ Meeting Minutes, February 1, 2022, OPS00005631.

I discuss in more detail later in this chapter, was an unproductive way of policing the protests given the circumstances in which the police found themselves at this point.

Further, the OPS did not develop a new, comprehensive operational plan between January 31 and February 4. Instead, it had only a collection of small plans to clear particular sites or conduct enforcement. The OPS even struggled to develop these plans since its planners had to devote some of their attention to operational responsibilities. It was also unclear, prior to February 3, which of these plans had been approved.

In the absence of an operational plan, between February 1 and 4, OPS Chief Sloly prioritized developing a public order sub-plan that would address three options: (1) the hard option of a mass removal; (2) the medium option of clearing specific areas; and (3) a soft option that emphasized negotiation. He wanted the sub-plan to be in place and actioned before additional protesters arrived on the following weekend. It was in response to these directions that Chief Sloly's public order commanders told him that the sub-plan would require unprecedented levels of resources from other police agencies.

It was unhelpful for the OPS to focus on a public order sub-plan instead of developing an operational plan to end the Freedom Convoy protests. Public order sub-plans form part of a larger operational plan, and public order commanders generally develop them in conjunction with the individuals responsible for the operational plan. While OPS Chief Sloly appropriately invited Incident Command System (ICS) and PLT representatives to the February 1 meeting to keep them informed of public order planning, the public order commanders still struggled in the absence of a broader operational plan. Further, Chief Sloly's focus on the public order sub-plan gave some within the OPS the impression that he valued enforcement over any other tool.

The OPS did not begin updating its operational plan until the afternoon of February 4 and completed an initial update late that evening, one week after the convoy arrived.

Further, Chief Sloly testified that even after this February 5 plan was developed, the OPS still lacked a plan that would result in the end of the protests. The February 5 plan did not address the exit of the Freedom Convoy from Ottawa. It merely attempted to address the traffic disruption and social disorder associated with the Freedom Convoy. It was a plan to manage the *status quo*, not to end the disruptions.

5.2 Command and control breakdown at the OPS

Poor communication regarding transfer of authority, confusion about who was in charge, and frequent switches of command led to a breakdown of command and control at the OPS, which compounded its planning challenges. The breakdown began because starting on February 1, the OPS shifted primary operational decision-making authority from the OPS Incident Commander, Inspector Lucas, to the OPS Event Commander, Superintendent Christopher Rheame. This change was not communicated to OPS Chief Sloly until February 5. Confusion about who was leading public order planning and serving as event commander accelerated the breakdown. OPS Superintendent Jamie Dunlop attempted to oversee public order planning before February 4, but Chief Sloly was confused by Superintendent Dunlop's involvement, because he understood that another officer was in charge. Then, on February 4, OPS Acting Deputy Chief Ferguson replaced Superintendent Rheame with Superintendent Dunlop, on OPS Deputy Chief Bell's recommendation. Chief Sloly testified that this was not communicated to him until February 5, describing his deputies' failure to promptly inform him of this appointment as a "massive trust hit."¹⁷ Because Chief Sloly lacked confidence in Superintendent Dunlop, the OPS switched event commanders again, appointing OPS Superintendent Patterson as event commander on February 6.

The breakdown frustrated OPS planning and operations. Chief Sloly testified that he needed to know who was running the OPS operations but did not know, and that the OPS accordingly floundered. He testified that planning and resource requests were delayed. Further, lower-ranking officers struggled to adapt to changes in direction

¹⁷ Evidence of P. Sloly, Transcript, October 28, 2022, pp. 107 – 109.

that accompanied each switch of event commander, and inevitable communication failures occurred because of the changing strategies that came with each new appointment.

5.3 The role of Police Liaison Teams

The role of Police Liaison Teams (PLTs) was misunderstood by many within the OPS. As I discuss in Chapter 7, the National Framework for Police Preparedness for Demonstrations and Assemblies (National Framework) calls for police services to use a “measured approach” in their response to demonstrations and events.¹⁸ This means that police services must proactively engage with protesters, build trust, and attempt to negotiate win-win agreements that shrink the protester footprint. This engagement should continue even if public order enforcement becomes necessary.

In the case of the Freedom Convoy, the use of the PLT to shrink the footprint of the protest was particularly important. Unfortunately, misunderstandings about the role of PLTs made this work more difficult. Some viewed negotiation as an all-or-nothing strategy where a stark choice had to be made between negotiating and using force to end the protests. This view resulted in missed opportunities where both approaches could work together.

PLT engagement was sometimes misunderstood as an avenue to make later enforcement appear more legitimate, or as another means to gather intelligence (which is antithetical to building trust). These approaches undervalued the importance of the relationships that PLTs can foster with protesters.

There were also questions raised about the autonomy of the PLTs. Inspector Marcel Beaudin, an OPP PLT expert who assisted the OPS during the protests, explained that PLTs should be trusted and given leeway to make deals with protesters, while

¹⁸ Canadian Association of Chiefs of Police, *National Framework for Police Preparedness for Demonstrations and Assemblies*, COM00000666.

also having their actions approved by the operational commander. In Ottawa, the PLTs were micro-managed. For example, rather than allowing PLTs to agree to have portable toilets moved into downtown protest sites, these decisions had to be approved by the OPS executive. This level of oversight was problematic. Not only was the executive team not always available to promptly respond to this type of request, but the need to obtain approval undermined the ability of PLTs to negotiate with protesters to identify win-win solutions.

It is hard to understand exactly why PLTs were under-utilized since they proved their value during the first week of the protests. A clear example of this involved the protesters who had established themselves at Confederation Park. In the early days of the protest, a wooden shack was built in the park by protesters, who also used the area to stockpile fuel. This fuel was considered a safety hazard, and the shack, which had begun to garner attention in traditional media and on social media, was a symbol of the increasingly entrenched nature of the protests.

The OPS developed a PLT plan to address the situation, which was approved on February 4. The plan had three phases: First, the PLT would try to convince protesters to leave. If it was unsuccessful, the National Capital Commission (NCC), which managed the park, would send a letter directing the protesters to leave. If that failed, POU officers would clear the park.

On February 4, some protesters indicated that they were Indigenous. The OPS contacted a representative of the Algonquin community and asked them to speak with protesters. The OPS incident commander understood that Algonquin Elders would inform protesters that the Elders did not agree with their presence in the park and that they needed to leave. This occurred, but the situation was not entirely resolved. The Elders had to be escorted out of the area by PLT officers. The PLT continued to engage with protesters the next day, and on February 6, the NCC posted a notice asking that all illegal activities cease immediately. By the evening of February 6, protesters had

removed the shack and most of them had left. A few small vehicles that remained in the park were removed by a towing company at the direction of the OPS.

OPS Chief Sloy called the clearing of the park “a full win, largely through PLT.”¹⁹ It demonstrated that, although the Freedom Convoy was fractured, certain leaders had influence at specific sites, and PLTs could work with them to achieve positive results.

Notwithstanding this early success, PLTs were underutilized until mid-February. Both OPP Chief Superintendent Carson Pardy and OPP Inspector Beaudin testified that there were moments when PLT officers were sitting idle, awaiting direction, rather than working to help address the impacts of the protests.

The OPS commanders’ unfamiliarity with the National Framework was a source of many of these problems, but these issues continued even after OPP experts and the OPS PLT made efforts to educate the leaders. These efforts were not always well received or implemented, and the PLTs continued to be underutilized and even undermined.

The clearing of Confederation Park, while an overall success, also highlights some of the jurisdictional issues present in the National Capital Region. First, the OPS had originally suggested that the NCC send in a third-party fire inspector in response to the stockpile of fuel, which was perceived by the NCC as the OPS pushing responsibility back onto it. Second, before its planned enforcement action, the OPS felt the need to ask for a letter authorizing it to act as agent for the NCC, even though the OPS had jurisdiction in Confederation Park to enforce both the *Criminal Code* and the *National Capital Commission Traffic and Property Regulations*. This reflects the lack of clarity on the jurisdictional roles of various agencies in Ottawa.

¹⁹ Evidence of P. Sloy, Transcript, October 28, 2022, p. 122.

5.4 “There may not be a policing solution”

On February 2, OPS Chief Sloly stated, during a briefing for members of Ottawa City Council and OPSB members, that “there may not be a policing solution” to the Freedom Convoy. While Chief Sloly was attempting to convey the complexity of the situation and that political intervention might be necessary to end the protests, his statement had unintended consequences, and likely caused confusion in police and political circles.

Chief Sloly testified that he made this statement because no single police of jurisdiction could handle the size and scale of the events. By that time, the protests in Ottawa had begun to inspire protests in other locations such as Coutts, Alberta, which I discuss in Chapter 11. Protesters were not simply raising concerns directed at a single level of government; they were expressing anti-government sentiments toward federal, provincial, and municipal governments alike. Dealing with these protests would require political intervention. Through his comment, Chief Sloly was not abandoning the city or its residents or attempting to diminish the OPS’s important role in the ultimate solution. As observed by OPSB Chair Deans, he was calling out for help.

On February 2, the same day as his statement to the OPSB, OPS Chief Sloly informed Ottawa Mayor Watson that a political option to end the protests needed to be considered. He added that it was not his legal responsibility to end the demonstration, but rather to provide adequate and effective policing to the city. Chief Sloly explained that the context for this call was his realization that the OPS would need every POU in Ontario and more from elsewhere in Canada to end the Freedom Convoy occupation in Ottawa. The following day, Chief Sloly emailed OPSB Chair Deans to ask her to “use [her] influence to secure additional resources/supports,” which he said in the email aligned with his statement that there may not be a police solution to the demonstration.²⁰ Nor was he the only police leader who believed that political

²⁰ Email from P. Sloly, February 3, 2022, OPB00000424.

intervention might be required. RCMP Commissioner Lucki also saw a potential need for the involvement of elected officials and advised federal deputy ministers of this on February 3.

However, as Chief Sloly recognized, his statement was widely misunderstood and misinterpreted. Many members of the public found the statement alarming, and it left them wondering how the situation could be resolved without police intervention. Chief Sloly acknowledged that he should have been clearer and better explained that the OPS was continuing its efforts.

The statement also did not help the OPS's relationships with politicians and its partner agencies. Ottawa Mayor Watson testified that he was frustrated with the statement and shared his frustration with Prime Minister Justin Trudeau on February 8. Similarly, RCMP Commissioner Lucki told OPS Chief Sloly on February 3 that there was a police solution to the demonstration and that it was his role as chief to resolve it. Chief Sloly's statement may have fostered a misimpression that he was seeking to evade responsibility. While Chief Sloly's statement was poorly crafted, it was made in good faith and reflected his genuine understanding of the situation.

5.5 Seeking assistance from other police services

OPS members started reaching out to external agencies for help on January 31 through conversations with their contacts. That day, OPS Chief Sloly told OPP Commissioner Carrique and RCMP Commissioner Lucki that the OPS believed the protests could last for a month and stressed the OPS's need for additional resources. Commissioner Carrique agreed with Chief Sloly that the Freedom Convoy had become an occupation and committed to facilitate all OPS resource requests and embed the OPP in the OPS's command structure.

The OPS made written requests to the OPP and the RCMP on February 2. The OPP supplied 50 – 60 front-line officers, as well as POUs and PLTs, as requested. The RCMP, however, declined part of the OPS's request. RCMP Commissioner Lucki told

OPS Chief Sloly that the three RCMP POU's that he had requested were unavailable and only committed to meeting the OPS's request for 50 front-line officers. She was concerned that the OPS lacked a plan to use the RCMP POU's, though she did not tell Chief Sloly that this was part of the reason she was declining his request. Commissioner Lucki also thought that the OPS should first seek assistance from the OPP before turning to the RCMP, but she did not share that perspective with Chief Sloly either.

Requests for policing resources were also made at the political level. OPS Chief Sloly encouraged Ottawa City councillors to use their influence to secure resources. On January 31, Mayor Watson spoke with Prime Minister Trudeau and told him that Chief Sloly had asked Commissioner Lucki for RCMP officers. The prime minister said that he was generally amenable to this request, though he did not make any specific commitments. The mayor spoke with federal Public Safety Minister Marco Mendicino on February 3 to discuss the need for RCMP assistance. However, Minister Mendicino and Emergency Preparedness Minister Bill Blair believed, like RCMP Commissioner Lucki, that the OPS should first seek assistance from the OPP before requesting RCMP help. They did not communicate this belief to Chief Sloly or the OPS, and Chief Sloly was unaware of any requirement or practice of requesting assistance from the OPP before the RCMP.

Both Mayor Watson and Chief Sloly also engaged with provincial politicians. On February 2, Chief Sloly advised Ontario Solicitor General Sylvia Jones that the Ottawa protests would impact public safety elsewhere in Ontario. Chief Sloly offered to provide a more in-depth briefing to her, Premier Doug Ford, and other provincial ministers, but Solicitor General Jones did not take him up on this offer. Around this time, Mayor Watson spoke with Ottawa-area Member of Provincial Parliament and Cabinet Minister Lisa MacLeod, seeking her support in procuring OPP officers. She agreed to relay the request to the solicitor general.

5.6 Difficulties integrating OPP resources

On February 2, the OPP identified that the OPS's lack of internal command, control, and communication was frustrating the OPP's attempts at providing assistance. The OPS asked for specific numbers of resources without specifying how these resources would be used, and employed different Incident Command System (ICS) terminology from the OPP, which compounded the OPP's challenges.

The OPP tried to adapt by establishing a new command structure. It set up an emergency response command centre at the Wyndham Hotel in Kanata, Ontario. This was a different location from the OPS command centres, reflecting their lack of integration in the early days. Under the new OPP structure, the OPP POU Commander, Inspector Dave Springer, and the OPP representative at the NCRCC, Inspector Ferguson, would both report to the OPP Strategic Commander, Superintendent Abrams. Superintendent Abrams, in turn, was responsible for liaising with the OPS concerning resource requests and the use of OPP resources, briefing OPP Senior Command, and managing requests coming from them. This structure formalized the OPP's posture as supporting and providing resource assistance to the OPS.

OPP Superintendent Abrams testified that the OPS response to the Freedom Convoy remained dysfunctional and dangerous. Three issues made him reluctant to provide additional resources. First, he was informed that OPS and OPP PLT operations were delayed, and the PLTs were frustrated because their lack of autonomy required them to seek OPS Chief Sloy's approval, which was frequently withheld. Second, the two OPP planners assisting the OPS's public order planners were given conflicting directions due to confusion within the OPS about who had authority to direct planning. Third, the OPS's use of multiple command centres caused communication and operational issues including, as discussed earlier, ineffectiveness in deploying OPP resources.

OPP Superintendent Abrams discussed these concerns with OPS Deputy Chief Bell and reported them to OPP Commissioner Carrique. He hoped that Deputy Chief Bell

would address these issues within the OPS and that Commissioner Carrique would raise them with OPS Chief Sloly.

5.7 Chief Sloly's engagement in planning and operations

OPS Chief Sloly attempted to respond to the OPS's confused command and control structure by becoming more engaged in decision making and planning. Multiple witnesses testified that his actions were counterproductive because they eroded the authority of the operational commander and created more confusion about who was in charge. Further, despite Chief Sloly's actions, the OPS still lacked both an operational plan to end the protest and the resources needed to deliver results.

On February 3, OPS Chief Sloly told his deputies that he wanted to review and approve the public order sub-plan. He viewed approving it as an executive-level responsibility because it would require an unprecedented resource request, and he was concerned by the delay in its development. However, his comments led his deputies to believe that he wanted to approve all plans. Because the public order sub-plan contained tactical and operational components, his deputies also understood that he intended to approve tactical and operational actions. OPS Acting Deputy Chief Ferguson perceived that Chief Sloly was bypassing the operational commander and directing lower-ranking planners himself. This was contrary to the ICS model, in which the operational commander, not the chief, approves plans and issues operational and tactical directions to lower-ranking officers.

On the morning of February 4, OPS Chief Sloly publicly announced a new “surge, enforce, and contain” strategy with two principal prongs: (1) deploying 150 additional officers to conduct enforcement in downtown Ottawa; and (2) containing the demonstration within the downtown protest sites through a combination of barriers, and off-ramp and bridge closures. He stated that this strategy was based on lessons learned from the first days of the protests, and new intelligence that had been collected in the last 24 hours. This strategy was based on a neighbourhood enforcement sub-

plan that OPS Acting Deputy Chief Ferguson’s team developed as a temporary alternative to the developing public order sub-plan. The OPS prioritized enforcement in part to address public concerns about under-enforcement and began publicizing its efforts.

However, the initial operational plan did not contemplate OPS Chief Sloly’s announced actions. The OPS only identified the need to update its operational plan that afternoon, after Chief Sloly’s announcement. Many OPS officers who were responsible for implementing Chief Sloly’s plan only learned of it during Chief Sloly’s press conference. Further, the OPS lacked the ability to deliver on that announcement because it had not consulted with partner agencies and did not have the necessary staffing. OPP co-operation was required for highway off-ramp closures due to its jurisdiction over highways, but they had not been consulted in advance and, in any event, also lacked the resources to implement these closures. While Chief Sloly stated that the strategy was based on new intelligence, neither OPP Superintendent Abrams nor OPS Deputy Chief Bell was aware of any such intelligence. While Chief Sloly had been told before the announcement that the OPS had enough officers to implement the surge, it became clear later that day that it did not. This announcement ultimately contributed to a loss of public confidence in the OPS because it could not deliver on that plan.

Chief Sloly testified that the risk that the OPS might be unable to deliver on what it announced prompted him to intervene in operations to ensure that strategic intent was clear. After receiving a February 5 situation report that described an escalation of violence and learning that the OPS was thinly staffed, he became concerned that the OPS lacked the resources to implement the actions he had publicly announced on February 4. By email to and in a meeting with his command team on February 5, Chief Sloly established three general priorities: (1) deploying additional officers to conduct the enforcement actions announced on February 4; (2) closing roads, bridges, and highway off-ramps; and (3) shutting down “funds, fuel, and fun.” He also established location priorities, initially focusing on Confederation Park. His understanding at the time was that negotiations there had “ended badly” and that the OPS’s only option

was “to isolate, contain and remove the encampment.”²¹ He told his team that he was not changing the operational plan, but that they needed to “implement the hell out of the plan for the next 72 hours.”²²

While OPS Chief Sloly testified that he only intended to clarify strategic intent by restating priorities that were already reflected in the operational plan, OPS Acting Deputy Chief Ferguson understood Chief Sloly to be establishing new priorities that would form the basis for a new plan. Aside from enforcement, Chief Sloly’s priorities were not reflected in the February 5 operational plan and were only partially incorporated into a February 9 operational plan, which I discuss later in this chapter.

Further to his February 4 press conference, OPS Chief Sloly gave a direction on February 5 to close all interprovincial bridges, as well as highway off-ramps with direct access to the downtown core.

Multiple witnesses perceived that Chief Sloly’s interventions further contributed to the breakdown of the incident command structure that he was attempting to remedy. OPS Acting Superintendent Robert Bernier and OPP Superintendent Abrams perceived that Chief Sloly was acting as a *de facto* operational commander and that, by doing this, he generated confusion since the actual operational commander continued to have authority to direct operations on paper and, to some degree, in practice. OPS Acting Superintendent Bernier and OPS Deputy Chief Bell testified that different people providing direction created further confusion about command and control. OPS Acting Deputy Chief Ferguson testified that by jumping down the levels of the ICS model to provide direction, OPS Chief Sloly created the perception that his approval was required to make operational decisions and action plans. OPP Superintendent Abrams told the Commission that the consequent need to obtain Chief Sloly’s approval delayed operational and tactical actions. Further, Acting Superintendent Bernier stated that Chief Sloly’s involvement in operations made it more challenging for him to also

²¹ Email from P. Sloly, February 5, 2022, OPS00007355.

²² Evidence of P. Sloly, Transcript, October 28, 2022, p. 89.

provide strategic guidance and liaise with the Ottawa Police Services Board (OPSB), the City, and police partners.

Moreover, the OPS had limited success at stopping the flow of fuel to the downtown because protesters adapted their tactics. Protesters formed larger groups to transport jerry cans, they carried decoy containers that were empty or filled with water, and they used more discreet containers such as canteens. In some cases, they also used children to carry jerry cans or swarmed police officers attempting to seize jerry cans. The OPS lacked the resources to conduct enforcement effectively and safely, and these efforts accordingly did not improve public confidence.

In addition, OPS Chief Sloly's actions alarmed the OPP, which declined to support his contemplated actions. OPP Superintendent Abrams was concerned about the February 5 email because he perceived that there was no plan; the OPS was contemplating risky night-time takedowns of intersections and not effectively using PLTs to engage with protest organizers. The OPP representative at the National Capital Region Command Centre (NCRCC) Inspector Ferguson told OPP Superintendent Abrams that OPS officers working at the NCRCC described Chief Sloly as being on a "rampage." OPP Superintendent Abrams informed Inspector Ferguson that no OPP officers would participate in implementing the ideas proposed in the February 5 email without receiving an operational plan.

On the afternoon of February 5, OPP Superintendent Abrams shared his concerns about the absence of a plan and the under-utilization of PLTs with OPP Commissioner Carrique so that he could address them with OPS Chief Sloly. Commissioner Carrique did so, and Chief Sloly undertook to review them. However, Chief Sloly attributed Commissioner Carrique's concerns to the switch of event commanders rather than his own intervention in operational command and planning.

5.8 The Coventry Road raid

The end of the first full week of the protests — Sunday, February 6 — became a low point both for police – protester relations and internal police morale. An OPS PLT-led effort to work with protesters at the Coventry Road site was dashed by an OPS POU-led enforcement action. The result was a sense of betrayal on the part of both protesters and the PLTs.

By February 6, the Coventry Road site had evolved into a logistics hub for the Freedom Convoy. Protesters had begun to store thousands of litres of fuel there as part of the system that kept trucks in the downtown core fuelled and idling. Not only did this facilitate the entrenchment of the protesters, but it also represented a serious safety risk. PLTs, therefore, began to negotiate with protest leaders at Coventry Road to get the fuel stockpile removed. The negotiations went well, and a protest leader agreed to do what he could to move the fuel off-site. However, approximately two hours into negotiations, Staff Sergeant Ferguson of the OPS PLT learned that a public order operation would take place at Coventry Road that day. Upon hearing this news, he contacted OPS Superintendent Patterson, who had taken on the role of event commander that morning and explained the progress that the PLT was making. Superintendent Patterson indicated that he intended to proceed with enforcement. OPS Staff Sergeant Ferguson later advised OPS Deputy Chief Bell that the enforcement operation would undermine the PLT's negotiations, but Deputy Chief Bell agreed with Superintendent Patterson's decision. He perceived that the negotiations would result in fuel being moved from Coventry Road to downtown protest sites in a manner inconsistent with the OPS's strategic direction of shutting down the flow of fuel.

The enforcement operation took place later that day. The POU arrested protesters as they were removing fuel pursuant to their negotiations with the PLT. The protesters were surprised by the police action, and they swarmed, surrounded, and filmed the officers participating in the operation.

The OPS's raid on the Coventry Road site hardened attitudes on both sides and undermined the goodwill that had been built up between the Freedom Convoy and the PLTs. The protesters viewed the raid as a betrayal of trust. They could no longer rely on the fact that deals that they made with the OPS would be respected. For their part, both the OPS and the OPP PLT were demoralized. OPP Superintendent Abrams thought that the OPS PLT had suggested that the OPP PLT should leave, while OPS Staff Sergeant Ferguson understood that the OPP PLT was ready to walk away on its own initiative. PLT members from all teams felt that there was no use in trying any longer since the trust with protesters was broken.

Both OPS Acting Deputy Chief Ferguson and OPS Inspector Lucas described the Coventry Road action as a situation where the OPS prioritized a quick win on enforcement without an overall plan that integrated the role of the PLT in operational decisions. Part of the issue was that the PLT had not been kept informed of OPS strategic objectives. The PLT's negotiations to remove fuel from Coventry Road would have led to protesters taking the fuel downtown, which was incompatible with the direction to shut down the flow of fuel. The PLT was also not informed of operational directions. Through conversations with protesters, the PLT learned that the OPS communications team had released a tweet announcing fuel seizures, even though it had been previously agreed that media releases would be run past the PLT before publication. OPS Deputy Chief Bell acknowledged the need for the PLT to be aligned and integrated with OPS operations and for better communication between units.

6. City residents begin to fight back

Frustrated by what they perceived to be the lack of a meaningful response by the OPS, residents of Ottawa began to take their own action against protesters. These counter protests were of concern to police services because they could drain police resources, create violence, and put both protesters and police in harm's way. The OPS and OPSB Chair Deans specifically asked City councillors not to organize or

encourage counter protests for these reasons. This caused some councillors to work with residents to mitigate the risks associated with these activities.

On February 4, Councillor McKenney and approximately 30 residents organized a “safety walk” with the purpose of taking back the streets for residents. They stayed in the residential neighbourhoods and did not go into the downtown protest sites. Councillor McKenney organized a second walk a few days later, but it was called off because they perceived a heightened risk of confrontation with protesters. On February 5, approximately 750 people attended a counter demonstration in front of Ottawa City Hall.

These protests had a symbolic importance for residents, but they did not have a substantial practical impact on the protests. City residents achieved more concrete success by going to court.

As I mention earlier in this chapter, Ottawa resident Zexi Li lives in the affected downtown area. Following the first weekend, she organized a meeting between residents from her building and OPS community liaison officers. The purpose of the meeting was to communicate residents’ feelings of abandonment. According to Ms. Li, residents wanted to fight back because they felt that no one else was doing anything.

The meeting did not resolve Ms. Li’s concerns or those of her neighbours. Wanting to take further action, Ms. Li became the lead plaintiff in a proposed class action lawsuit against the protesters, which she commenced on February 4, 2022. This action, which was still in its early stages during this Inquiry, seeks millions of dollars in compensation for residents of downtown Ottawa. As part of that action, Ms. Li sought an injunction to restrain the protesters from using air or train horns. On February 7, the court granted an interim injunction prohibiting the use of horns within the city. Initially, the injunction was successful, but eventually the honking resumed. For example, on February 12, at 9:45 p.m., sound levels from horns near Albert and O’Connor streets were measured at 101 decibels.

7. The municipality's response

7.1 The search for options

After the first weekend of the protest had passed, it was apparent that local authorities did not have the means to end the demonstrations. Ottawa City officials and councillors began to search for new options, including requesting that GoFundMe stop hosting the protesters' fundraiser, and directly reaching out to federal and provincial governments to amplify the OPS's request for resources.

Another option briefly considered by the City, but not acted upon, was closing Wellington Street. The City had the authority to close roads but did not generally do this independently from the OPS. On February 2, the City solicitor spoke with the OPS general counsel about a road closure and was told that the OPS was "not there yet." The City understood from these conversations that prohibiting access to the downtown streets in this manner was a practical impossibility, and so did not pursue the idea further.

7.2 The municipal declaration of emergency

The City's primary response to the first full week of protests was a declaration of a municipal emergency. The decision to declare an emergency rests with the mayor. Procedurally, the city manager recommends whether to make such a declaration. The city manager, in turn, receives recommendations from Ottawa's manager of Emergency and Protective Services.

On the morning of January 31, OPS Chief Sloly briefed City Manager Steve Kanellakos, Manager of Emergency and Protective Services Kim Ayotte, and several councillors about the protests. Councillors expressed frustration, and Councillor Matthew Luloff asked about the City declaring a State of Emergency. Mr. Kanellakos responded that he would consider making a recommendation. Ultimately, he did not do so at the time

because, in his view, all a declaration would accomplish would be to signal to other levels of government that the City needed assistance.

The City did declare an emergency on Sunday, February 6, at the end of the second weekend of the protests. Mr. Kanellakos testified that the declaration was made then because it had become evident that the protesters were staying, and police were reporting that they did not have enough resources. According to Mr. Kanellakos, the City felt that the declaration would notify the community that the situation was serious and would signal to the Province of Ontario that it should step in.

Ottawa Mayor Watson agreed that the declaration was intended to give comfort to the public, communicate that the City considered the situation to be an emergency, and signal to other levels of government that Ottawa needed help. However, he distanced himself from the notion that the declaration was intended to put pressure on the Province of Ontario. Mayor Watson testified that his Chief of Staff, Serge Arpin, and Mr. Kanellakos felt that a declaration might “push the Province to do their own declaration and put more pressure on the Province to come to the table,” but that he personally did not see it that way.²³ The mayor agreed, however, that the Province was not engaged enough at the time.

Mr. Arpin testified that he did not agree that the express intent of the declaration was to put pressure on the Province of Ontario. Rather, according to him, it was to be seen as doing something at a time when residents felt the City was failing them.

In my view, there does not appear to have been any meaningful tipping point for declaring the State of Emergency on February 6, as opposed to earlier. The City of Ottawa knew by January 31 that the OPS was overwhelmed, and that the City needed the support of the other orders of government. Declaring a state of emergency was one of the few tools available to the City that it could exercise independently of the OPS. If the intention of the declaration was to put pressure on the Province of Ontario

²³ Evidence of Mayor Jim Watson, Transcript, October 18, 2022, p. 23.

to act, then it could have been declared sooner. Indeed, even if the declaration was symbolic and only served to let residents know that the City was taking this matter seriously, it is unclear why the City did not send that signal much earlier.

It is impossible to determine whether declaring a state of emergency sooner would have changed the course of events. Nevertheless, when facing an unprecedented situation such as the Freedom Convoy's disruptive protests in Ottawa, residents were justified in expecting that their municipal government would pull any and all levers at its disposal, and that it would do so as soon as possible.

7.3 Ottawa City Council meets to discuss further action

Ottawa City Council held a Special Meeting on Monday, February 7. This was the first meeting since the convoy had arrived and was the first opportunity for Council to take formal steps to respond. Council acted by passing a number of motions relating to the convoy.

Council passed motions asking that the mayor call on the provincial and federal governments to provide the financial and logistical supports needed to peacefully end the protests, and to make requests for financial support for Ottawa businesses, their employees, and community support organizations. Mayor Watson subsequently wrote to Ontario Premier Doug Ford and Prime Minister Justin Trudeau accordingly.

Another motion directed staff to apply for an increase to the set fine applicable to several by-law violations. A further motion was passed to amend the City's idling by-law so that it still applied when the temperature dropped below five degrees Celsius. This was made on February 9, though it had little impact due to lack of enforcement. The same day, the Ontario Superior Court of Justice approved the City's application to increase the set fine to CAD\$1,000.

Council also passed motions on February 7 to obtain greater information on City activities, including having the City-led Emergency Operations Centre (EOC) hold

a daily media availability, and for City staff to report daily on the status of by-law enforcement.

Council passed a motion condemning the racism, antisemitism, and discrimination experienced by the Black, Jewish, Muslim, racialized, and 2SLGBTQI+ communities.

Council also passed a motion to petition the Federal Government to assume responsibility for public safety and security within the Parliamentary Precinct. Councillor McKenney testified that the intention behind the motion was to free up the OPS so that it could focus on impacted neighbourhoods. The mayor sent a letter making this request. The following day, OPS Chief Sloy wrote to Mayor Watson and OPSB Chair Deans stating that the OPS was the sole police of jurisdiction, and that Councillor McKenney's motion was "absent jurisdictional authority."²⁴

One motion made in Council that did not pass was for the City to enter into discussions with the federal minister of Public Safety to determine whether the *Emergencies Act* could be invoked at that time. There were 12 votes for and 12 votes against this motion.

On February 7, Ottawa City Solicitor David White presented a memorandum to Council responding to additional options that councillors and the public had been raising. The memorandum commented on the various legal authorities that did — and did not — exist within the context of what was being put forward.

The memorandum discussed the power to declare a riot under section 67 of the *Criminal Code*, noting that there had been no indication from the OPS that such a declaration would expand police authorities beyond what was already in place. In response to questions about requesting military aid, the memorandum noted that municipalities did not have the jurisdiction to make such requests. With respect to

²⁴ Email from P. Sloy to J. Watson, Diane Deans, and others, February 2, 2022, OTT00005837.0001.

legislation that regulated fuel handling, the memorandum noted that neither the relevant provincial nor federal laws could be enforced by the City.

The memorandum also addressed questions about emergencies legislation. It noted that the provincial *Emergency Management and Civil Protection Act (EMCPA)* could provide broad authority, but that, as of February 7, the policing authorities had not identified gaps in their existing enforcement powers that could be filled by *EMCPA* powers. The memo stated that the powers available under the federal *Emergencies Act* largely paralleled those under the *EMCPA*.

After hearing that the City of Ottawa could not seek military assistance, Councillor Luloff asked the City clerk to draft a motion asking the Province of Ontario to request military equipment. He subsequently told the chief of staff to Minister Blair that a majority of Council supported the motion. After the Federal Government commented that the military would not be engaged in the protests, the motion was scrapped.

7.4 Ottawa's injunction

Following its discussions with the OPS on January 28 and 30, City legal staff worked on a possible injunction. This work went on even though OPS Chief Sloly decided not to prioritize this following his discussions with RCMP Commissioner Lucki and OPP Commissioner Carrique on January 31. While the OPS did tell the City's legal team about Commissioner Lucki's concern that an injunction might act as a rallying point for protesters, it did not indicate that the OPS was opposed to the City pursuing one. In fact, the OPS told the City's legal team that it would ultimately be up to the City to determine whether to obtain an injunction.

On February 2, the City's legal department asked for details about the kind of injunction the OPS needed to assist in its operations but found it difficult to get a clear answer. It appeared to the City that the OPS wanted an order directed at removing vehicles, but the OPS already had the legal authority to do that. The actual problem was the OPS's assessment that attempting removals could risk officer safety.

On February 4, Ottawa City Solicitor White emailed the OPS general counsel setting out 10 questions that the City needed answered in order to prepare an application for an injunction. The OPS did not respond, and Mr. White concluded that they had lost interest in an injunction. It seems that the City took the position that it would only seek an injunction if the OPS said it needed one, even though Mr. White acknowledged that he was aware that the ultimate decision to seek an injunction remained with the City. The City remained concerned about enforcement, in that, if it obtained an injunction to remove protesters, the public would expect it to be used. The City did not have confidence that the OPS could follow through in enforcing a broad injunction and believed that the failure to do so would further erode public confidence.

As the protests continued, members of City Council began to push for more action. At the February 9 Ottawa City Council meeting, a motion was passed asking Mr. White to review the possibility of pursuing an injunction related to fire hazards and idling, to consider any other options, and to advise Council of his findings.

The OPSB also discussed injunctions. During the February 11 public meeting, OPSB member Sandy Smallwood asked a simple question: How did Zexi Li get a seemingly effective injunction to stop the honking so quickly, yet the City was still considering this step? In response, OPS Chief Sloly did not express reservations about an injunction but said that “[i]t would be for the city to comment further on the status of the injunction and their intent to pursue that to the fullest extent possible.” Member Smallwood noted that City Solicitor White had made “virtually a mirror statement” that the City was “ready to go” and was just waiting for the police.²⁵ This exchange perfectly encapsulates the disconnect between the City and the OPS on the entire question of an injunction.

That very day, at the direction of City Manager Kanellakos, the City of Ottawa filed an application for an injunction with the Ontario Superior Court of Justice. Mr. Kanellakos testified that, although the City never did get the information it was requesting from

²⁵ Email from Laura Bergen, February 15, 2022, OTT00007334.0001.

the OPS, it decided to exercise its authority independently. The application, supported by the governments of Ontario and Canada, was for an order prohibiting protesters from violating the City's by-laws. Associate Chief Justice Faye McWatt granted the injunction the next day, describing the City's evidence as overwhelming.²⁶

In the end, the City's injunction was never used as an enforcement tool by police. According to Ottawa Mayor Watson, the *Emergencies Act* overrode the injunction. Mr. Kanellakos testified that, in hindsight, it probably would have helped to seek the injunction sooner.

While it is normally advisable for the City of Ottawa and the OPS to coordinate efforts in obtaining an authority that police will ultimately have to enforce, the OPS had indicated that it was leaving it up to the City's determination whether to seek an injunction, which the City understood. That being so, the City could and should have applied for an injunction sooner. There were few steps the City could take independently from the OPS to impact the response to the convoy, and seeking an injunction was one of them.

Likewise, the OPS should have been clearer in its communications with the City. It is inexplicable that it would not answer the City's questions on February 4 or respond to say that it would not be answering them. Though it had concerns, the OPS did not indicate that the City of Ottawa should not pursue an injunction. This lack of communication left the City in limbo, waiting for OPS direction that never came.

Although the usefulness of an injunction in an event such as this one is debatable, the evidence indicates that Ms. Li's injunction had a net positive effect. In the face of an unprecedented situation having serious negative effects on the city's residents, it was incumbent upon the City of Ottawa to exercise the authorities at its disposal as soon as possible, especially given that the OPS had left the decision to the City.

²⁶ Injunction Order, February 14, 2022, OTT00028978.

8. Ontario's absence

One theme that emerged from the evidence was the view that the Government of Ontario was not fully engaged in responding to the protests. Many witnesses saw the Province as trying to avoid responsibility for a crisis within its borders. For example, Mr. Kanellakos testified that, even as the second week of the protests began, Ontario Solicitor General Jones told Ottawa Mayor Watson that it was a law enforcement matter and that elected officials should not be getting involved. Mayor Watson testified that it was frustrating that the Province was not engaged in finding a solution at that time.

These complaints were difficult to assess because the Commission did not have the benefit of Ontario's full participation. While the Province produced about 1,000 documents and provided the testimony of a deputy minister and an assistant deputy minister, it did not seek standing as a party. Moreover, both Premier Ford and Solicitor General Jones refused to be interviewed by Commission counsel, and when I issued summonses to compel their testimony, they invoked Parliamentary privilege and refused to comply. As a result, the Commission is at a regrettable disadvantage in its understanding of Ontario's perspective.

That said, Ontario Deputy Solicitor General Mario Di Tommaso did not agree with Mayor Watson's characterization of the Province's involvement. He testified that the Province was "very engaged in providing support to the City of Ottawa through a variety of means" but also testified that "when the concern was such that the protest was spreading to other parts of the province ... that's when the Premier decided to act."²⁷ I take these comments as recognition that the Province was not as engaged when protests in Ontario were limited to Ottawa.

²⁷ Evidence of Deputy Solicitor General Mario Di Tommaso, Transcript, November 10, 2022, pp. 160 – 162.

The absence of provincial engagement at the political level is well illustrated by a series of “tripartite meetings” that took place between February 3 and 10. These were attempts to bring federal, provincial, and municipal government officials together to coordinate an integrated response to the protests. They took place at two levels: staff and ministerial. While the Province of Ontario participated at the staff tripartite table, it was absent at the ministerial tripartite table, an issue that I also discuss in Chapter 14.

8.1 Tripartite staff calls

Calls between senior policing, transportation, and national security officials took place on February 3, 5, 6, 7, and 8. The February 6 call involved Deputy Minister Rob Stewart (Public Safety Canada), Deputy Minister Michael Keenan (Transport Canada), National Security and Intelligence Advisor (NSIA) Jody Thomas, CSIS Director David Vigneault, RCMP Commissioner Lucki, Minister Bill Blair (Emergency Preparedness), Ontario Deputy Solicitor General Di Tommaso, Ontario Deputy Minister Laurie LeBlanc (Transportation), OPP Commissioner Carrique, City Manager Steve Kanellakos, OPS Chief Sloly, and OPS Deputy Chief Bell. During this meeting, Mr. Kanellakos reported that the City would be declaring a State of Emergency later that day.

Chief Sloly also provided an update, stating that Wellington Street presented “no immediate safety issues” and that the OPS would not be towing trucks from that area.²⁸ The biggest risk came from the Rideau – Sussex encampment which resembled a quasi-motorcycle group. He indicated that the OPS would be compiling a list of resources that they required to assist in managing the situation. Chief Sloly acknowledged that additional support from the OPP and the RCMP would only allow the OPS to maintain its current posture and relieve tired officers.

NSIA Thomas ended the February 6 tripartite staff call with the following question: “Would the Province be looking to the Federal Government if this protest was

²⁸ Summary of Call with City of Ottawa, Federal Government and Provincial Government, February 6, 2022, ONT00000311, p. 3.

happening outside of the City of Ottawa (e.g., happening in other places like Kingston)?” Deputy Solicitor General Di Tommaso responded that the protests were against federal mandates and the protesters came to Ottawa for that purpose.²⁹ He testified that he viewed NSIA Thomas’s comment as “the Federal Government wanting to wash its hands of this entire thing.”³⁰ This exchange exemplifies the growing tension between the federal and provincial governments over their respective degrees of responsibility.

On February 7, another tripartite staff call took place involving many of the same participants. The City wanted to understand what the Province had in its toolbox under existing legislation and regulations that could assist. Federal Deputy Minister Keenan pointed out that there were opportunities for enforcement from a transportation perspective, such as suspending commercial licences, but that these would be within the purview of the Province. Ontario Deputy Minister LeBlanc said that this had just been “dropped” on her, and that she would need to get back to the group. Ottawa City Manager Kanellakos testified that Deputy Minister LeBlanc appeared “blindsided” because she had not been told in advance that she was going to be asked what the Ontario Ministry of Transportation could do to assist.

The final tripartite staff call took place on February 8. It does not appear that Ontario officials participated. OPS Chief Sloyly noted that the Windsor blockade, which by that time had taken hold, was drawing resources away from Ottawa. He stated that they were being divided and conquered.

8.2 The ministerial tripartite table

On February 7, 8, and 10, Mr. Kanellakos and Mayor Watson participated in meetings with Minister Mendicino, Minister Blair, Deputy Minister Stewart and at times, the

²⁹ Summary of Call with City of Ottawa, Federal Government and Provincial Government, February 6, 2022, ONT00000311, p. 9.

³⁰ Evidence of M. Di Tommaso, Transcript, November 10, 2022, pp. 164 and 165.

ministers' chiefs of staff. Chief Sloly was present at one full meeting and part of a second one. These were intended to be high-level meetings among municipal, provincial, and federal elected leaders to share information, coordinate a response, and bring forward ideas to support police operations. Ontario was invited but did not participate. Premier Ford told the mayor that he did not believe these meetings would be productive.

Minister Blair opened the February 7 meeting by relaying that Prime Minister Trudeau felt it was important to convene a table to collaborate at all levels of government and respond to things quickly. With respect to the absence of Ontario from the table, Minister Blair indicated that both he and Minister Mendicino had reached out to the Province and would continue to encourage them to join the meetings. While the OPP and the RCMP were requesting allocation information before dedicating resources, a conversation about how resources would be used could not take place, because OPS Chief Sloly was only able to join the meeting as it was ending.

The second ministerial tripartite table took place the following day. Minister Mendicino indicated that he had not heard back from the Ontario solicitor general. Ottawa Mayor Watson said he would push the Province for resources when he spoke to Premier Ford the following day but that he needed a commitment from the Federal Government as well. When Minister Mendicino answered that the Province needed to be on these calls, as the OPP would be playing a critical role, the mayor responded, "It's hard for me to blast the province when I don't have a commitment from the feds."³¹

The final tripartite table took place on February 10. Ontario was still refusing to participate, even though Mayor Watson had urged both Premier Ford and Solicitor General Jones to participate during a call on February 9. Both the premier and the solicitor general responded that they felt it was a political table and participating would not be a constructive use of their time. Solicitor General Jones was of the view that responding to the protests was a law enforcement issue to be dealt with between

³¹ Notes of Meeting, February 8, 2022, SSM.NSC.CAN.00002052_REL.0001, p. 4.

OPS Chief Sloly and OPP Commissioner Carrique — and that elected officials should not get involved.

The tripartite call on February 10 began with an acknowledgement of other blockades happening across the country, which Minister Blair described as a “huge escalation.” Minister Mendicino said that he had spoken to Solicitor General Jones and was waiting to hear back from her on what the OPP could do to assist. Additional RCMP officers would be provided to work alongside the OPP, but they needed a sense of the OPS’s operational plan. Later in the call, Deputy Minister Stewart stated that the OPS chief’s plan had yet to be fully fleshed out and that this may affect the speed with which the RCMP could deploy resources. Mayor Watson testified that he did not recall telling OPS Chief Sloly that the lack of a plan could be delaying RCMP resources, and that this communication would have been done at the staff level by City Manager Kanellakos or Chief of Staff Arpin.

9. The Ottawa Police Service requests 1,800 officers

On February 5, the OPSB asked Chief Sloly how many officers the OPS required to end the protests. Chief Sloly took this to be a formal direction under the *Police Services Act*. He testified that he consulted with his executive team to provide a figure, and on February 6, reported that 1,800 additional officers were needed. On February 7, Chief Sloly followed up with a table showing high-level details of the OPS’s requirements, which included 1,000 general duty officers and 600 public order officers. According to Chair Deans, the OPSB was not told the methodology behind the number of officers requested or how Chief Sloly planned on using them.

Chair Deans was aware that the chief was frustrated and felt stonewalled in getting the resources he needed. She asked the mayor’s office to apply political pressure in acquiring the resources that OPS Chief Sloly required. The mayor’s office was hesitant to get involved, but after further discussions, the mayor agreed.

On February 7, Chair Deans, Mayor Watson, and Chief Sloly made the request for 1,800 officers public. Chief Sloly publicized the request in a City Council meeting, and Mayor Watson and Chair Deans sent co-signed letters to Prime Minister Trudeau, Premier Ford, Minister Mendicino, and Solicitor General Jones. The letter described the situation on the ground as a “siege” that left residents “living in fear.”³²

Although the request was ultimately referred to the OPP and the RCMP for assessment, it was notable that this request was made at the political level, rather than through police. As I discuss in Chapter 8, under the Ontario *Police Services Act*, a police services board or a chief of police may request assistance directly from the OPP’s commissioner, who has an obligation to respond. OPP Commissioner Carrique testified that this process was never used in Ottawa. OPS Chief Sloly was unfamiliar with it, and Chair Deans did not recall whether the OPSB considered making such a request. The *RCMP Act* does not provide for a similar process to request RCMP resources, although I understand that sending requests at the policing level is a common practice.

The resulting publicity surrounding the request was by design, as it was intended to apply pressure to get the OPS the resources it needed. While making the request public likely generated political pressure, it also risked revealing the OPS’s strategic and operational thinking. The request signalled that the OPS was preparing for a mass mobilization of resources to attempt to remove protesters. That created the possibility that protesters could adopt a strategic response, including starting protests at distant Ontario locations, such as Windsor, to divert resources from Ottawa. Both OPS Chief Sloly and OPP Commissioner Carrique were mindful that protesters could adopt such a strategy, and Chief Sloly subsequently commented, on February 8, that the announcement created a divide-and-conquer response by protesters, referring to the blockade of the Ambassador Bridge in Windsor.

³² Letter from J. Watson and D. Deans, February 7, 2022, OTT00005513.0001.

Chief Sloly testified that he provided the resource request in an open forum because Chair Deans had made the request of him in a public session, rather than in the *in-camera* portion of the February 5 OPSB meeting. He understood that the intent was for public letters with the request to be sent “to the highest offices of the land provincially and federally.”³³

In fairness, the February 7 request was not the only time when political actors disclosed staffing information, arguably for political purposes. Both federal and provincial governments had already publicized the number of officers they claimed to have sent to Ottawa. In one media release, the Ontario solicitor general stated that more than 1,500 OPP officers had been on the ground in Ottawa from the beginning of the protest. In reality, the OPP had contributed a cumulative 1,500 OPP officer shifts. The number of OPP officers working in Ottawa around that time was about 125 per day, and those officers would not all be on duty at any given hour. OPP Commissioner Carrique and Ontario Deputy Solicitor General Di Tommaso characterized the disclosure of these figures as unhelpful and unwise. When pushed on whether the solicitor general was politicizing the issue of police resources through this statement, Commissioner Carrique indicated that the Commission would need to ask the solicitor general herself. As discussed earlier, Solicitor General Jones refused to testify before the Commission, and so I am left without the benefit of her explanation.

On the same day that the request became public, OPP Commissioner Carrique, Ontario Deputy Solicitor General Di Tommaso, and RCMP Deputy Commissioner Michael Duheme heard reports that OPS Chief Sloly had told his team to ask for twice as many resources as they needed. OPP Superintendent Abrams testified that Chief Sloly made this comment at a February 6 OPS meeting, and Chief Sloly acknowledged that he may have made a remark of this nature. While Chief Sloly’s intent was to encourage the command team to consider how many resources they needed in the long term (“exponential” instead of “incremental” thinking), when

³³ Evidence of P. Sloly, Transcript, October 31, 2022, pp. 302 and 303.

Superintendent Abrams learned of the request for 1,800 officers the following day, he was understandably suspicious about whether this number represented a legitimate need.

On February 8, Ottawa Mayor Watson spoke to the prime minister, reiterating the request for 1,800 officers and expressing his continued frustration with Ontario's absence. Prime Minister Trudeau agreed that Premier Ford was shirking his responsibilities and agreed to support the City.

On February 10, the City received a letter from Ontario's solicitor general, indicating that the City's request for resources had been shared with the OPP commissioner. Mayor Watson characterized it as a "template" letter. The mayor was frustrated with this response because, by that time, OPP Commissioner Carrique was aware of the request though Chief Sloly.

10. Rideau and Sussex

The intersection of Rideau Street and Sussex Drive continued to be an area of high conflict. The truckers who occupied the intersection were aggressive and a source of serious concern for the police. Attempts by protest organizers to simply keep an emergency lane open there were unsuccessful due to the protesters' distrust of the police.

One of the protest organizers involved in attempting to keep an emergency lane open was Tom Marazzo. Mr. Marazzo served as an officer in the Canadian Armed Forces for 25 years. After retiring from the military, he worked as an instructor at Georgian College, but was terminated in 2021 following the college's implementation of a COVID-19 vaccination mandate. Mr. Marazzo came to Ottawa during the first weekend of protests, after Mr. Bauder asked him to assist with logistics.

Mr. Marazzo testified that he was particularly concerned about keeping emergency lanes open because his son has a severe heart condition. However, he was unable to convince the truckers at Rideau Street and Sussex Drive to do so. All he could accomplish was getting the truckers to monitor the blocked lane and to move vehicles if fire trucks or ambulances approached.

During the second week of the protests, the protest organizers and the PLT worked to clear this intersection, yet many of the problems that had characterized the protests to date undermined these efforts. Protest organizers found it difficult to control the protesters on the ground. The OPS continued to operate internally at cross purposes, planning a public order operation while PLT negotiations were ongoing. Ultimately, the efforts to clear the intersection failed, but they laid the groundwork for future negotiations between protesters and the City.

10.1 The protesters reach out to the City

By the evening of February 7, Mr. Marazzo became concerned about mounting pressure on OPS Chief Sloly and the police response that might ensue. He sensed a rise in tensions as early as February 4, when OPS Chief Sloly held a press conference and announced his “surge, enforce, and contain” strategy. Mr. Marazzo felt organizers needed to help to relieve the tension.

Meanwhile, the Freedom Convoy continued to receive bad press due to a memorandum of understanding (MOU) issued by convoy organizer and Canada Unity co-founder James Bauder. Mr. Marazzo and Mr. Wilson, a convoy lawyer, were concerned that the MOU made it appear that the Freedom Convoy’s purpose was to overthrow the Government. On February 8, Mr. Bauder’s group issued a statement withdrawing the MOU, stating that it had led to “unintended interpretations.”³⁴ Mr. Bauder testified that he had been persuaded to do this for strategic reasons. It was clear from his testimony that he never gave up on the ideas that inspired the MOU.

³⁴ Hendon Report, February 9, 2022, OPP00001244, p. 2.

Mr. Marazzo had become frustrated with the PLTs for many of the reasons I have already discussed in this chapter. The PLTs had re-engaged with him on February 7 to try to negotiate the movement of vehicles onto Wellington Street. Rather than negotiate with them, he demanded to speak with someone higher in rank. In his testimony, Mr. Marazzo indicated that he was looking to speak with a police inspector, but the OPS understood him to be looking to talk to a City official.

On the morning of February 8, OPS Deputy Chief Bell told City Manager Kanellakos that the PLT wanted to meet with him to discuss a potential meeting with some of the protesters. During that meeting the PLT explained that protest leaders had stopped communicating with the PLT and wanted to meet with the City. The OPS wanted to keep lines of communication open.

Mr. Kanellakos reluctantly agreed to the OPS's request. After conversations with Mayor Watson and Chief of Staff Arpin, Mr. Kanellakos decided to meet with the protesters without committing the mayor to anything. Mr. Kanellakos told PLT officers that he would meet with the protesters but that he needed something in exchange. An officer suggested that the trucks could be moved out of the residential neighbourhoods.

10.2 The protesters and the City meet

At around noon on February 8, the PLT escorted protest organizer Mr. Marazzo and convoy lawyers Keith Wilson and Eva Chipiuk to City Hall to meet with Mr. Kanellakos. Mr. Marazzo spoke with Mr. Kanellakos alone and told him that the protesters wanted a meeting with the mayor. Mr. Kanellakos understood that the protesters wanted this in order to gain legitimacy. Mr. Kanellakos told Mr. Marazzo that there would be conditions on a meeting; namely, that trucks move out of the residential areas. At some point, Mr. Wilson and Ms. Chipiuk joined the discussion. Everyone agreed that moving trucks would be a positive step. The protest organizers said that they needed to work with the City to bring the temperature down because tensions were rising.

Mr. Wilson told the Commission that the protesters' representatives were asked to keep the meeting a secret so as not to embarrass the City. It was also requested that the protest organizers work to have vehicles moved out of certain key areas of concern. Mr. Wilson, Mr. Marazzo, and Ms. Chipiuk apparently agreed to see what they could do about the Rideau – Sussex intersection, which they understood to be of concern to the OPS.

Mr. Kanellakos briefed both Mayor Watson and Chief Sloy about his meeting with the protesters.

10.3 Protest organizers' first attempt to clear Rideau and Sussex

After the meeting, Mr. Marazzo, Mr. Wilson, Ms. Chipiuk, and the PLT went to the intersection of Rideau Street and Sussex Drive to try to convince the protesters there to relocate onto Wellington Street. Language barriers between the mostly English-speaking Freedom Convoy organizers and the French-speaking group who made up the protesters at the intersection may have complicated this discussion. These protesters were more independent than the other groups and were of the view that they had suffered greatly from COVID-19 mandates. They were entrenched and committed to their cause.

Ms. Chipiuk and Mr. Marazzo led the effort to persuade the protesters to move their vehicles, and spent hours negotiating. Eventually, the truckers agreed to move, but this required coordination with the OPS, because the police had installed jersey barriers that blocked traffic on Rideau Street from moving onto Wellington Street. In the early evening, Ms. Chipiuk and Mr. Marazzo located an OPS PLT member and informed him that the truckers were ready to move. After a phone call, the PLT officer informed the protest organizers that the OPS would not remove the jersey barriers.

This decision by the OPS was made seemingly because of a miscommunication within the OPS itself. OPS Acting Superintendent Robert Drummond had understood that the group at Rideau Street and Sussex Drive would be leaving completely, not

relocating to Wellington Street. Once it became clear that the protesters simply wanted to relocate, the OPS refused to allow the vehicles to move. The identity of the individual who did not approve the move is unclear, although that decision should have been OPS Superintendent Patterson's in his capacity as event commander. According to Acting Superintendent Drummond, Superintendent Patterson told him that OPS Chief Soly was also involved in the decision, which Chief Soly denied.

10.4 The OPS's enforcement plan to clear the intersection

In parallel to these negotiations, the OPS was planning a public order operation to clear the intersection. An operation had initially been planned for February 7, the day before City Manager Kanellakos's meeting with the protesters, but had been postponed for lack of resources. On February 9, OPS Superintendent Patterson presented another plan for this operation to the OPS command team, OPP Superintendent Abrams, as well as other OPP and RCMP representatives. Superintendent Patterson stated that the PLT had been informed of the plan. Superintendent Abrams testified, however, that this was not correct. OPS Acting Deputy Chief Ferguson's contemporaneous notes of the meeting indicate that she believed that Superintendent Patterson misrepresented the extent of PLT involvement. Superintendent Abrams and an RCMP representative stated at the meeting that the OPP and the RCMP would not support the operation as presented.

While Chief Soly and Superintendent Patterson wanted the operation to proceed, another OPS commander cancelled it because the OPS's public order experts had determined that it was poorly planned and unsafe.

The lack of coordination between the POU and the PLT is reminiscent of the Coventry Road operation. It appears that lessons from that operation were not learned, at least in terms of the importance of coordination and communication within the OPS.

10.5 Protest organizers' second attempt to clear Rideau and Sussex

Unaware of the POU operation that was still under consideration, Mr. Marazzo, Mr. Wilson, and Ms. Chipiuk met with the PLT on February 9 to see if it might still be possible to move the trucks out of the Rideau – Sussex intersection. The three told the PLT that, if the police could guarantee the removal of jersey barriers, they could work with the truckers at the intersection to move. The OPS command approved the plan to relocate trucks onto Wellington Street, and this formed the basis of a plan for the next day.

On February 10, convoy organizer Tamara Lich requested that the road captains, block captains, board members of the Freedom Corporation (the not-for-profit organization formed to manage funds donated to the Freedom Convoy), and key volunteers meet at Rideau Street and Sussex Drive at 10 a.m. to try to negotiate to clear the intersection. Together with the PLT, they persuaded several truckers to move onto Wellington Street, though according to OPS Staff Sergeant Ferguson, another convoy participant succeeded in getting some truckers to change their minds. In order to move, truckers had to wait for the police to remove the jersey barriers. At around 4 p.m., the OPS told Mr. Wilson, Ms. Lich, and others that it would remove the barriers. Just before sunset, the police and the City arrived at the intersection with a forklift and tow truck to do so. The police presence in the area was increased to help manage the move. However, some of the protesters believed that the officers and the tow truck were there to remove the truckers by force. Despite Mr. Wilson's and Ms. Lich's efforts to calm the growing crowd, it became impossible to carry out the operation. Both the convoy organizers and the PLT agreed that the plan had to be abandoned.

11. The Integrated Planning Cell

The City and the OPS's joint request for 1,800 additional police officers was not met with an immediate pledge of resources. Instead, the OPP and the RCMP responded

by creating an entity called the Integrated Planning Cell (the Cell). The Cell would play a significant role in the development and implementation of the plan that ended the protests in Ottawa and the deployment of resources to carry out that plan. However, as it will become clear, the path toward a plan to end the protests would be bumpy.

11.1 The creation of the Integrated Planning Cell

The February 7 request for 1,800 officers was referred by Ontario and the Federal Government to the OPP and the RCMP for assessment. The OPS did not have an overall operational plan to end the protests at the time, and the OPP and the RCMP wanted the request to be supported by a plan before they committed resources. This was because they needed to accurately understand the OPS's needs in order to balance them against competing demands at other protest locations and ensure that any resources deployed to Ottawa would be promptly used and then returned. The RCMP was responsible for policing protest activity in various locations, including Coutts, Alberta, and was already having to redeploy members between jurisdictions. Similarly, the OPP was facing operational pressure between maintaining front-line policing in the municipalities it served, assisting the OPS, and responding to protests elsewhere in Ontario. The February 7 blockade of the Ambassador Bridge underlined the fact that both the OPP and the RCMP would likely face emerging needs in Windsor, Ontario.

To address these concerns, OPP Commissioner Carrique decided, with RCMP Commissioner Lucki's support, to respond to the request by establishing an Integrated Planning Cell to assess the OPS's needs and support its planning efforts. The Cell was an *ad hoc* team of subject matter experts led by OPP Chief Superintendent Carson Pardy. It had two principal objectives: (1) to support the OPS by testing, verifying, and improving the OPS's plan; and (2) to coordinate the deployment of police resources.

The OPP and the RCMP created the Cell to support the OPS, not to displace it as the lead in responding to the Ottawa protests. The OPP and the RCMP did not seek

to assume command from the OPS for both jurisdictional and practical reasons. OPP Commissioner Carrique believed that he lacked the authority to do so without a formal request. The RCMP felt that it lacked authority to assume command because it was not the police of jurisdiction in Ottawa. It was also concerned that displacing the OPS would worsen the situation by creating a rift between the OPS and the RCMP. Both the OPP and the RCMP wanted the OPS to stay in charge and to succeed.

Indeed, the OPP and the RCMP did not initially contemplate establishing a unified command with the OPS to share the lead in responding to protests. A unified command involves operational commanders from each participating force making decisions jointly toward the same goals. While a unified command between the OPP and the Windsor Police Service (WPS) would be established on February 10 to respond to the protests at the Ambassador Bridge — a topic that I discuss in Chapter 10 — this approach was not taken in Ottawa. Instead, the OPP and the RCMP hoped that the Cell would be integrated within the OPS's structure.

When the Cell was constituted on February 8, it was ready to help, but was also prepared for difficulty and dysfunction. Commissioner Carrique and other senior OPP officers briefed OPP Chief Superintendent Pardy that the OPS was requesting resources without a plan to deploy them, that there were fundamental leadership concerns at the OPS, and that the OPS was not properly using the PLT. Further, while the OPS was familiar with integrated planning and command from previous major events, physical and staffing barriers meant that such integration had yet to occur for this event. The Cell was located at the National Operations Centre in an RCMP building in Orleans rather than at the NCRCC or an OPS facility, and it had no OPS members, despite several requests from the Cell for such members early on.

11.2 Chief Sloly's initial perspective on the Cell

OPS Chief Sloly's attitude toward the Cell was mixed. He saw benefits from the Cell's expertise and hoped it would increase the deployment of resources. But he also felt that the Cell was assessing if the OPS was "worthy" of additional resources. Chief Sloly's emphasis on prompt enforcement, as I discuss earlier in this chapter, reflected a desire to prove that the OPS deserved the resources it was requesting.

Chief Sloly was also concerned that politicians were undermining him and the OPS, and that the Cell could be used to further do this. He testified that Ontario Solicitor General Jones' inaccurate statement that 1,500 OPP officers were on the ground in Ottawa reduced public trust in the OPS, and falsely suggested that the OPS had enough resources to conduct additional enforcement. Similarly, Chief Sloly testified that, on February 3, federal Deputy Minister of Public Safety Rob Stewart commented during a call with federal and municipal officials that the OPS seemed to want to help extremists and white supremacists take over Ottawa. It is unclear whether this was Deputy Minister Stewart's view, or whether he was recounting what a minister had told him. Either way, Chief Sloly believed that this comment undermined federal and municipal officials' trust in the OPS. At the municipal level, he was concerned by the February 7 Ottawa City Council motion calling for the RCMP to take over policing in the Parliamentary Precinct, which he viewed as unlawful and a threat to the OPS's jurisdiction.

During the first meeting with the Cell on February 8, the OPS committed to providing the Cell with its plan and to consider a proposal from OPP Chief Superintendent Pardy to establish a unified command. The Cell perceived that OPS Acting Deputy Chief Ferguson supported its efforts. However, Chief Sloly was disappointed that the meeting did not generate a substantive move forward. He shared with his deputies his concerns that politicians would attempt to use the Cell to take control of policing the Freedom Convoy and told them that the Cell needed to be subordinate to the OPS.

On February 9, Chief Sloly commented further that integration with the Cell was, in effect, a zero-sum game: Either the OPS would embed the Cell in the OPS plan, or the Cell would embed the OPS in the Cell's plan. Chief Sloly preferred the former and insisted that the OPS remain in control of the incident command and that all resources be placed under that command's control. In fairness to OPS Chief Sloly, OPP Commissioner Carrique did not propose establishing an integrated or unified command at that time.

11.3 The February 9 plan

Chief Sloly proceeded to oversee the development of an operational plan that reflected his focus on enforcement and public order operations, to prove to the Cell that the OPS deserved resources. This February 9 plan contained a terse, one-sentence mission statement that emphasized ending unlawfulness and restoring safe and open neighbourhoods and businesses. It did not mention negotiations, which previous mission statements had included. The plan called for negotiation but included little detail on the role of the PLT or communications with protesters, and stated that PLT negotiations had broken down. Its focus was a series of public order operations to reduce the protest footprint by clearing protesters out of Ottawa one area at a time. Chief Sloly testified that the plan to remove protesters from the intersection at Rideau Street and Sussex Drive was part of the February 9 plan.

However, Chief Sloly seemed to negate the plan when he testified that this approach was not sustainable and would not ultimately lead to a safe, successful outcome, but that it was all the OPS could do with the resources available. He believed that the Cell wanted to see the OPS act on shorter timelines instead of waiting for additional resources.

The command and control dysfunction and the lack of trust between Chief Sloly and his deputies persisted in the development of the February 9 plan. During a morning meeting on February 9, Chief Sloly directed his deputies not to change the February 9

plan or key operational command personnel without his approval and that he would “crush” anyone who undermined that plan. Chief Sloly wanted to prevent a repeat of the previous week’s dysfunction and ensure that a united front was presented to the Cell when the OPS requested resources. These comments further damaged his relationship with his deputies and reinforced a perception that operational matters required his approval.

11.4 The February 9 Cell meeting

The OPS’s second meeting with the Cell on February 9 was, at times, contentious. Chief Sloly stated that the Ontario solicitor general’s February 6 claim that 1,500 OPP officers had been sent to Ottawa was a deliberate attempt to undermine him and that her office wanted him to fail, and he threatened to “go to the Minister” if the RCMP did not honour a commitment to provide 400 POU officers by the week of February 14. While Chief Sloly wanted to know that the Cell would not be influenced by political pressures, he acknowledged that the Cell’s leaders were not involved in the politics and that they may have seen his comments during the meeting as disrespectful, as they in fact did.

Chief Sloly insisted that the Cell guarantee specific numbers of officers and suggested that attempting to plan without those resource commitments would be a waste of time. The Cell responded that it wanted to help the OPS develop an appropriate plan and was prepared to commit to providing the resources required to implement that plan. The Cell emphasized the need for a plan because the OPS’s February 9 plan was not safe, in its view, and had several deficiencies: (1) Its mission statement did not explain what the OPS hoped to accomplish and how; (2) It lacked supporting sub-plans; and (3) There was no approach to hold the areas that it proposed to clear. OPP and RCMP representatives both stated that the OPS’s plan to clear the first area (the Rideau – Sussex intersection) was unsafe, and they would not support it. The RCMP representative told Chief Sloly that the OPS should pause operations until the RCMP brought in enough POUs to systematically clear protesters from the downtown area.

Further, OPS Chief Sloly and the Cell disagreed about the impact of actions taken in Ottawa on protests elsewhere in Canada. The Cell emphasized that the OPS should take a measured approach to avoid prompting additional disruption elsewhere. Chief Sloly responded that he did not want to hear about disruption elsewhere and that ending the Freedom Convoy in Ottawa would also end it in the rest of Canada. The Cell concluded that the OPS's actions could adversely impact protests elsewhere that the OPP and the RCMP were responsible for policing.

From the Cell's perspective, this meeting did not generate the agreement on planning or integration that it was looking for. Instead of a joint plan, there were now two plans: the OPS's February 9 area-by-area plan, and the Cell's developing plan to systematically clear the downtown. While Chief Sloly understood the Cell's perspective that the OPS's plan was too aggressive, he did not agree to pause it. The Cell did not perceive that any agreement was reached on integration because Chief Sloly and the Cell had different understandings of what integration meant.

On February 10, Chief Sloly stated that he had low expectations of the Cell and thought that it wanted the OPS to pause operations because the OPP and the RCMP had prioritized other locations. For its part, the Cell determined not to participate in the OPS's plan because it was a "recipe for disaster."³⁵ The OPP only committed to providing enough officers to maintain the *status quo*. Meanwhile, the Cell decided to develop a comprehensive plan that built on the OPS's plan and to staff that plan as it was developed.

11.5 Windsor is prioritized by the OPP and the RCMP

The Cell's concerns about the safety of the OPS's February 9 plan had important implications for other parts of Canada. By February 10, OPP Commissioner Carrique had prioritized the deployment of OPP resources to Windsor. He based this decision not only on Windsor's economic importance, but also on the fact that the OPS lacked

³⁵ Notes of Integrated Planning Cell Briefing, February 9, 2022, OPP00001838, p. 2.

an appropriate plan to use OPP officers. He testified that the OPP could have helped the OPS end the protests sooner, had such a plan existed. The RCMP prioritized Windsor and redeployed officers from Ottawa to Windsor for similar reasons. Neither the RCMP nor the OPP appears to have communicated this decision to OPS Chief Sloly, which may have contributed to his low expectations of the Cell.

The WPS also lacked a plan on February 9 or 10 to clear the Ambassador Bridge blockade, but the OPP and the RCMP were less concerned by this for two reasons. First, the WPS agreed to form a unified command and have the OPP lead planning and operations. Both the OPP and the RCMP trusted the OPP commander to perform those tasks. Second, the Windsor protest was less complex than those in Ottawa.

11.6 February 10 integration and command dysfunction

The OPS's integration, planning, and command and control challenges reached their breaking point on February 10. OPS Acting Deputy Chief Ferguson testified that this was the worst day in her policing career because of the dysfunction she experienced.

The events of that day confirmed that the OPS and the Cell were working in silos, isolated from each other. The Cell struggled to obtain information on OPS resources and plans because OPS officers felt unable to provide it without Chief Sloly's approval. While the Cell was developing a plan and had begun requesting resources from other Ontario police agencies, the OPS had not endorsed that plan. For his part, Chief Sloly remained unsure whether the Cell would be integrating with the OPS. Despite the OPS's need for resources, he proposed dismissing any RCMP and OPP officers assisting the OPS who did not perform the enforcement tasks assigned by the OPS.

There were sharp debates within Chief Sloly's command team concerning whether establishing an integrated command was desirable. When OPS Acting Deputy Chief Ferguson proposed adding OPP public order expert Inspector Dave Springer to the command team, OPS Event Commander Superintendent Patterson stated

that establishing an integrated command with the OPP was undesirable because the OPP wanted to keep the Freedom Convoy in Ottawa rather than help to end it. Superintendent Patterson also criticized OPP Inspector Springer, and Chief Sloly expressed his support of this criticism, using strong language.

Further, the relationship between the OPS strategic and operational commanders, Acting Deputy Chief Ferguson and Superintendent Patterson, broke down. As I discussed earlier, the February 9 public order action against the Rideau – Sussex protesters was cancelled, against the wishes of Chief Sloly and Superintendent Patterson, when OPS public order experts agreed with the Cell that it was unsafe. That cancellation exposed the internal conflict within the OPS command team. OPS Acting Deputy Chief Ferguson stated that she disagreed with the approach put forward by Chief Sloly and Superintendent Patterson, because it did not embrace negotiation and pursued unsafe operations that the Cell did not support. In response, OPS Superintendent Patterson accused her of undermining his authority by colluding with her spouse, OPS PLT lead Staff Sergeant John Ferguson, an allegation that she denied. She offered to resign over her disagreement with Chief Sloly and Superintendent Patterson’s approach. Instead, Chief Sloly removed Superintendent Patterson as event commander due to his comments.

That same day, the Cell prepared a frank assessment of the OPS’s current status. It stated that the OPS’s approach was aggressive, risky, not based on intelligence, and not developed in collaboration with partners. It highlighted unclear and incomplete command and control, and poor internal information sharing that contributed to the Coventry Road incident and the cancellation of the Rideau – Sussex operation. Finally, it said that the OPS was not considering the Ottawa events in a national context.



12. The OPS's attempt to “reset”

12.1 Acting Superintendent Bernier's course correction

Superintendent Patterson's replacement paved the way for a significant reset within the OPS. Chief Sloly consulted with his deputies on a replacement, and on February 10, they selected Acting Superintendent Robert Bernier, who was one of the OPS's best-trained commanders and had experience leading responses to public order and other major events.

Acting Superintendent Bernier immediately identified a series of priorities that he believed would help the OPS to “reset” its response to the protests. He also obtained two commitments from Acting Deputy Chief Ferguson prior to agreeing to take on the event commander role: the appointment of OPP Inspector Springer as his deputy event commander; and autonomy from OPS Chief Sloly to make operational decisions and to develop and approve plans. He also had OPS Acting Superintendent Robert Drummond appointed to serve as his executive liaison with Chief Sloly, to keep the chief at arm's length.

OPS Acting Superintendent Bernier began his course correction by developing a new mission statement that emphasized negotiation, de-escalation, respect for the right to protest, public safety, and integration of the POU and the PLT into decision making.

Acting Superintendent Bernier also reset the OPS's command structure by forming an integrated command table to make all operational decisions. He chaired the table, and each specialized team — including the POU and the PLT — had seats at it. This ensured that he could make prompt decisions after receiving the input of subject matter experts, while also ensuring that each specialized team would be aware of operational decisions. The table helped to restore PLT members' confidence in the OPS command by assuring them that they had a voice in decision making. Also, because OPP officers sat at the table, it was an initial step toward integrating with

partner agencies. Had it been formed sooner, this table could have addressed many of the OPS's prior internal integration challenges.

Chief Sloly was supportive of the new direction that Acting Superintendent Bernier intended to take, even though it departed from aspects of his February 9 plan and included OPP Inspector Springer, whom Chief Sloly had previously criticized. While Chief Sloly's trust in his team was low, he did have confidence in Acting Superintendent Bernier.

The appointment of Acting Superintendent Bernier did not solve all the OPS's challenges. At times, Chief Sloly continued to be engaged in operations, including by issuing a direction to close bridges, asking to approve a weekend traffic plan, and setting timelines for operations. He generally retreated when Acting Superintendent Bernier asserted his autonomy. However, Acting Superintendent Bernier was not always provided with timely information. For example, Chief Sloly did not initially inform him of the City's negotiation with Freedom Convoy leaders to move protester vehicles from residential areas, a topic that I discuss earlier in this chapter. Similarly, Acting Superintendent Bernier was not informed that the Cell was developing a plan alongside the OPS, an apparent communication failure that surprised Chief Sloly.

Nevertheless, the course correction that began on February 11 was significant, and marked a genuine turning point that would ultimately lead to the successful resolution of the Ottawa protests.

12.2 Further efforts toward integration

By February 11, the Cell had developed a draft plan. The plan incorporated the February 9 plan's goal of reducing the protester footprint. However, instead of continuing the February 9 plan's area-by-area approach to achieve that goal, it outlined a four-phase plan to stabilize the situation, dismantle the entire protest zone, maintain the cleared zone, and then demobilize. It also expanded on the February 9 plan's brief negotiation section by emphasizing and providing additional details on

using the PLT and a communications strategy to attempt to shrink the footprint of the protesters. The Cell's draft plan established an integrated command.

RCMP Commissioner Lucki and OPP Commissioner Carrique both expressed confidence in the Cell's draft plan when they were briefed on it on February 11. They were comfortable deploying officers to carry out the plan because it was safe and viable, and by integrating command, it gave them a say in how their resources would be used. They wanted it to be actioned promptly. OPS Acting Deputy Chief Ferguson also supported it and sought Chief Sloly's approval on February 11, consistent with Chief Sloly's February 9 statement that his approval was required to change the OPS's operational plan.

However, the Cell and the OPS were still working in silos. Acting Superintendent Bernier did not know that the Cell was developing a plan alongside the OPS, and so on the evening of February 11, there were still two plans in development: Acting Superintendent Bernier's and the Cell's. On February 12, OPS Deputy Chief Bell recognized that there was a need to marry the two. The Cell's RCMP representative contacted Acting Superintendent Bernier later that day to inform him that the Cell wanted to assist him. They agreed that the Cell would develop Acting Superintendent Bernier's mission statement, main action plan, and objectives into a comprehensive plan.

While Acting Superintendent Bernier advised the Cell that he had spoken with Chief Sloly and that the Cell should proceed with the plan, Chief Sloly told the Cell that he needed to be briefed on it. When OPP Chief Superintendent Pardy told Chief Sloly that the Cell wanted greater integration and sought his approval for its plan on February 12, Chief Sloly responded that he wanted to be briefed on that too. A few hours later, RCMP Commissioner Lucki told Chief Sloly that she needed him to be briefed on the Cell's draft plan and to approve it so that she could be comfortable deploying additional resources to Ottawa. She expressed concern that the OPS was failing to deploy half of the 250 officers the RCMP had already provided.

On the afternoon of February 12, the Cell briefed Chief Sloly on its draft plan and sought his approval. Chief Sloly did not give it. According to OPP Chief Superintendent Pardy, this occurred because of a statement by an RCMP expert during the meeting that unintentionally suggested that Chief Sloly's actions could cause the police response to the Ottawa protests to fail. This prompted Chief Sloly to respond negatively and state that unless he had confidence in what the OPS and the Cell could do, he would not approve the plan. Chief Superintendent Pardy apologized. Instead of reaching agreement on the draft plan and integrated command, Chief Sloly requested further documentation and stated that he would not support the Cell's approach if he was not confident that it would be successful.

12.3 Development and approval of the February 13 plan

On the evening of February 12, the Cell finalized and approved its draft plan, a 73-page document that incorporated Acting Superintendent Bernier's mission statement and elements of the OPS's February 9 plan. On February 13, the Cell sought and obtained Acting Superintendent Bernier's approval, and OPS Acting Deputy Chief Ferguson informed the Cell that OPS Chief Sloly's approval was not required. Chief Sloly told RCMP Commissioner Lucki and OPP Commissioner Carrique later that evening that the OPS had "fully approved" the plan.³⁶

The February 13 plan was a significant improvement over the February 9 plan for two reasons. First, it outlined in detail how the police would comprehensively and safely end the protests by first using the PLT to shrink the footprint of the protests and then launching public order actions to remove remaining protesters. Second, it integrated command at the operational and strategic levels. The February 13 plan specified that Acting Superintendent Bernier would be lead operational commander but would make decisions in consultation with OPP and RCMP operational commanders. It also provided that an integrated OPS – OPP – RCMP strategic command would resolve

³⁶ Email from P. Sloly, February 13, 2022, OPP00001547.

any disagreements between the operational commanders and provide a buffer between the operational commanders and the political sphere.

While the February 13 plan did not yet include sub-plans to clear vehicles and protesters from downtown Ottawa, they were under development. In any event, their absence on February 13 did not delay the deployment of resources since the police needed to perform several other tasks before launching an operation. Exhausted OPS members needed to recover, additional public order officers from across Canada had to be deployed to Ottawa, and PLTs needed time to negotiate. Commissioners Lucki and Carrique expressed confidence in the plan and appeared prepared to commit significant resources, including resources that would come from the clearing of the Ambassador Bridge on February 13.

The Cell and OPS Acting Superintendent Bernier were confident that the plan incorporated all the powers and resources that police needed to successfully end the Freedom Convoy protests. More specifically, the February 13 plan relied on existing powers or resources to perform some of the same tasks — restricting access to downtown Ottawa, towing vehicles, and authorizing the RCMP and municipal officers from other provinces to enforce provincial and municipal laws — that the Federal Government later included in its emergency measures.

For instance, Acting Superintendent Bernier and the Cell planned to establish an exclusion zone under common law authority once they launched a public order operation. While Acting Superintendent Bernier acknowledged that explaining common law authority to protesters and the public might be challenging, he was confident that police had this authority.

Further, Acting Superintendent Bernier was satisfied, on February 13, that the police would have sufficient towing capacity. At that point, the OPP had secured 34 heavy tow trucks. At least 16 of them, along with additional light tow and support vehicles, arrived in Ottawa well before the final plan to clear protesters from downtown was

approved on February 17. Police also had the legal authority to tow under the *Highway Traffic Act*.

Finally, the OPS and the OPP had tools to grant authority to the RCMP and police from other provinces to enforce provincial and municipal laws in Ontario. For the officers from these police services to exercise these powers, they first had to be sworn-in in Ontario. This swearing-in process was inconvenient, but did not significantly delay the deployment of officers.

13. Continued resistance from residents

By the third weekend of protests, residents' frustrations were reaching a boiling point.

On February 12, residents and businesses from the Glebe area of Ottawa organized a neighbourhood walk similar to one held by residents on February 4 to show their opposition to the protests. They walked north on Bank Street until they reached Centretown, at which time the participants turned around to avoid altercations with convoy protesters. The next day, there were counter protests in front of the OPS headquarters.

Residents' frustration culminated in what has now been dubbed "The Battle of Billings Bridge" on February 13, at the intersection of Riverside Drive and Bank Street. At its peak, there were approximately 1,000 counter protesters who participated.

The counter protest was organized to prevent another convoy from joining the demonstrations in the downtown core. Hundreds of people filled the street, blocking the convoy of mostly pick-up trucks, preventing it from passing. OPS officers were at the event but were not actively involved, and there were no altercations between the two groups. Eventually, an agreement was reached: the protesters removed the flags supporting the convoy from their vehicles and were allowed to leave, one at a time.

According to Ottawa City councillors McKenney and Fleury, the Billings Bridge event was a watershed moment. The community felt empowered and wanted to take more actions against the protesters. Others viewed this event quite differently. Prime Minister Trudeau testified that the Government was concerned that counter protests such as this would become more frequent and would increase the possibility of violence. As I mention earlier in this chapter, counter protests were also of general concern to the police.

14. The “breakthrough” with the protesters

At the same time the OPS was engaged in its course correction under the leadership of Acting Superintendent Bernier, protesters and Ottawa City officials were engaged in renewed talks to lower the temperature of the protests. While earlier efforts to clear the Rideau – Sussex intersection may have failed, both sides wanted to make another attempt to move the trucks and possibly find a political solution to the protests.

14.1 The arrival of Dean French

Dean French is the former chief of staff to Premier Ford. On February 6, former Newfoundland and Labrador Premier Brian Peckford put him in touch with convoy lawyer Keith Wilson. Mr. French offered to act as an intermediary between the protesters and the City of Ottawa to see if the two sides could find common ground on a way forward.

On February 10, Mr. French called Ottawa Mayor Watson. The two men knew each other from Mr. French’s time in Premier Ford’s office. Mr. French indicated that he was willing to facilitate discussions with the protesters. The mayor asked his chief of staff, Mr. Arpin, to call Mr. French back and see if there was potential for an agreement to help relieve the stress on residential neighbourhoods. Like Mayor Watson, Mr. Arpin already knew Mr. French, and thought of him as a “straight shooter” and a serious, credible person.

During his first call with Mr. French, Chief of Staff Arpin suggested that if Mr. French could persuade the convoy organizers to remove trucks from residential areas, a meeting between the protesters and Mayor Watson might be possible. Mr. French conveyed this message to Mr. Wilson and the protesters. It seemed to Mr. Wilson and other protest leaders that they could work toward this goal.

Mr. French continued one-on-one discussions with Mr. Arpin and Mr. Wilson, respectively. The conversations were productive, and on February 11, Mr. French travelled to Ottawa to iron out a deal. He met with Mr. Arpin in person to finalize the details of the agreement. This included a commitment to move at least 75% of the trucks in residential areas out within 24 to 72 hours. These details were drafted into a letter from the mayor.

Later that day, Mr. French met with Mr. Wilson, Ms. Chipiuk, Ms. Lich, Mr. Marazzo, and several other protest organizers. Mr. French presented the City's initial proposal. After some back and forth, the terms of a deal were finalized. Some trucks would be moved onto Wellington Street, but the deal also contemplated moving trucks to the town of Arnprior, Ontario, which was about 65 km away. In exchange, the mayor would meet with Ms. Lich and other members of the Freedom Convoy protest.

14.2 A potential exit strategy for protesters

Ms. Lich and Mr. Wilson viewed the deal as the beginning of a possible exit strategy. Wellington Street could not hold all the vehicles that needed to be moved, so most would relocate to Arnprior. Mr. Wilson thought this would give many protesters the cover they needed to depart Ottawa entirely, without losing face. As well, Ms. Lich hoped that a meeting with the mayor could serve as a jumping-off point for meetings with federal politicians.

The board members of the Freedom Corporation convened an emergency meeting that evening and decided to accept the deal. During this meeting, they refined the proposed exit strategy and assembled a list of objectives relating to COVID-19

public health measures, which eventually became an open letter to the premiers and other officials.³⁷ The letter called for: (1) an end to “all vaccine mandates” — federal, provincial and municipal; (2) an end to masking requirements; (3) an end to all emergency declarations relating to the protests; (4) financial protection for small businesses harmed by COVID-19 lockdowns; and (5) respect for freedom of choice without discrimination. The letter also called for the Supreme Court of Canada to determine the constitutional validity of COVID-19 public health measures and a commission of inquiry into the Government’s response to the pandemic.

The Freedom Corporation board also prepared a “Freedom Manifest” to distribute to convoy participants, which was designed to explain the deal with the City.³⁸ The Manifest explained that the convoy had “always been about peaceful protest.” However, because many trucks were spread out in the downtown area, the convoy was also “disturbing” downtown residents. Thus, the Manifest explained that the convoy needed to reposition trucks onto Wellington Street beginning on February 14. Several hundred copies of the Freedom Manifest were distributed to truckers.

14.3 The exchange of letters

Letters setting out the terms of the agreement were drafted to be signed by Mayor Watson and Tamara Lich. On February 12, Ms. Lich and Mayor Watson exchanged signed copies of the letters.³⁹ The mayor’s letter acknowledged that the “harmful effects” of the protest on Ottawa’s residents were not the “intended consequences” of the convoy and asked that the protesters and their vehicles be restricted “to a limited perimeter from Wellington where it meets Elgin Street and to the Sir John A. Macdonald Parkway.”

³⁷ *Open Letter to our Premiers, and to our elected and appointed officials*, February 17, 2022, HRF00001323.

³⁸ Draft Freedom Manifest, February 12, 2022, HRF00001285.

³⁹ Letter from J. Watson, February 12, 2022, HRF00001264; Letter from Tamara Lich, February 12, 2022, HRF00001275.

In acknowledging the decentralized nature of the protest, the mayor asked that Ms. Lich “seek the support of the truckers to follow this path of de-escalation.” In return, Mayor Watson offered to meet with Ms. Lich to discuss the Freedom Convoy’s concerns. The wording of the letter led some protesters to believe that they had 72 hours to move their trucks, although this was not expressly stated.

Ms. Lich’s letter in response reiterated that the Freedom Convoy had “always been about peaceful protest.” She acknowledged that some residents and businesses in Ottawa had been disrupted and agreed with the mayor’s request to move trucks out of residential areas and onto Wellington Street.

On February 13, copies of the letter were distributed to Chief Sloly and OPS legal counsel, City councillors, as well as the chief of staff to federal Public Safety Minister Mendicino. Both letters were made public later that day.

14.4 Coordination with the police

The OPS was not directly involved in these negotiations, and only became aware of them on February 12 when Ottawa City Manager Kanellakos told OPS Chief Sloly about them. At that time, the negotiations were still ongoing, and Mr. Kanellakos asked Chief Sloly to keep the information confidential. Chief Sloly told Mr. Kanellakos that he wanted the negotiations to be independent of the OPS because it was a political matter.

At noon on February 13, just prior to the letters being made public, there was a call between City Manager Kanellakos, OPS Chief Sloly, OPS General Counsel Christiane Huneault, OPS Deputy Chief Bell, OPS Acting Deputy Chief Ferguson, and Mr. Ayotte, Ottawa’s Manager of Emergency and Protective Services. They agreed that a senior OPS officer would be assigned to assist with the logistics of implementing the deal. Both deputy chiefs supported the deal because they thought it would make the protest more manageable. Despite expressing some reservations, Chief Sloly assigned Acting Superintendent Drummond to coordinate the relocation. It was agreed that

Acting Superintendent Drummond, City officials, and representatives of the convoy leadership would meet that evening to sort out the move. OPP Commissioner Carrique and RCMP Commissioner Lucki were aware of these negotiations.

At 1:15 p.m., there was an executive briefing that included Acting Superintendent Drummond and Acting Superintendent Bernier, regarding the negotiations. Chief Sloy asked several questions geared toward ensuring that the plan aligned with the OPS's objectives, such as how the OPS would deal with groups that did not leave and how the neighbourhoods could be fortified to prevent trucks from returning. After the meeting, OPS Acting Superintendent Drummond informed OPS Staff Sergeant Ferguson and the OPP PLT about the negotiations with the protesters. He did not recall either of them expressing any concerns.

14.5 Publication of the deal and efforts to implement it

On February 13, the letters between the mayor and Ms. Lich were made public, and media began reporting on them. A meeting between protesters and City officials was set for 5:30 p.m. to discuss logistics. Acting Superintendent Drummond understood that his role was to attend the meeting and report back to Acting Superintendent Bernier and Acting Deputy Chief Ferguson with any concerns. He was also there to assist with the details, ensure public safety, and coordinate logistics.

At the meeting, Acting Superintendent Drummond negotiated some of the details of the move with the protesters, including that protesters would not be allowed to bring fuel onto Wellington Street and that trucks could not go onto the SJAM. It was understood that not all trucks would fit onto Wellington Street, so the rest would move to areas outside of the city. Acting Superintendent Drummond told the protesters that even if they moved to Wellington Street, they could not stay there forever.

At the conclusion of the meeting, OPS Acting Superintendent Drummond reported back to OPS Acting Superintendent Bernier and OPS Acting Deputy Chief Ferguson. The protester group went out to speak to truckers on the ground to get agreement

on the deal. Although there was some pushback at first, the protester group felt they were getting significant buy-in from the truckers. Still, relocation did not actually begin until the next morning.

Not all of the protest organizers were supportive of these plans, and a number of them worked to undermine them. Benjamin Dichter was a particular source of difficulty. Although he had been informed of the deal, he used his Twitter account to deny that a deal existed. He caused even more confusion by tweeting a similar denial using Tamara Lich's Twitter account, to which he had access. Patrick King and Brigitte Belton also denied the existence of any deal and referred to it as "a false flag" or "fake news."⁴⁰

Attempts to move trucks began at around 1 p.m. on February 14, as apparent miscommunications on the ground prevented an earlier start.

At 3:40 p.m., Acting Superintendent Drummond met with the integrated command table at the NCRCC. The issues they discussed included the fact that a group of protesters on Bank Street did not want to leave, that there had been no movement offsite, and that some protesters at Rideau Street and Sussex Drive were intimidating other protesters into staying. The group discussed looking at POU options in areas outside of Wellington Street since the OPS felt that it would not have been in good faith to conduct operations there immediately after getting protesters to move there voluntarily.

At 4:30 p.m., Superintendent Larry Brookson of the Parliamentary Protective Service (PPS) called OPS Chief Sloly, expressing concern at not having been informed of the deal to move trucks. Chief Sloly assumed that, as part of INTERSECT, the PPS had received a briefing about it. Superintendent Brookson expressed concerns about the City and police allowing vehicles to park on Wellington Street.

⁴⁰ Patrick King – Stand your Ground, COM00000881; TikTok post by Brigitte Belton, COM00000868.

At 5 p.m., there was a meeting that included Chief Sloly, Deputy Chief Bell, Acting Deputy Chief Ferguson, Acting Superintendent Bernier, Inspector Lucas, Superintendent Patterson, and Acting Superintendent Drummond. In the meeting, Acting Deputy Chief Ferguson brought up the fact that the PPS was unhappy with the trucks on Wellington Street. By that time, it was dark, and the movement of trucks had stopped for the day. Ultimately, 102 vehicles had been moved, including 42 heavy trucks, 23 of which moved onto Wellington Street. According to Mr. Wilson, other vehicles may have gone to locations outside of the city or returned home.

On February 15, in a noon meeting with the integrated command table, it was determined that the OPS would no longer facilitate the movement of trucks. A significant reason for this was the invocation of the *Emergencies Act* on February 14, 2022, a topic that I discuss in depth in Chapter 14. The invocation of the Act changed the OPS's priorities and objectives, including the prospect of POU action on Wellington Street. The Act's regulation — which was not yet in place — may have provided the OPS with additional tools. Other reasons appear to be the PPS's security concerns, the limited additional space on Wellington Street, and the fact that not all protester groups were prepared to leave.

The deal that had been agreed to was never fully implemented, and the protesters never met with the mayor.

15. Challenges in implementing the OPS's February 13 plan

By February 14, the OPS's February 13 plan had been approved, but the command, control, and integration challenges persisted.

February 14 began with a promising move toward integration. That morning, Acting Superintendent Bernier and his command table relocated to the National Operations Centre where the Cell was located, helping to break down the silos between the

two groups. But challenges soon emerged. OPS Chief Sloly asked OPS Acting Superintendent Bernier to brief him at a different OPS command centre, which led to an intervention by OPP Chief Superintendent Pardy to ensure that Acting Superintendent Bernier could focus on operational work. While this incident was quickly resolved, it highlighted ongoing challenges to integrate strategic commands and to the ability of OPS Acting Superintendent Drummond, who had taken on the role of the executive liaison, to insulate Acting Superintendent Bernier from Chief Sloly's interventions. Although Acting Superintendent Bernier had advised Chief Sloly that Acting Superintendent Drummond would act as executive liaison, Chief Sloly had no recollection of that position and was unaware of the concerns that led to its creation.

Chief Sloly also requested that the OPS's general counsel review the February 13 plan. While the general counsel advised that she would review but not approve the plan, the Cell was concerned because it understood that the plan could not be actioned until the review occurred. Chief Sloly stated that he never intended to delay the plan's implementation, but it is unclear if he communicated this intent to the Cell.

In addition, Acting Superintendent Bernier and other ICS members continued to believe that Chief Sloly wanted to review and approve the plan before it was actioned. RCMP Commissioner Lucki asked Chief Sloly, on February 14, why he had not signed off on the plan, and told him that his failure to do so was frustrating its implementation. Chief Sloly said that he was shocked by the question and told her that his approval was not required. He testified that he had no idea why there were any questions about the plan's status after he told commissioners Lucki and Carrique, on February 13, that it had been "fully approved."

While I do not find it necessary to resolve whether Chief Sloly sought to approve the February 13 plan, his previous actions during the Freedom Convoy events fostered a perception that he wanted to approve plans, even after the Cell's arrival. Specifically, he told his deputies that he wanted to approve changes to the February 9 plan and

even asked to approve more minor plans such as the February 12 weekend traffic plan.

The Cell also believed that the OPS was in part reviving the area-by-area approach from the February 9 plan. This perception arose because, on February 14, Acting Superintendent Bernier, without the involvement of the Cell, decided to launch a public order operation to remove protesters who remained on the residential streets, despite the City of Ottawa's agreement with certain Freedom Convoy organizers to move trucks off those streets and onto Wellington Street. This unilateral initiative caused the Cell to question the OPS's commitment to integration and the February 13 plan.

16. Navigator Ltd. and Advanced Symbolics Inc.

OPS Deputy Chief Bell and OPS Acting Deputy Chief Ferguson understood that external consultants advocated for the OPS to conduct enforcement. Before and during the Freedom Convoy protests, the OPS received communications and issue management support from public relations firm Navigator Ltd., as well as public opinion modelling from the artificial intelligence market research firm Advanced Symbolics Inc. (ASI). OPS Deputy Chief Bell testified that Chief Sloy involved Navigator Ltd. in operational discussions during the Freedom Convoy protests, including discussions in which Navigator Ltd. advocated for more active enforcement measures. In one instance, Navigator Ltd.'s principal entered OPS Deputy Chief Bell's office uninvited and told him that the OPS should take more active enforcement measures at the National War Memorial. Similarly, ASI's CEO was briefed on one of the OPS's operational plans and she also shared advice and modelling on traffic operations with Chief Sloy. Chief Sloy testified that he did not base operational decisions on the assessments of Navigator Ltd. or ASI but did not deny that Navigator Ltd. emphasized enforcement. While it is not necessary to resolve whether Chief Sloy or the OPS based operational decisions on the advice of Navigator Ltd. and ASI, Deputy Chief Bell and Acting Deputy Chief Ferguson indicated that Navigator Ltd.'s involvement in operational discussions fostered this perception.

Navigator Ltd. and ASI also prepared products that analyzed Chief Sloly's reputation and the impact of potential police operations on public support for the OPS. While Chief Sloly testified that public opinion was important to public safety, he acknowledged that this type of input could foster a perception that he was preoccupied with his and the OPS's reputation.

17. Police governance during the protests

Throughout the protests in Ottawa, the Ottawa Police Services Board (OPSB) had a diminished view of its role. Its ability to provide proper oversight of the OPS was further undermined by Chief Sloly's resistance to providing the OPSB with relevant information. The Ontario Ministry of the Solicitor General, which has oversight of the OPSB, failed to act to the full extent of its authority when it became aware of issues at the OPSB.

17.1 Resistance to OPSB meetings

OPSB Chair Diane Deans had regular one-on-one discussions with Chief Sloly. However, at the board level, communication was much less frequent. After its meeting on January 26, the OPSB did not hold a full meeting until February 5, the Saturday of the second weekend. During the first week, Chair Deans was advised by OPS communications personnel that she needed to reduce the number of OPSB meetings because of finite police resources. Instead, the OPSB was told that the OPS's communications department would respond to their questions.

When Chair Deans pursued a special OPSB meeting on February 5, Chief Sloly discouraged her, saying that, while he could not refuse the Board's direction for a meeting, he wanted it delayed until Monday because he was fully focused on managing the protests over the weekend. However, Chair Deans proceeded to hold the special OPSB meeting and Chief Sloly attended as directed.

17.2 Requests for operational plans

As I discuss in Chapter 8, prior to the convoy's arrival, the OPSB asked about the OPS's operational plan and was given a high-level explanation. The OPSB did not request further details prior to the convoy's arrival. The minutes of the February 5 meeting show that the OPSB was requesting more information and putting more pressure on Chief Sloly for particulars around the OPS's plan to bring the events to an end. In the *in-camera* portion of the meeting, Chief Sloly was pressed on the existence of a plan. Chief Sloly testified that the OPSB began asking for a "clearly-outlined plan that would result in the end of the demonstration" but acknowledged that he could not provide one at that time because such a plan did not yet exist.⁴¹ Despite this, the minutes state: "[t]he Chief reassured the Board that there was a comprehensive plan, however he could not provide all the details of what the Service was doing operationally."⁴² In reality, no "comprehensive plan" existed before February 13.

Prior to the next meeting on February 11, Chief Sloly had a call with Chair Deans in which he told her he would not provide the OPSB with operational information, suggesting that it would have been unlawful for him to do so. He would only share information at a level that matched what had been given in previous board meetings, which is to say a minimal amount. In the meeting that followed, Chief Sloly told the OPSB that there remained "sensitivity surrounding the OPS's operational plans."⁴³

Although he told Chair Deans that it would be unlawful for him to provide certain information, when testifying, he agreed that the OPSB was entitled to any information relevant to its oversight function and there were no legal impediments to providing this type of information. By suggesting the contrary, he discouraged board members from pursuing information to which they were entitled.

⁴¹ Evidence of P. Sloly, Transcript, October 28, 2022, pp. 245 and 246.

⁴² OPSB Special Meeting, Confidential Minutes 51, OPB00001647, p. 2.

⁴³ OPSB Special Meeting, Minutes 52, OPB00001272, p. 2.

Around this time, Chair Deans began to doubt whether the OPS actually had a plan to end the protests. While the OPS, the City, and the Province were aware that delays in the delivery of resources by the OPP and the RCMP were linked to concerns over the plan's readiness, this information was never relayed to the OPSB. Nothing would have prevented this information from being shared with the OPSB. The fact that no one believed that the Board ought to be aware of this issue reflects that the diminished view of the Board's role was widely held.

On February 10, the Toronto Police Services Board (TPSB) issued a statement on plans by the Toronto Police Service for managing protests associated with the Freedom Convoy. I discuss the Toronto protests in Chapter 12. The statement indicated that the TPSB members had been briefed on the details of the operational plan. Chair Deans was frustrated that the TPSB appeared to be receiving more information than the OPSB. Chair Deans made a further request for information, and asserted the Board's right to be informed of the general priorities and objectives of the OPS's operational plan. In response to this request, Chief Sloy arranged for the OPP to attend on February 15 and brief the OPSB on both the February 13 plan and OPP intelligence about the Ottawa protests. This briefing did not occur because of his resignation.

The OPSB, it seems, shared a diminished view of its own authority. For example, Ottawa City Councillor and OPSB member Carol Anne Meehan responded to an email from another councillor saying, "Wish we had the power to do something, besides watch."⁴⁴ Chair Deans agreed that the OPSB's oversight role was limited. While the OPSB appears to have generally understood its authority to request information, it did not know how to respond when Chief Sloy pushed back.

17.3 Oversight by the Ministry of the Solicitor General

As I describe in Chapter 8, the Ontario Ministry of the Solicitor General is responsible for monitoring, consulting with, and advising police services boards. Inspector General

⁴⁴ Email from Carol Anne Meehan, February 5, 2022, OTT00017349.

of Policing, Kenneth Weatherill, told the Commission that he was paying close attention to convoy-related protests across the province, that he received reports from the police services advisor assigned to the OPSB throughout the relevant period, and that he watched certain public OPSB meetings. He was also briefed on the contents of *in-camera* OPSB meetings. He briefed the deputy solicitor general, as necessary. Ontario Deputy Solicitor General Mario Di Tommaso testified that Mr. Weatherill took an interest in the OPSB's meetings and watched some of them.

Mr. Weatherill found it concerning that Chief Sloly did not share an operational plan with the OPSB when they asked for it. He also observed that the OPSB was not receiving answers to questions it asked of OPS leadership. He had observed tension developing between the OPSB and Chief Sloly around these issues. It was Mr. Weatherill's general view that the OPSB was not holding Chief Sloly accountable to the extent to which it was entitled.

According to Mr. Weatherill and OPSB Police Services Advisor Graham Wight, it was not up to the Ministry to weigh in. Mr. Weatherill stated that under the *PSA*, boards have the sole responsibility to direct chiefs of police and monitor their performance. He added that boards in large municipalities like Ottawa have access to other resources, such as staff and legal counsel.

Throughout the relevant period, the OPSB turned to the Ministry to get a more complete understanding of its role. On February 1, the OPSB's executive director sought input from the police services advisor on whether the OPSB was fulfilling its responsibilities under the *PSA*. The OPSB later requested training on its responsibilities and sought guidance on developing policies during an event such as the convoy. The Ministry declined to provide the requested training in the middle of a critical incident. Instead, Mr. Weatherill directed the police services advisor to ask the OPSB to provide the Ministry with specific questions, which it would answer.

On February 9, the OPSB provided a list of seven questions. They related to what the OPSB’s role and obligations were during an ongoing event, what information it required to fulfill its governance role, and examples of what good board governance during a major event looks like. The Ministry provided a detailed response to these questions, highlighting that “[t]he board can request whatever information they feel they need to ensure the chief is complying with his obligations.”⁴⁵

⁴⁵ Q&A to Support Ottawa PSB Meeting re: Board Role and Responsibilities, February 2022, ONT00001118, p. 1.

Chapter 10

The Windsor and Ambassador Bridge Protests



The Windsor and Ambassador Bridge Protests

1. Introduction

The Ambassador Bridge in Windsor, Ontario serves as a Canadian port of entry (POE) from Detroit, Michigan. It was the site of one of the most significant protests outside of Ottawa in January and February 2022. Originally targeted for a slow roll protest, the Ambassador Bridge was blocked by protesters and their vehicles starting on the evening of February 7, and was intermittently opened and closed until the evening of February 13. It took hundreds of police officers from at least six police agencies approximately 36 hours to clear the blockade. The bridge reopened to vehicle traffic shortly after midnight on February 14, before the *Emergencies Act* was invoked.

While this was not the first blockade of a Canadian POE that appeared to be inspired by the protests in Ottawa, it was perhaps the most significant. This was due, in large part, to the role that the Ambassador Bridge plays in the Canadian economy. The blockade of the POE would ultimately become a source of significant concern to the Federal Government and was a key influence in the days leading up to the invocation of the *Emergencies Act*. It was also of significant concern to the Government of Ontario and appears to have triggered the Province's greater involvement.

2. Windsor, the Ambassador Bridge, and the port of entry

The City of Windsor is in Southwestern Ontario, on the southern bank of the Detroit River. Canada's southern-most city, Windsor, plays a critical role in the regional

economy of southwestern Ontario. It is both a vital link between the Canadian and American economies, and home to hundreds of thousands of residents. The cities of Windsor and Detroit are connected by a series of international crossings, the largest of which is the Ambassador Bridge.

The Ambassador Bridge POE in Windsor is located opposite the Ambassador Bridge POE in Detroit, Michigan. These POEs are the formal border crossing points used to enter Canada and the United States, and are staffed by the Canada Border Services Agency (CBSA). The POE is primarily accessed via Highway 401 in Canada, and via Interstate 75, Interstate 94, Interstate 96, and Route 10 in the United States. It is open 24/7, year-round and is Canada's busiest POE by trade volume. In 2021, the Ambassador Bridge was associated with almost 24% of Canada's trade activity by road. More than \$390 million worth of trade crosses the bridge per day, representing 26% of the country's exports and 33% of imports by road.

The Ambassador Bridge proper and the structures housing the CBSA are owned by the Canadian subsidiary of the Detroit International Bridge Company. The bridge's southern terminus and its Canadian POE are within the City of Windsor's boundaries.

The Ambassador Bridge is vital to Windsor's businesses, including the automotive businesses that form the core of the city's economy. A total of \$141 million worth of vehicles and auto parts crosses the bridge every day. Local automotive businesses operate on just-in-time delivery principles. Just-in-time delivery requires raw materials, components, and parts to arrive as production is scheduled to begin, but no sooner.

On the Canadian side of the border, there are two entrances to the bridge: the primary entrance from Huron Church Road and a secondary entrance from Wyandotte Street West. Huron Church Road is a municipal road that connects to Highway 401, a little more than three kilometres from the Ambassador Bridge. Huron Church Road is a major artery in the city, just west of the downtown core, and is home to schools, businesses, and residential buildings. From the Ambassador Bridge Plaza to Highway

401, anyone wishing to travel between the eastern and western portions of the city must cross Huron Church Road.

3. The Windsor Police Service

The Windsor Police Service (WPS) is the police of jurisdiction in the City of Windsor, including Huron Church Road. It also provides police services to the nearby town of Amherstburg. While the Ambassador Bridge falls within federal jurisdiction under the *International Bridges and Tunnels Act*, it is the WPS that responds to emergencies on the Ambassador Bridge. When it does so, the WPS coordinates with the CBSA and may also rely on assistance from the Royal Canadian Mounted Police (RCMP).

In January and February 2022, the following individuals occupied roles within the WPS that were significant in its response to the protests:

- a. **Chief Pamela Mizuno:** Chief Mizuno was the chief of the WPS, with the roles and responsibilities of a municipal police chief under the *Police Services Act*.
- b. **Deputy Chief (Operations) Jason Bellaire:** Deputy Chief Bellaire¹ acted as a liaison with Windsor City Council and the Windsor Police Services Board. He also provided governance and oversight of WPS operations.
- c. **Superintendent (Investigation Services) Jason Crowley:** Superintendent Crowley² oversaw the WPS Investigation Services Division and was appointed as one of two WPS Critical Incident Commanders (CIC) during the Ambassador Bridge demonstrations.

¹ Interim Chief Bellaire by the time of the hearings.

² Deputy Chief (Operations) by the time of the hearings.

- d. Inspector Karel DeGraaf:** Inspector DeGraaf was the other WPS CIC during the Ambassador Bridge demonstrations.

Superintendent Crowley was the CIC during the night, while Inspector DeGraaf was the CIC during the day. In their capacity as CICs, they were in charge of making operational decisions on behalf of the WPS in response to the protests. They commanded the WPS and assisting officers until February 10, when the WPS and the Ontario Provincial Police (OPP) established a unified command.

Superintendent Dana Earley is the OPP's West Region superintendent and served as the OPP CIC in Windsor between February 9 and the end of the operation to clear the blockade. She had previous experience working with Deputy Chief Bellaire and Inspector DeGraaf. Prior to February 9, Superintendent Earley had overseen the OPP's response to various Freedom Convoy events in the West Region.

The WPS has limited experience with large-scale public order events such as the ones that occurred in January and February 2022. It does not have a Public Order Unit (POU), nor does it have a general policy directed at responding to protests. Given the City's history, the WPS does have extensive experience in dealing with labour disputes and strikes. In practice, when the WPS requires the assistance of POUs, such as during a public order event, it calls on the OPP to assist. The WPS has a policy allowing it to enter into an agreement with the OPP for the provision of POUs during emergencies but did not have a standing agreement with the OPP at the time of the Freedom Convoy events.

The WPS also does not have a Police Liaison Team (PLT) and its officers are not trained in the Canadian Association of Chiefs of Police National Framework for Police Preparedness for Demonstrations and Assemblies. However, it uses officers trained in crisis negotiations in a similar capacity to how other forces use PLTs, including in its response to the February 2022 protests.

4. The City of Windsor's emergency response framework and the Windsor Police Services Board

In Chapter 8, I discuss the requirements for municipalities in Ontario to have emergency management programs. Windsor City Council has adopted an Emergency Response Plan in accordance with provincial law. Stephen Laforet is Fire Chief and Community Emergency Management Coordinator for the City of Windsor. He has primary responsibility for coordinating the development and implementation of the City's emergency management program.

The City's Community Control Group (CCG) is responsible for coordinating the provision of essential services necessary to minimize the effects of an emergency on the community. Mayor Drew Dilkens, Chief Laforet, Chief Mizuno, Windsor's chief administrative officer, and the commissioners overseeing each City department are all members of the CCG. Windsor has also established an Emergency Operations Centre (EOC), a physical location specifically designed and equipped for overseeing emergency responses. As occurred in Ottawa, police led the response of public officials regarding the protests in Windsor. The City supported the police response, as coordinated through the CCG.

The Windsor Police Services Board (WPSB) is responsible for overseeing the WPS. I discuss the role of a police services board under Ontario's *Police Services Act* in Chapter 8. Mayor Dilkens is the Chair of the WPSB. Mayor Dilkens testified that, during the events of February 2022, there was almost no distinction between his roles as mayor, member of the CCG, and chair of the WPSB.

5. Pre-arrival intelligence available to the WPS and the OPP

In the days leading up to the Windsor protests, the WPS had access to several sources of information and intelligence. These sources initially suggested that there would be

slow roll protests in and around Windsor on the weekend of February 5 – 6. Later intelligence suggested that protesters would attempt to obstruct the Ambassador Bridge starting on February 7.

One major source of intelligence available to the WPS was the Hendon reports, which the OPP published as part of a joint intelligence project on events with a public safety impact. I discuss Project Hendon and its reports in more detail in Chapter 7. Inspector DeGraaf participated in the daily Hendon teleconferences and received the Hendon reports throughout this period. Superintendent Crowley also received the Hendon reports, but only read them on Inspector DeGraaf’s recommendation. Superintendent Crowley briefed Deputy Chief Bellaire and Chief Mizuno on the Hendon reports, as necessary. Notably, both Superintendent Crowley and Inspector DeGraaf were the WPS CICs, and they had direct access to the Hendon reports and the Project Hendon teleconferences. These reports were therefore directly informing senior decision makers in the WPS.

Project Hendon first referred to anti-mandate protests in the report dated January 13. This report made no mention of protests in Windsor or at the Ambassador Bridge. The first identification of a possible Ambassador Bridge protest was in the January 31 Hendon Report. That Report states that “[o]pen source information suggests that truck drivers from the United States plan to block the American side of the Ambassador Bridge in Windsor to coincide with Canadian drivers blocking the bridge in Windsor. The available information does not include a date or time.”³

Windsor had already been the site of several slow roll protests in December 2021 and January 2022. The WPS knew the organizers of these earlier protests, and had worked with them on numerous occasions to ensure that their protests were safe and orderly. Because of these previous interactions, the WPS’s Criminal Intelligence Bureau was monitoring protesters’ social media accounts and was communicating with organizers throughout December and January. On February 3, the WPS learned on social media

³ Hendon Report, January 21, 2022, OPP00000819, p. 3.

that protesters were planning a new slow roll demonstration in Windsor. The WPS subsequently confirmed this information directly with protest organizers and then relayed it to OPP Superintendent Pat Morris. Later Hendon reports began referring to more specific information about both slow roll protests and a potential blockade.

The first reference in a Hendon report to a specific date for a blockade occurred on February 4. It noted that commercial truck drivers would conduct slow roll protests in the coming days and might attempt to block the Ambassador Bridge on February 7.

The February 6 Hendon Report reflects that slow roll protests were planned that day for Mic Mac and Co-An parks, as well as the Ambassador Bridge. It further notes a “possible attempt to block the Ambassador Bridge (unconfirmed)” for the next day (February 7).⁴ Superintendent Crowley testified that by February 6, the legitimacy of the threat to block the bridge on February 7 became more apparent. At the same time, OPP Superintendent Earley agreed with the suggestion put to her in cross-examination that the Hendon reports were not sufficiently clear for the OPP to take steps to intercept the convoy that was headed for Windsor.

Finally, at 10:05 a.m. on February 7, someone whose brother was part of the convoy called the WPS dispatch to say that the protesters were planning on shutting down the border and that it would not be a slow roll. The WPS also learned that 50 – 60 vehicles were gathering at a rest station in the town of Comber and that 100 trucks might travel from Ottawa to Windsor.

6. Preparation and the early protests (February 3 – 6)

As I mention earlier in this chapter, slow roll protests had been taking place in Windsor in the months prior to the Ambassador Bridge blockade. For example, convoys that were engaged in slow roll protests on January 23 and 29 slowed traffic along

⁴ Hendon Report, February 6, 2022, OPP00001622, p. 6.

Huron Church Road without causing significant issues at the Ambassador Bridge. Protesters were reported to have complied with police, maintained a free lane, and avoided blocking intersections. The WPS managed these protests without the City's involvement.

On February 3, in response to the intelligence that the WPS was receiving about the possibility of additional slow rolls in early February, Superintendent Crowley requested that his team prepare an operational plan to deal with the expected protest. This plan focused on policing a slow roll and not a blockade, although it did reference the possibility of a blockade. In his testimony, Superintendent Crowley acknowledged that, as of February 4, there was "pretty clear evidence" that there might be a blockade of the Ambassador Bridge on February 7.

On February 4, Superintendent Crowley also spoke with a CBSA officer and an RCMP border integrity officer (an RCMP unit that investigates cross-border criminality and threats to Canada's national security). The CBSA indicated that it did not have a plan to deal with the slow roll or a potential blockade, because the protest was going to occur on Huron Church Road, a municipal road under WPS jurisdiction. The RCMP explained that its resources were being stretched thin and that it was being pulled in many directions, including Niagara Falls and Sarnia, Ontario.

After telephone and email conversations with Superintendent Crowley on February 4, OPP Superintendent Mike McDonnell started to coordinate the limited OPP POU resources available across Ontario.

Chief Mizuno also reached out to OPP Commissioner Thomas Carrique directly, to request assistance with convoys and a potential blockade. As a result of this conversation, the OPP invited the WPS to continue to liaise with their Essex Detachment Command team and to reach out in the event of an attempted blockade. Superintendent Earley testified that she was not aware of anything else that the OPP could have done proactively at that point.

Also on February 4, City officials were first advised of the threat of a blockade to the Ambassador Bridge. The City received information from a CBSA officer that protesters were threatening on social media to conduct a blockade if they did not see some type of “change” by Monday, February 7. That same day, Chief Mizuno advised Mayor Dilkens by phone of further slow roll protests on Huron Church Road over the weekend, and the threat of a blockade at the Ambassador Bridge on Monday, February 7. Chief Mizuno informed the mayor that police were monitoring the slow roll demonstrations and gathering intelligence. Mayor Dilkens informed Federal Public Safety Minister Marco Mendicino of the threat of a blockade at 12:48 p.m. that day. At that time, he was under the impression that the police had the situation under control.

Over the weekend of February 5 – 6, the City and the WPS communicated regarding the threat of a blockade, particularly in light of protests and a brief blockade at the Blue Water Bridge in Sarnia on February 6. The City offered its support to the WPS and asked to be kept up to date. The City also offered the use of its EOC to the WPS, if needed.

The WPS asked the City to assist with the sourcing of jersey barriers — tapered concrete barriers commonly used in highway medians — on short notice. The City did not have sufficient barricades but reached out to contractors and neighbouring municipalities and as a result, sourced approximately 50 barriers for use by the WPS. The City also reached out to Emergency Management Ontario with this request, but was later advised that the WPS could make this request to the Ontario Ministry of Transportation through the OPP.

On February 6, slow roll protesters gathered at Mic Mac Park in Windsor. More than 100 vehicles were present. The organizers of this slow roll were generally cooperative with the WPS, although some protesters responded aggressively to the presence of three WPS liaison officers. That day, the WPS also received information that protesters would block the Ambassador Bridge on February 7 if their demands for the termination of all vaccine mandates were not met. As set out earlier, this was not

new information; the possibility of a February 7 blockade was known to the WPS and the City as early as February 4.

On February 6, the WPS began formally liaising with the OPP, the RCMP, the CBSA, and others. However, because resources were needed in Ottawa, only limited assistance was available to Windsor.

In light of the threats to the Ambassador Bridge, Mayor Dilkens attempted to make alternate transportation arrangements for medical staff who use the Windsor Tunnel to commute from Windsor to Detroit. He saw this as a priority because he was advised that some hospitals in Detroit would be forced to shut down if Canadian health care workers were prevented from crossing the border. Ultimately, these arrangements were unnecessary, as protesters never blocked the tunnel.

7. The protesters become entrenched (February 7 – 10)

7.1 February 7

The City held its first CCG meeting in response to the protests on the morning of February 7. Chief Mizuno advised City officials that protesters were meeting in the nearby town of Comber and that a convoy would be driving into Windsor that morning with the purpose of blocking the Ambassador Bridge. The City received similar information from CBSA officials and the owner-operator of the bridge.

Early that morning, Chief Mizuno and Deputy Chief Bellaire exchanged emails regarding the possibility of stopping the convoy before it reached the bridge. However, the WPS could not implement this because the number of personal vehicles in the convoy made it difficult to determine who was a protester and who was simply a motorist.

Still, during the CCG meeting, Deputy Chief Bellaire advised City officials that the WPS had a comprehensive plan. The CCG discussed preparations for the blockade, including the mobilization of barricades and towing resources. Ultimately, the City provided the WPS with contact information for its contract towing company but would have no further involvement in securing tow trucks.

That morning, the WPS deemed the protest a “critical incident.” Deputy Chief Bellaire was responsible for implementing the WPS response, but operational authority rested with the two WPS CICs — Superintendent Crowley and Inspector DeGraaf. Shortly thereafter, Superintendent Crowley met with others at the WPS to revise the February 3 operational plan, which gave only limited consideration to a blockade. By 10 p.m., the WPS began staffing the EOC alongside City staff.

Both the WPS and the OPP were engaged in communicating with protesters at this time. Four OPP PLT officers were dispatched to assist the WPS with these discussions. During the day, local OPP officers spoke with a group of protesters at the Comber rest stop on Highway 401, and WPS officers spoke with protesters gathered at Mic Mac Park. The group that gathered in Mic Mac Park had no clear leader, so the WPS was unable to reach an agreement with them to prevent the blockade. The OPP was also unable to prevent the blockade through their discussions with the group at the Comber rest stop.

WPS Chief Mizuno had advised Mayor Dilkens that negotiations with the protesters had been unfruitful to date because of the convoy’s lack of a clear leadership structure. The emotional temperature of the protest was rising quickly, with some protesters even expressing a willingness to die for their cause, so the WPS adapted its response.

Superintendent Crowley initially considered trying to block all highway off-ramps into Windsor to prevent a blockade. However, he determined that this was not logistically possible. Instead, the WPS identified strategic intersections leading to the Ambassador Bridge and attempted to control movement through them. The

City provided traffic engineering and barricade support, and this strategy worked initially, but protesters responded by improvising alternative blockade locations. By mid-afternoon, southbound traffic on Huron Church Road was stopped just south of College Avenue. By the early evening, traffic into the United States was also blocked.

Within an hour of the blockade being established, Mayor Dilkens received inquiries from the region's largest employers, who rely on the Ambassador Bridge for international trade. The closure of the Ambassador Bridge also stranded personal and commercial vehicles on the bridge itself. The Detroit International Bridge Company communicated to the WPS that it was concerned about the structural integrity of the bridge and expressed its frustration with the situation in general. The WPS and the CBSA engaged with the protesters and by 10:22 p.m. had cleared the bridge of vehicles.

Over the next few days, the Ambassador Bridge was in a state of flux. Sometimes it was only partially blocked, while other times it was cut off to traffic. However, throughout this period, commercial traffic was at a standstill. Data from the CBSA confirms that only five commercial vehicles entered Canada at the Ambassador Bridge POE on February 8 and three on February 11. No other commercial vehicles entered Canada through that POE between February 9 and 13.

On the evening of February 7, WPS officers engaged with protesters who had parked their vehicles at Assumption High School without permission from the School Board. The WPS had two tow trucks ready to assist in removing the vehicles when the protesters became confrontational. They threatened violence with tire irons, jammed the towing company's phone lines, and threatened to attend the tow yard. The WPS sent officers to the towing company's yard in response to this threat.

Throughout the day, the WPS sought out support from other police forces in addition to the OPP. Superintendent Crowley had also been in touch with the RCMP but was told that the RCMP would have to balance its operational response across various

border points. By the end of the day on February 7, the WPS had sought assistance directly from Chatham-Kent and Lasalle police. It was clear to the WPS that policing resources were in high demand throughout the province of Ontario at that time.

7.2 February 8

The WPS continued to make requests for assistance throughout February 8. At 2:03 a.m., Superintendent Crowley reached out to OPP Superintendent Earley and informed her that the blockade was relatively manageable at that point, but inquired about the availability of POU or PLT support. Superintendent Crowley recalled that Superintendent Earley offered whatever support was necessary. Two additional OPP PLT members were sent to Windsor in response to Superintendent Crowley's email.

At 6:30 a.m. on February 8, 2022, Superintendent Crowley sought assistance from OPP Superintendent McDonell, who said that he would speak with Commissioner Carrique. In his testimony, Superintendent Crowley characterized this as an "informal request" for assistance. The WPS formally requested assistance of the Chatham-Kent Police Service for officers to help staff traffic checkpoints.

The OPP PLT arrived in Windsor on that same day and was able to achieve successes that WPS liaison officers had not, such as opening a limited number of lanes and keeping an emergency lane open. However, sometime on February 8, protesters blocked an additional intersection — Huron Church Road and Tecumseh Road West. This further strained police resources, and the WPS had to deploy individuals from non-uniformed units as a result. By the evening, the OPP were directing traffic on Highway 401 away from the Ambassador Bridge.

Behind the scenes, City officials were also working to obtain additional resources for the police through direct communications at the political level. On February 7 or 8, Mayor Dilkens had separate calls with Ontario Solicitor General Sylvia Jones and Minister Mendicino to provide them with situational awareness. Both ministers asked him what Windsor needed to respond to the blockade. Mayor Dilkens asked Chief

Mizuno what additional resources the WPS required and was told that they needed 100 additional officers. This figure was shared with both provincial and federal officials through communications that took place at the chief-of-staff level. That evening, the Federal Government asked that a formal request for assistance be made in writing.

In parallel with these discussions, the WPS and the OPP were also communicating about the request for 100 officers. Superintendent McDonnell advised Superintendent Crowley that the OPP would need a plan for how the WPS intended to use 100 front-line OPP officers.

Political officials within the City were also taking on an active public-facing role, attempting to use public statements to reduce tensions and resolve the protests. On the morning of February 8, Mayor Dilkens' office communicated with all City councillors and asked them to refrain from speaking to media or making statements on social media. The mayor was being briefed on key messages that focused on de-escalation and, as spokesperson for the City, the mayor would provide a unified message regarding the demonstrations. Councillors were advised that remarks from elected officials were being used against police and that this request for a coordinated approach was "a learning from Ottawa." City councillors co-operated and amplified the City's messaging throughout the event.

The WPSB was also engaged on February 8, though its overall role in the response to the protests was limited. Chief Mizuno briefed the WPSB on its requests for assistance from Chatham-Kent and Lasalle police. The WPS advised the WPSB that it did not require its assistance in procuring additional resources. At one point, Mayor Dilkens, in his role as WPSB chair, signed an agreement to allow the WPS to use the London Police Service's POU. Other than continuing oversight through board meetings, that was the extent of the WPSB's involvement in Windsor's response to the blockade. At no point did the WPSB request or receive detailed information on the WPS's operational plan. The WPSB was satisfied with the information it received from the WPS.

7.3 February 9

On the afternoon of February 9, Mayor Dilkens began inquiring about pursuing an injunction to clear the blockade. In his view, seeking an injunction was one of the only positive steps the City could take to protect the public interest and to signal its action to end the blockade. An injunction would also provide an additional tool for law enforcement.⁵

While the City considered the possibility of an injunction, the WPS followed up with both political and policing officials regarding the requests that had been made on the previous day for 100 additional police officers. Chief Mizuno sent formal requests for policing resources to both the Province of Ontario and the Federal Government, while Superintendent Crowley circulated a document that outlined how the WPS intended to use the 100 OPP front-line officers it was requesting. This document indicated that the 100-officer request did not include the POUs that the WPS had also asked for. POUs from both the OPP and Waterloo police began to arrive in Windsor that day.

The arrival of these units was a welcome relief for the WPS as the protests continued and, in some respects, grew in seriousness. As of 7:30 p.m. on Wednesday, February 9, there were approximately 125 vehicles and 300 people in the vicinity of the Ambassador Bridge. Police began to deploy jersey barriers to attempt to contain the areas of the protest. However, later that evening, protesters shut down the parking lots of a private business and began to stop traffic on Patricia Road and Wyandotte Street, which is one block east of Huron Church Road and not far from the Ambassador Bridge.

On the same day, the City received a report from one of its contracted parking enforcement supervisors regarding the increasing aggression from protesters. She reported protesters spitting toward her and her unit and on her vehicle while attempting

⁵ Charges were laid after the enforcement action and included breach of a court order contrary to s. 127 of the *Criminal Code*.

enforcement action. She also reported requiring police assistance to ensure her and her unit's safety. Following this incident, the City decided to pull parking enforcement from the area of the blockade and leave enforcement to the WPS.

The strain on police resources impacted other operational decisions as well. Starting around this day, the CBSA offered to facilitate the provision of tow trucks from the United States to the WPS. The WPS did not accept the offer at that time, as it did not yet have the policing resources to move forward with any enforcement action.

Despite these incidents with protesters, there was also constructive engagement between police and protesters, which reflects that, as in Ottawa, the protesters in Windsor were not a unified group. Through PLT negotiation, protesters were given permission to occupy two southbound lanes of Huron Church Road in exchange for agreeing to leave an emergency lane open between College Avenue and Girardot Street.

While these events were taking place on the streets of Windsor, communication continued at the senior police and political levels about the need for additional policing resources. However, the efforts on February 9 were characterized by significant miscommunications.

At around 8:30 p.m., Chief Mizuno sent nearly identical letters by email to Minister of Emergency Preparedness Bill Blair and Solicitor General Jones. The letters requested that at least 100 police officers be dispatched to Windsor to provide reinforcements for current and future needs. They also requested marked police vehicles and tow trucks.

Shortly after WPS Chief Mizuno sent the letters, OPP Deputy Commissioner Chris Harkins appointed Superintendent Earley to serve as the OPP's CIC in Windsor and oversee a response to the Ambassador Bridge blockade. Superintendent Earley, who was then based in London, Ontario, spent the rest of the evening speaking with WPS and OPP officers to help to develop her situational awareness. She also started to assemble POU officers and requested that planners join her in Windsor. She travelled

from London to Windsor early the next day, and pending her arrival, she asked a local OPP staff sergeant to attend the EOC and report to her every two hours until she arrived.

At 11:20 p.m., three hours after Chief Mizuno sent the two letters, OPP Commissioner Carrique emailed RCMP Commissioner Lucki regarding the letters that Chief Mizuno had sent earlier that evening. Commissioner Carrique advised Commissioner Lucki that, contrary to the letters that had just been sent to Solicitor General Jones and Minister Blair, the WPS was not, in fact, asking for additional police:

Chief Pam Mizuno and I had an opportunity to discuss the attached correspondence. Currently, Windsor Police does not require the deployment of additional police officers from the OPP or the RCMP.

Chief Mizuno's team is examining what resources they will require and when they will require them. Once the need for any additional resources has been identified, Windsor Police will forward the OPP a request for assistance, and the OPP will assist with providing and/or coordinating the available resources to support the operations of Windsor Police.⁶

However, shortly after midnight that evening, Deputy Chief Bellaire emailed Chief Mizuno confirming that the WPS was requesting 100 uniformed officers from the OPP and advising her that the incident commander had a deployment strategy that "folds in" the additional 100 OPP officers.

Chief Mizuno had stepped down as chief of the WPS by the time of the Commission's hearings, and I did not hear evidence from her on why she sent the two letters asking for 100 police officers, and then apparently told Commissioner Carrique that she was not seeking those officers less than three hours later. Superintendent Crowley, the

⁶ Email from Thomas Carrique to Brenda Lucki and others, February 9, 2022, WPS000000827.

sole WPS witness to testify, could not explain this obvious discrepancy. It remains a mystery how these conflicting messages came to be communicated to provincial and federal policing partners. It is apparent that there were crossed wires on February 9 regarding the WPS requests for resources.

7.4 February 10

Early in the morning on February 10, protesters completely blocked travel from the United States to Canada over the Ambassador Bridge. While there was some limited bridge access for travel to the United States from Canada, protesters had shut down access via Wyandotte Street and Patricia Road, and had blocked several lanes of Tecumseh Road West and Huron Church Road. While U.S.-bound traffic was theoretically possible, the WPS suggested that this was not being attempted, as safe passage could not be guaranteed. The City and the WPS discussed sourcing additional jersey barriers to help manage the existing protest. The City and the WPS also talked about what to do if protesters targeted the Detroit – Windsor Tunnel or local hospitals. These latter discussions appeared to have been planning for the worst, as the WPS made it clear that there was no intelligence suggesting that this would take place.

Later in the day, the WPS did learn of threats to blockade the tunnel, as well as WPS headquarters and the Windsor airport. They learned this by monitoring chats on the online platform Zello, which had been used for communication by protesters in both Windsor and Ottawa. These threats never materialized, in part because of the fractured nature of the protest's leadership.

On the morning of Thursday, February 10, the OPP command team headed by Superintendent Earley arrived in Windsor.

The WPS and the OPP established a unified command, jointly controlling operations out of the EOC. Under the shared command, planning and command responsibility for any given operation was assigned to the CIC whose police force was leading

the operation. In practice, this meant that the OPP was responsible for the public order response, while the WPS was responsible for other policing services that would typically fall under its purview, such as responding to a bomb threat. Both services supported each other in assuming their respective responsibilities. Superintendent Earley described the WPS as “very welcoming,” and stated that they embraced the experience that the OPP had with respect to major prolonged events.

Upon her arrival in Windsor, OPP Superintendent Earley set about developing a public order plan that would permit police to clear the blockade as soon as possible. Deputy Commissioner Harkins and Deputy Commissioner Rose DiMarco had advised her that she would have whatever resources she needed, that resolving the blockade was urgent, and that Windsor was a priority for the Province. By the time Superintendent Earley arrived in Windsor, there were already 100 front-line OPP officers present, as well as 16 OPP POU officers and 35 Waterloo POU officers. A further 50 RCMP POU officers were expected that evening.

Superintendent Earley consulted with Superintendent Crowley and Inspector DeGraaf — the WPS CICs — both of whom provided logistical support for the public order plan. Superintendent Earley oversaw the development of an overall operational plan, a public order plan, and various subplans, including traffic, towing, and arrest plans, as well as a plan to deal with any children present at the protest when enforcement action began.

On the afternoon of February 10, OPP Inspector Jason Younan, who had assisted in the development of the public order plan, advised Superintendent Earley that a mass removal of protesters would not be safe or sustainable, and that they would have to proceed with any enforcement action zone by zone.

By the end of the day on February 10, Superintendent Earley decided to launch the public order enforcement action on the morning of February 12. She picked this date and time because fewer protesters and no children were likely to be present. She

advised OPP Chief Superintendent Dwight Thib of this intended timing. That evening, Chief Superintendent Thib emailed Superintendent Earley, stating that the deployment of officers to Windsor was their highest priority at that time. In the evening, Mayor Dilkens advised Minister Mendicino that police support in Windsor was “going to be good.”⁷

As of 8 p.m., there were approximately 350 individuals (including 30 children) at the College Street intersection. The number of protesters on Wyandotte Street had decreased from approximately 120 individuals to 70, including eight children.

Mayor Dilkens had a short phone conversation with Prime Minister Justin Trudeau in which he summarized the situation. The Prime Minister was supportive and mentioned working with the United States on the possibility of enhanced tools at the border. There were no offers of or requests for assistance made during this call.

On February 10, Gretchen Whitmer, the Governor of Michigan, also offered to help secure heavy tow trucks. After further discussions, it became clear to Mayor Dilkens that the governor could facilitate communication with additional private contractors but could not provide actual heavy towing equipment. Ultimately, tow trucks arrived from Michigan on February 12; however, they were returned to Michigan unused on that same day.

8. The provincial declaration of emergency, the injunction, and the enforcement plan (February 11)

The Government of Ontario was concerned about the impact that the situation was having on the Ontario economy. On the morning of February 11, the Government of Ontario declared that an emergency existed under the *Emergency Management and Civil Protection Act (EMCPA)*. Pursuant to the declaration, it made the *Critical*

⁷ Text messages between Mayor Dilkens and Minister Mendicino, WIN00002295, p. 9.

Infrastructure and Highways Order, which prohibited impeding access to certain types of infrastructure (such as hospitals, airports, international bridges, and power plants) or the use of highways and bridges that interferes with the delivery of essential goods or causes severe economic disruption. It also granted the police authority to order individuals violating these rules to disperse, to remove vehicles, and to suspend drivers' licences or commercial vehicle operator registrations. In effect, this Order rendered the blockade of the Ambassador Bridge unlawful and granted police additional authority to end it. Mayor Dilkens had not discussed the invocation of the *EMCPA* or the associated Order with either Ontario Premier Doug Ford or Solicitor General Jones.

At 1:42 p.m., the OPP PLT informed Superintendent Earley that President David Cassidy of the local autoworkers' union, UNIFOR Local 444, claimed that he had spoken to Premier Ford and that he was willing to bring autoworkers to the blockade to forcibly clear out protesters by Monday, February 14, if they were not gone by then. Mr. Cassidy was reported to have threatened to "crack heads" or "bring heavy equipment and push [the protesters] in the river."⁸

City Council had met on February 10 and, at that time, voted in favour of seeking an injunction. The City ultimately decided that instead of bringing the injunction itself, the Automotive Parts Manufacturers' Association (APMA) would be best placed to act as the main applicant given the significant impact of the blockade on the automotive industry. The City would support the APMA as an intervener. The City advised the WPS that it would be taking this step and the WPS did not voice any concerns.

The Ontario Superior Court of Justice directed the City to take steps to provide the public with notice of the hearing, which ultimately took place on February 11. At around 4:20 p.m., Chief Justice Geoffrey Morawetz granted the motion and imposed a temporary 10-day injunction that went into effect at 7 p.m. that evening, at which time protesters were legally prohibited from blocking access to the Ambassador Bridge.

⁸ Evidence of Dana Earley, Transcript, Vol. 19, p. 84.

The City began to provide notice of the injunction to protesters and members of the public through signage, social media, and other means. The WPS also spread the word of the injunction and the potential consequences of continuing to protest through social media, by posting information on telephone poles and jersey barriers, and by handing out flyers to protesters. However, the OPP and the WPS did not physically serve copies of the injunction itself. Some protesters who were present on the evening of February 11 indicated that they did not receive the flyer.

The OPP had continued to work on its POU plan for removing the blockade of the Ambassador Bridge. The drafting was completed by 5:01 p.m., and Superintendent Earley signed off on it at 7:24 p.m. The OPP and other participating public order units were positioned to begin enforcement that evening, but night had fallen, and protesters were becoming more abrasive and confrontational as a result of the injunction. While some protesters left due to the injunction and the declaration of an emergency under the *EMCPA*, many did not. As such, Superintendent Earley decided to proceed with enforcement action the next morning, as she had previously communicated to Chief Superintendent Thib.

Superintendent Earley briefly considered delaying the enforcement action for even longer — until the end of the weekend — after engaging in a series of discussions with the OPP command regarding a more negotiated resolution to the protests. The possibility of such an outcome first emerged on the afternoon of February 11, when one of the protest leaders, Jake Neufeld, informed an OPP PLT member that the protesters would leave if they received a letter from the Provincial Government inviting them to a meeting with government representatives. OPP Superintendent Earley learned of this proposal and relayed it to Commissioner Carrique and Deputy Commissioner Harkins at 4:25 p.m. An hour later, the Provincial Government had signed off on the plan in principle, and the OPP command had reviewed and approved a draft of the proposed letter.

During an OPP conference call at 5:30 p.m., Superintendent Earley learned that a similar letter would be distributed to protesters in Ottawa on the afternoon of Sunday, February 13. Based on this information, she decided to pause the planned enforcement action in Windsor, as she was concerned that proceeding before a similar letter had been delivered in Ottawa could negatively impact negotiations in Ottawa. She advised her command table of her decision to pause the enforcement at 6:17 p.m.

Half an hour later, Deputy Commissioner Harkins told her that she should not be concerned about potential impacts on the Ottawa negotiations, and that clearing the Windsor blockade was her priority. Following a further call with Commissioner Carrique and Deputy Commissioner Harkins, Superintendent Earley advised her command table that they would proceed with the planned enforcement action on February 12 (the next morning) if the Windsor letter was not successful.

Superintendent Earley's interview summary to the Commission indicates that this "change in direction came from Commissioner Carrique and Deputy Commissioner Harkins." At the hearings, she clarified that she made the decision of her own accord but in response to the additional information, or the reiteration that she need not concern herself with potential impacts of that decision on the Ottawa negotiations. She was cross-examined about this extensively by counsel for former OPS Chief Peter Soly, who suggested that Commissioner Carrique and Deputy Commissioner Harkins would not have been overstepping their authority in directing her to proceed with the enforcement action. Superintendent Earley maintained that the conversation was a "discussion" and not "directive in nature," although she ultimately conceded that it might have been "strategic direction" or "lawful orders."⁹ In any event, her interview summary confirms that the discussions with Commissioner Carrique and Deputy Commissioner Harkins concerned "strategic decisions" rather than "operational decisions." As such, the conversations between Commissioner Carrique, Deputy Commissioner Harkins, and Superintendent Earley did not involve inappropriate pressure from strategic

⁹ Evidence of D. Earley, Transcript, Vol. 19, pp. 131 – 134.

command. It was a strategic-level decision to inform Superintendent Earley that it was important that she proceed to clear the Ambassador Bridge blockade on the morning of February 12, as planned.

At 8:24 p.m., Superintendent Earley received a signed copy of the letter from the Province offering the possibility of a meeting in exchange for ending the blockade. PLT members distributed the letter to protesters, along with a flyer about the effect of the provincial declaration of emergency. Mr. Neufeld thanked the PLT for the letter but stated that protesters would not leave immediately. Some protesters left in response to the letter, but many did not. Some did not want to leave, as a “party” had just begun at the site of the blockade. The letter does not appear to have reached every protester present on the evening of February 11. Superintendent Earley said the letter had little effect and its reception was disappointing.

Realistically, there was too little time between the distribution of the letter and the planned public order enforcement action for it to have any meaningful effect. By the evening of February 11, there were still 200 individuals and 50 – 60 vehicles at the intersection of Huron Church Road and Tecumseh Road West, as well as 300 protesters and numerous vehicles at the intersection of Huron Church Road and College Avenue.

That evening, the WPS advised Chief Laforet that it would begin dismantling the blockade the next morning. The WPS had the resources required to enforce the injunction and undertake enforcement action more generally. Mayor Dilkens expected that access to the bridge would be cleared the next day.

The mayor had called a special WPSB *in-camera* meeting at 6 p.m., during which Chief Mizuno explained that the provincial declaration of emergency was helpful in that it gave law enforcement additional tools in terms of future protests. The WPS confirmed that both OPP and RCMP resources had come to Windsor, and that no further resources were required at that time.

9. Clearing the protests at the Ambassador Bridge (February 12 – 14)

9.1 February 12

On the morning of February 12, there were approximately 500 protesters and 100 vehicles still participating in the blockade. Starting at 8:20 a.m., the OPP POU, supported by the WPS, the RCMP, the Toronto Police Service, the Waterloo Regional Police Service (WRPS), and the Hamilton Police Service, began to clear the blockade. There is no exact accounting of the number of police officers who participated in the enforcement action in Windsor, but there were at least 227 OPP officers (including 170 POU officers), 34 WRPS POU officers, and 45 RCMP POU officers. Superintendent Crowley believed that up to 730 officers (both POU and non-POU) had participated in the enforcement action from February 12 to 13.

At the outset of police action, the PLT convinced some protesters to move, but protesters moved away slowly. By 10 a.m., police had cleared the first of three main areas (between Wyandotte Street West and the railroad tracks north of College Avenue), and there were no longer any protesters at the Wyandotte Street West entrance to the Ambassador Bridge. By 11:12 a.m., the second of three areas (from the railway tracks south of the intersection of College Avenue and Huron Church Road) had also been cleared. As these areas were cleared, police installed barriers to block access to them.

At around 4 p.m., Minister Mendicino asked Mayor Dilkens if he thought the blockade would come to an end that day. Mayor Dilkens answered that he did. The mayor's assessment would prove to be overly optimistic.

On the afternoon of February 12, Superintendent Earley decided to pause the enforcement action partway through clearing the third area (located south of the second area, to the intersection of Huron Church Road and Tecumseh Road West)

and “hold the line,” meaning reinforce it for the night and not allow protesters to reclaim any of the territory that had been cleared that day. She did so because the number of protesters had grown such that they outnumbered police, and police were observing an increase in aggression.

By the time police stopped their enforcement action, the POU line stretched half a kilometre from College Avenue to Millen Street. The evening of February 12 was the busiest evening of the Ambassador Bridge blockade. There were between 600 and 800 protesters present, and social media indicated that another 200 people might arrive from London to fortify the blockade. That evening, protesters made attempts to breach the POU line, and police had to bring in additional officers to hold the line. Part of the reason for the surge of protesters is that a local pastor encouraged his congregation to attend the blockade. At around 7:55 p.m., the WPS tactical team and K9 units responded to a bomb threat, which turned out to be a false alarm.

9.2 February 13

The POU resumed their enforcement action at 7:54 a.m. on February 13, and by 8:46 a.m., they had cleared the rest of the third area. Enforcement proceeded quickly on the morning of February 13 because there were fewer protesters present, as was typical in the mornings. Police moved the crowd southbound on Huron Church Road toward Tecumseh Road West. They arrested individuals who remained on the street and refused to move, and towed their vehicles. Police closed all side street access to Huron Church Road by installing wall-to-wall jersey barriers so that the road could only be used to access the Ambassador Bridge. Police designated certain access points for emergency vehicles and members of the public with a legitimate need to cross Huron Church Road, but the road otherwise remained closed to side street access. This plan strictly controlled access to the recently cleared areas of Huron Church Road. Superintendent Earley described the plan as creating an exclusion zone from Tecumseh Road West to the Ambassador Bridge and that she implemented it pursuant

to *Criminal Code* provisions.¹⁰ The exclusion zone in Windsor was established prior to the invocation of the *Emergencies Act* and was therefore not set up pursuant to that Act.

The City assisted the WPS's operation by placing barricades and large vehicles in areas cleared by law enforcement. All municipal and commercial jersey barrier resources had been exhausted by the Ministry of Transportation, but ultimately, the OPP was able to source the barriers it required to create a "bridge-traffic-only" corridor from Highway 401 to the Ambassador Bridge. In the interim, large vehicles were used as barriers.

By the end of the enforcement action, 47 individuals had been charged with criminal offences, although four of them later had their charges withdrawn. A total of 37 vehicles were towed during the enforcement action.

In the morning, Mayor Dilkens texted Minister Mendicino, advising him that he believed that the protest would end that day and that police had control of the area. At around 9 a.m., Mayor Dilkens texted Premier Ford and the solicitor general to advise them that the police had "full control" of the area. In the early afternoon, Mayor Dilkens advised Minister Mendicino that police had "full control" and that the Ambassador Bridge would open the next morning, at the latest. At around 3:40 p.m., the minister asked for an update before participating in a meeting with the prime minister. Mayor Dilkens advised that there had been a "small flare-up" but that arrests were being made. A short time later, he advised that police were hoping to reopen the Ambassador Bridge that evening.

When the blockade was cleared, Mayor Dilkens notified Minister Mendicino, Premier Ford, and the solicitor general. Premier Ford expressed some relief, as Mayor Dilkens

¹⁰ This was D. Earley's testimony, although I note that the *Criminal Code* does not expressly authorize the creation of such an exclusion zone.

understood that major companies in Windsor, including the automotive and agricultural industry, were putting pressure on the premier to resolve the situation.

9.3 February 14

The Ambassador Bridge reopened at around 12:20 a.m. on February 14, 2022. Shortly after 9 a.m., Mayor Dilkens advised Minister Mendicino that things at the Ambassador Bridge were smooth so far. Significant traffic controls and police presence remained along Huron Church Road, and the jersey barrier corridor remained in place. This corridor, which effectively bifurcated the city, was in place for several weeks and was then scaled back incrementally with the support of a significant continued police presence.

On February 14, Mayor Dilkens learned, through media reports, of rumours that the *Emergencies Act* might be invoked. Shortly after 9 a.m., he asked Minister Mendicino if the Federal Government would be taking this step, but did not receive a direct response. However, at around noon, Minister Mendicino texted Mayor Dilkens that “To the extent you can be supportive of any additional authorities that gets Windsor the resources needed to keep the Bridge open, people safe, that would be great.”¹¹ Mayor Dilkens understood this to mean that it would be helpful if he could publicly express something about what was happening on the ground in Windsor that could help to justify the invocation of the *Emergencies Act*. Later that day, the Federal Government announced that it had invoked the *Emergencies Act*.

The mayor also declared on February 14 that an emergency existed. Prior to this, a City Council meeting was held. A resolution was put to Council to grant the city manager wide latitude to make operational decisions to respond to the ongoing situation, such as acquiring resources and moving transit routes. City Council did not feel comfortable delegating this authority to the city manager. The mayor addressed

¹¹ Text message from Minister Mendicino to Mayor Dilkens, February 14, 2022, WIN00001977.

this concern by declaring an emergency, which would provide him, rather than the city manager, with this type of authority. Ultimately, the mayor did not need to use these additional authorities to take any material action.

Mayor Dilkens explained that he did not believe this type of declaration to be necessary prior to February 14. He was never advised that the City was unable to take steps to respond to the blockade or told that an emergency declaration would be required to facilitate operations. In fact, on February 11, Chief Laforet had expressed his view to City leadership that there were few advantages or disadvantages to a municipal emergency declaration. As of February 14, however, with the city bifurcated by the corridor on Huron Church Road, the mayor anticipated significant impacts on residents and businesses that might cause new operational issues to arise requiring rapid action from the City. The declaration also provided the mayor with greater flexibility to address the aftermath of the protests and prevent a resurgence of the blockade. It also signalled to upper levels of government that the City and its businesses needed support.

10. The aftermath of the protests

10.1 Continued policing needs

After the blockade was cleared, police officers started leaving Windsor to support the operation in Ottawa. The mayor spoke with Minister Mendicino who communicated his concern that after Ottawa was cleared, there would be a risk of a protester resurgence in Windsor. In fact, the OPP PLT remained in Windsor for several days following the clearing of the blockade to conduct outreach to affected businesses and monitor for any new demonstrations.

There remained, for some time, a heightened concern with respect to possible attempts by protesters to re-establish the blockade. Intelligence collected by police following the clearing of the blockade reflected that there were continued threats to

the bridge and other locations in Windsor. In some cases, these threats manifested, as on February 15 for example, when police learned of a convoy from Ottawa that was headed toward Windsor. Police successfully intercepted the convoy at approximately 8:30 p.m.

While police worked proactively to prevent the resurgence of the kinds of protests that blocked access to the Ambassador Bridge, peaceful protests continued in Windsor, albeit with smaller numbers of individuals.

On February 18, the injunction obtained by the APMA was extended. Notably, Chief Justice Morawetz found evidence that protesters planned to continue to demonstrate on roadways approaching the Ambassador Bridge. He cited, as examples, the February 15 convoy from Ottawa and police identification — through social media monitoring — of calls for protesters to regroup, including messages of “it’s not over,” “we are not done,” and “Civil war time.”

10.2 Winding down the response

On February 21, the WPS developed and implemented a demobilization plan. The plan included a gradual handoff of all police activities from the OPP to the WPS. To staff the plan, Superintendent Crowley cancelled days off for WPS members between February 21 and 27. During that period, some OPP officers were moved to Ottawa. On February 23, Superintendent Earley ceased to serve as the OPP CIC and left Windsor.

On February 24, 2022, Mayor Dilkens ended the municipal emergency. On February 28, the EOC was stood down. The WPS continued to restrict and monitor traffic in the area of Huron Church Road until mid-March in an effort to prevent a resurgence in protest activity. In fact, the WPS maintained a secure perimeter around Huron Church Road until March 28.

10.3 Economic impacts

I discuss Cabinet's understanding of the broader economic impacts of the Ambassador Bridge blockade on the regional and national economy in Chapter 14. Briefly, the blockade added to pandemic-related supply chain disruptions, particularly in the automotive sector. This sector's integrated supply chains between the United States and Canada and its use of just-in-time logistics models are particularly vulnerable to the disruption of critical infrastructure. Ultimately, the blockade resulted in closures, temporary layoffs, and service reductions at major automotive businesses in the area, including Ford Canada and Stellantis, two of Windsor's most significant employers. This was of particular concern to Mayor Dilkens at the time, as Windsor was in discussions to secure a deal to build the first Canadian electric vehicle battery manufacturing facility in the city.

Moreover, businesses local to the protest were disrupted due to obstruction of roadways and people avoiding or being unable to access the area. As a result, some of these businesses lost customers. The Federal Economic Development Agency for Southern Ontario established a CAD\$2.5 million West Windsor Small Business Relief Fund to assist affected companies. Invest Windsor Essex administered the program, and 65 Windsor businesses received relief to a maximum of CAD\$10,000, sharing a sum of CAD\$505,000.

10.4 Impact on residents

The blockade also disrupted the lives of Windsor residents, who were unable to move freely through their community. The closure of Huron Church Road, which was necessitated by the response to the blockade, left many residents in the area isolated from the rest of the city and unable to go about their daily lives. This particularly impacted residents of the area west of the Ambassador Bridge, many of whom cross Huron Church Road daily to get to work or to buy groceries.

In addition, residents were disturbed by noise, including vehicle noise, shouting, and loud music. Local parking was disrupted and local schools were forced to close. Residents contacted their representatives about their inability to transport family members with mobility issues, the extended travel times and costs required to get gas and groceries, and their general frustration with the ongoing interference with their lives.

10.5 Impact to the city and threats to public officials

Mayor Dilkens received numerous threats against him and his family during the demonstrations. His home address was published online. This led to the WPS posting marked police cars in front of his home for several weeks. Protesters were also encouraged to demonstrate outside Windsor City Councillor Fabio Costante's private law office because of his support for the injunction, although it is unclear whether that materialized.

The blockade impacted the City's ability to deliver services, including emergency response services. Chief Laforet had to relocate fire response apparatus and crew to ensure that the western part of the city could receive service. Local emergency medical services were also impacted and disrupted both during and after the blockade. City transit services had to be re-routed. There were also impacts on the University of Windsor and a high school located near the protest site.

In its Institutional Report, the City estimates its total costs, as a result of the protests, to be CAD\$5,382,789.70. This includes costs incurred by the WPS, meals and accommodations for OPP and RCMP members while deployed in Windsor, and costs for City services. The City wrote to the federal and provincial ministers of finance on March 15 requesting reimbursement for costs incurred. As of the end of the public hearings, no reimbursement had been agreed upon, though as I understand it, the request continues to be under consideration.

Chapter 11

Protests at Other Ports of Entry



Protests at Other Ports of Entry

1. Introduction

The blockade of the Ambassador Bridge that connects Windsor, Ontario and Detroit, Michigan was only one of the protests that took place along the Canada – U.S. border in January and February 2022. Additional border protests materialized across the country. Nearly all of these protests were peaceful, and many did not result in any significant disruption to border traffic. However, in other parts of Ontario and in Alberta, Manitoba, and British Columbia, border crossings were blockaded, sometimes for several days at a time. In some cases, violence, or the risk of violence, was present. Viewed as a whole, Canada – U.S. border crossings became an important site for protesters to express their grievances with federal and provincial governments alike. They also represented major sources of concern for the Federal Government.

During the Inquiry’s hearings, the Commission heard limited evidence about most of these locations. While some witnesses testified about the events that took place in Coutts and Milk River, Alberta, most of the evidence on border protests put before the Commission came from the Canada Border Services Agency (CBSA) and was submitted in writing. The CBSA produced to the Commission a range of documents, including Significant Events Notifications, Daily Situational Reports, and “Bottom Line Up Front” (BLUF) Reports, all of which were prepared by the Border Operations Centre. Significant Events Notifications are stand-alone reports, generated after incidents of particular concern, while Daily Situational Reports and BLUF Reports are produced on a daily (or more frequent) basis. Additional information was provided to the Commission in the form of Situational Reports from the Royal Canadian Mounted Police (RCMP) and the Alberta Provincial Security & Intelligence Office; Institutional

Reports prepared by the CBSA, the RCMP, and the governments of Alberta, Saskatchewan, and Manitoba; and a handful of witnesses who testified during the hearings.

The need to rely primarily on written evidence resulted from the time constraints facing the Commission. It would not have been practical to hear witnesses testify to events that occurred at each border protest. Where live evidence was heard, it supplemented the extensive written record that was put before me. However, I prepared this chapter with the awareness that I was relying on information provided primarily by governmental and law enforcement sources. While I did not have a reason to doubt the accuracy of this information, I knew it would tend to reflect a particular perspective of the events in question. I approached the evidence bearing this limitation in mind.

2. Canada's Ports of Entry

Port of Entry (POE) is the title given to the locations where individuals and cargo may officially enter Canada. Canada maintains 117 land border crossings, 61 of which operate on a 24/7 basis. Other POEs include 13 international airports, as well as numerous seaports.

POEs are staffed by the CBSA, which is responsible for administering both immigration and customs laws. When working at a POE, CBSA staff have arrest powers under the *Immigration and Refugee Protection Act* and some authorities under the *Criminal Code* and the *Customs Act*. This jurisdiction is limited to the POE itself. The CBSA has no authority to respond to an event occurring outside of the POE, even where it may have an impact on the POE's operations. Where an event takes place outside of the POE, the CBSA must refer the matter to the police of jurisdiction.

In the materials provided to the Commission, the CBSA distinguished between three different ways in which a POE could have its operations impacted: service disruptions, service suspensions, and border closures. A service disruption refers to an external

event that disrupts the operations of a POE, but border services continue to be provided. A service disruption does not indicate that a port has been formally closed; it indicates that the POE is experiencing operational challenges or that it may not be possible to reach the POE.

A service suspension refers to a decision to temporarily stop providing border services at a POE. Suspensions may occur due to service disruptions, but they may also occur even when a POE is accessible. Likewise, depending on circumstances, the CBSA may also decide not to declare a formal suspension, despite a POE service disruption. The decision to suspend service at a POE requires the approval of the minister of Public Safety or, where the POE is designated solely as a customs office (i.e., it does not provide immigration services), it can be made at the vice-president level within the CBSA itself.

Finally, a border closure occurs when the CBSA closes a POE entirely for an indefinite period. Border closures occur very rarely. John Ossowski, President of the CBSA in January and February 2022, testified that he could only recall one instance when a POE was “closed,” which occurred as a result of flooding in Manitoba.

The distinction between service disruptions, service suspensions, and border closures is important when piecing together a story of when and why POEs were shut down due to protests. No POE was formally “closed” due to the protests, and the only formal “suspension” that occurred was at Coutts between February 12 and 15. This does not mean, however, that other POEs were fully operational or were processing traffic. For example, services at the Ambassador Bridge were never suspended, even at the height of the Windsor blockade. The POE was legally open but for practical purposes, border crossing was not possible. In other cases, the dates on which suspensions began and ended did not align with the dates on which protesters blocked access to POEs.

3. Protests in Southern Ontario

Southern Ontario represents a vital trade corridor between Canada and the United States. Canada's four busiest commercial land border crossings are all located in this region: the Ambassador Bridge in Windsor, the Blue Water Bridge in Sarnia, the Peace Bridge in Fort Erie, and the Queenston Lewiston Bridge in Queenston. When the protests in Windsor disrupted the operations of the Ambassador Bridge POE, much of the commercial traffic was re-routed to the three other crossings. In addition to dealing with increased traffic, the Blue Water and Peace Bridge POEs were subjected to protests that were disruptive.

The Blue Water Bridge POE is in Point Edward, Ontario, adjacent to the city of Sarnia and opposite the POE in Port Huron, Michigan. It is primarily accessed via Highway 402 in Canada, and Interstate 69 and Interstate 94 from the United States. This POE provides both traveller and commercial processing, and is open 24/7, year-round. The Ontario Provincial Police (OPP) is the police of jurisdiction. The Blue Water Bridge POE is Canada's second busiest commercial land border crossing.

The Peace Bridge POE is in Fort Erie, Ontario, opposite the Peace Bridge, New York POE. It is primarily accessed via the Queen Elizabeth Way in Canada, and Interstate 90 and Interstate 190 from the United States. Open 24/7, year-round, the Peace Bridge provides both traveller and commercial processing. The Niagara Regional Police Service is the police of jurisdiction. The Peace Bridge POE is Canada's third busiest commercial land border crossing.

The Queenston Lewiston POE is in Queenston, Ontario, opposite the POE in Lewiston, New York. It is primarily accessed via the Queen Elizabeth Way and Highway 405 in Canada, and Interstate 190 and Route 104 from the United States. This POE provides both traveller and commercial processing and is open 24/7, year-round. The Niagara Regional Police Service is the police of jurisdiction. The Queenston Lewiston POE is Canada's fourth busiest commercial land border crossing.

On February 5, 2022, the CBSA received uncorroborated information from a law enforcement partner that a convoy of protesters was headed to the Blue Water Bridge and intended to shut off access to the bridge on February 6. A convoy of approximately 400 vehicles did arrive on February 6 and shut down westbound traffic on Highway 402, blocking all U.S.-bound traffic. After about three-and-a-half hours, protesters began to disperse, and by February 7, the CBSA reported no impact to its operations. However, by February 8, there were reports of protesters gathering on both sides of the border near Sarnia, and they were suspected of planning to block access to the POE from both sides. On February 9, protesters re-established a blockade of the westbound lanes of Highway 402, though traffic was diverted by police and could continue to access the Blue Water Bridge POE. This blockade continued through February 14, when the OPP negotiated with protesters to leave the area.

On February 12, 2022, approximately 120 vehicles set up a blockade near the Peace Bridge POE. A group of protesters briefly attempted to block the Queen Elizabeth Way near the Peace Bridge, and a smaller group attempted to gain access to the CBSA building. This required the CBSA to lock down the facility and for Niagara Regional Police to intervene. The police were able to direct those protesters to leave after 20 minutes. Protests continued on February 13. That afternoon, police directed the Peace Bridge Authority to close the bridge to U.S.-bound commercial traffic, which was redirected to the Queenston Lewiston POE. That evening, law enforcement cleared protester vehicles off nearby roads, and only 15 – 20 pedestrian protesters remained. By 9 a.m. on February 14, the Peace Bridge was reopened to U.S.-bound traffic.

The protests at the Blue Water and Peace Bridges had particular significance when layered on top of the blockade of the Ambassador Bridge in Windsor. Taken together, these protests had a meaningful short-term impact on the regional economy, particularly in the automotive sector. This sector is highly integrated across the Canada – U.S. border, with parts moving back and forth through POEs. Many manufacturing facilities in Michigan and Ontario rely on “just-in-time” supply chain techniques, in which the availability of a steady, predictable supply of parts that arrive as needed reduces the need

to maintain large inventories of parts. The blockade at the Ambassador Bridge caused a significant disruption to this cross-border auto parts trade, which led to manufacturing disruptions including the reduction of plant operations. The economic consequences of this disruption played an important role in the Federal Government's decision to invoke the *Emergencies Act*. I return to this topic in detail in Chapter 14.

When the Ambassador Bridge was blocked, the impact on the regional economy was mitigated by diverting traffic to other POEs. CBSA commercial conveyance data from January and February 2022 shows an increase in the number of commercial vehicles processed at Blue Water, Peace Bridge, and Queenston Lewiston POEs during the Ambassador Bridge blockade. In the case of Blue Water, for example, commercial traffic between February 7 and 14 was at times more than double what it had been the previous week. Although the shutdown of the Ambassador Bridge POE caused significant disruptions, a portion of cross-border commercial traffic could continue. However, it was but a portion: CBSA data showed that the increased commercial traffic at other POEs only represented a portion of the lost traffic across the Ambassador Bridge.

It is also important to recognize that diverting traffic to other POEs came with delays, costs, and increased strain on supply chains. Commercial truckers are subject to safety regulations related to maximum hours of work per day. Where travel times put a trucker over their daily limit, this would amplify the impact on delivery times for goods, to say nothing of the impact on the drivers themselves. Further, for some types of goods, such as livestock, diversion was not an available option.

Thus, while the impact of the blockade of the Ambassador Bridge was mitigated by the efforts of government officials and commercial truckers alike, their efforts could not avoid at least some tangible cost to the regional economy. As protests also began to impact other Southern Ontario POEs, the risks to the economy took on a new character. The mitigation that was provided though a partial diversion of trade was put at risk, and the possibility of a complete severance of trade grew. While this ultimately did not occur, the real possibility that it could happen weighed heavily on federal decision makers.

4. Coutts, Alberta

The blockade at the Coutts POE in Alberta was notable for its duration, complexity, and volatility. While the POE's services were only formally suspended from February 12 to 15, protest activities starting in late January caused a range of disruptions, frequently blocking all cross-border traffic. One of the most memorable aspects of this blockade was how it ended: a late evening police raid that led to the seizure of numerous firearms and the laying of serious criminal charges, including conspiracy to commit murder, against a small group of protesters. Alongside the Ambassador Bridge protests in Ontario, Coutts may well have represented the most difficult border blockade for police to manage.

4.1 The lead-up to the protest and the first weekend

The Coutts POE is located near the village of Coutts, Alberta and is approximately 20 km south of the town of Milk River along Highway 4. The Coutts POE is the busiest land border crossing in Alberta. In January 2022, it was the only Alberta POE, operated by the CBSA, that could process livestock shipments because it was the only crossing with veterinary services. It is also the only POE in Alberta that operates on a 24/7 basis. There were \$7.7 billion worth of imports and \$5 billion worth of Alberta exports that were shipped through the Coutts POE in 2020. The RCMP is the police of jurisdiction.

On January 19, 2022, the RCMP first became aware of the possibility of protests at the Coutts POE through two pieces of open-source intelligence. The first suggested a protest or blockade on January 20. The second indicated that a protest could take place on January 29. The January 20 protest did not take place.

On January 24, an organizer of a planned protest at the Coutts POE contacted Coutts Village Office to let them know there would be a slow roll convoy in the area. The organizer emphasized that the protest would not result in a road blockage. By January 26, through social media, the CBSA and the Alberta Provincial Security and

Intelligence Office also became aware of the planned convoy. Posts on Facebook as well as a website called “Freedom Fighter Nation” advertised a protest set to take place on January 29. The tone of the posts advertising this protest varied. Some emphasized a family-friendly event that was intended to be peaceful and law abiding. Others referred to blocking traffic in both directions at the border and staying until “all mandates and restrictions are lifted.”

The RCMP was also aware of these social media posts, and was in communication with the CBSA and the Alberta Sheriffs. The RCMP had information that a parallel protest might take place on the American side of the POE, and so reached out to the U.S. Customs and Border Protection. The RCMP also got in contact with protest organizers, who told the RCMP that they did not intend to stage a blockade. They indicated that their plan was to conduct three slow rolls between Coutts and Milk River, and that they would ensure that at least one lane of traffic remained unobstructed while they protested.

On January 29, 2022, a convoy of approximately 1,000 vehicles gathered in Lethbridge and then proceeded along Highway 4 toward Coutts. The RCMP was present along the convoy route. As the convoy neared Coutts, a lengthy backlog formed along the highway, stretching back toward Milk River. The protesters’ plan was to use one of several turnbacks on the highway near Coutts to divert back northbound toward Milk River. As the slow roll continued, one semi-truck jackknifed across the highway, blocking traffic.

According to Curtis Zablocki, RCMP Deputy Commissioner, Commanding Officer for K Division (Alberta), the RCMP assessed that the original protest organizers did not intend for a blockade to form. However, a splinter group of protesters wished to take a more aggressive stance, and the organizers did not have sufficient control of the convoy to stop them. The blockade trapped not only other motorists and residents of Coutts, but also some of the protesters themselves. Many drivers spent the night in their vehicles, and by January 30, the commercial parking lot and highway egress

from the POE was filled with commercial vehicles attempting to head northbound into Canada. While the POE was technically open, the highway itself was blocked. On January 30, the RCMP, the CBSA and the U.S. Customs and Border Protection worked together to allow some of the trapped northbound truckers, who had become stranded between the POE and the blockade, to return to the United States so that they could attempt to re-enter Canada at a different crossing.

4.2 Early enforcement and the establishment of the Milk River blockade

Only some of the protesters present in Coutts on the weekend of January 29 – 30, 2022 intended to participate in a long-term protest. By January 31, most vehicles had departed, and only about 175 vehicles remained. However, several drivers positioned their semi-trucks to fully block Highway 4. According to the testimony of Marco Van Huigenbos, a local town councillor and an unofficial spokesperson for the protesters, at that time there was little to no organization or leadership for the protests. However, by February 1, protesters had begun to use the Smuggler's Saloon, a bar in Coutts, as a gathering place and forum in which to discuss their collective strategy.

The RCMP deployed a Consultative Conflict Management Group (CCMG), a unit similar to the Police Liaison Teams I discuss in Chapters 7, 9, and 10, to negotiate with remaining protesters to clear the highway. The immediate difficulty that they faced was an inability to identify a clear leadership for the protesters. While the CCMG was successful in getting some vehicles to leave, the RCMP reported that a splinter group of protesters was responsible for the blockade and was not receptive to negotiation attempts.

On January 31, additional protesters began to arrive on the highway north of the Coutts POE. In order to prevent more vehicles from joining the blockade, the RCMP created a checkpoint south of Milk River, Alberta, which was known as Checkpoint 10. The purpose of Checkpoint 10 was to ensure that community residents could move

freely between Coutts and Milk River, but to prevent the Coutts blockade from being reinforced by additional protesters. Over the course of January 31, the number of protesters at Checkpoint 10 swelled to between 500 and 700, many of them driving tractors or other farm equipment. This effectively formed a second blockade along the highway, approximately 20 km north of Coutts. At the same time, protesters at Coutts allowed some commercial vehicles attempting to travel into Canada to pass through the blockade and head north.

The RCMP began to take enforcement actions to clear out the Coutts blockade on February 1. This initially involved RCMP officers approaching vehicles at the back of the convoy and asking the drivers to leave the area. This was met with success, and some vehicles departed. The RCMP's activities were being livestreamed on social media, and protesters at the Milk River blockade became aware of what was taking place. These protesters, who had assembled in order to join the Coutts protest, began to drive off-road to bypass the RCMP checkpoint and continue to make their way south toward Coutts. At that time, visibility was poor due to snow. As southbound protesters drove toward Coutts, taking up all lanes of the highway, a Coutts resident was driving north on the highway toward Milk River. A collision occurred, and those involved got into a physical altercation on the roadside, which required police intervention.

As protesters from Milk River arrived in Coutts, their vehicles added to the blockade. Whereas the trucks had previously been parked on the highway, the newly arriving vehicles moved into the median and the grass on either side of the road. Vehicles eventually filled the entire space between the fences that lined the highway.

When new people and vehicles began to reinforce the protesters at Coutts, the RCMP stationed there withdrew to the mobile command post they had set up in the area. When the RCMP returned later in the day, they were met by a line of protesters. It was clear that further enforcement action would not be successful that day, and the RCMP again withdrew. At the same time, CCMG members went to the Smuggler's Saloon to attempt to negotiate a resolution. Late on February 1 or in the early morning

of February 2, they reached an agreement with protesters to open one lane of traffic in each direction. Mr. Van Huigenbos testified that the protesters agreed to do this to reduce the risk of further enforcement action and to emphasize the fact that they were engaged in peaceful protest. He testified that he believed the protesters needed to strike a careful balance between causing enough disruption to gain the attention of political leaders, but not enough to provoke aggressive enforcement action by the RCMP.

4.3 The evolving character of the protests

Between February 3 and 7, traffic along the highway was slow, and there were many sporadic disruptions. On February 3, for example, the RCMP attempted to escort four commercial vehicles from a police checkpoint to the POE. Protesters responded by entirely blocking a stretch of Highway 4.

There were debates within the protester camp about strategy. Soon after the February 3 blockade was established, Alberta Member of the Legislative Assembly (MLA) Grant Hunter, who had been speaking with the protesters, tried to convince them to reopen one lane of traffic. It seems that protesters were about to agree when Artur Pawlowski, a well-known Calgary pastor who was in Coutts, delivered a sermon at Smuggler's Saloon that Coutts Mayor Jim Willett described as "inciting" the crowd, causing them to take a more entrenched attitude.

Separately from the discussions about reopening a line of traffic, there was a dispute over protest tactics that took place on February 3. A subset of protesters — who Mr. Van Huigenbos identified in his testimony as associated with the Cattlemen's Association — decided that the protesters should depart Coutts the next day to conduct a slow roll protest in Edmonton. They dubbed this protest "Coffee with Kenney," as their goal was to have Alberta Premier Jason Kenney meet with them. However, when a larger group of protesters learned of this plan, they voiced strong disagreement and ultimately no slow roll convoy ever departed.

The evidence before the Commission regarding when the highway was open or closed during this period is not clear. Mayor Willett testified that it was constantly changing, and that the only way to be sure of the situation at any given time was to be there and look at the vehicles on the highway. However, on February 7, the CBSA reported that the Coutts POE was operating, though traffic volume was half of normal due to only one lane being open.

Throughout this period of sporadic operation, the RCMP sought out additional resources to police the highway. On February 3, Deputy Commissioner Zablocki sought and obtained agreement from the Provincial Government to redeploy RCMP officers from Alberta municipalities to the Coutts POE. A few days later, the RCMP also deployed 40 members from British Columbia to the area. Additional officers from the Calgary, Edmonton, and Lethbridge police services also assisted.

During this time, the size and makeup of the protesters also fluctuated. On weekends, large numbers were present with significantly fewer protesters on weekdays. Mayor Willett also commented that, over time, the character of the protests changed. Early on, they had the feeling of a community meeting, with many local farmers bringing their families to Coutts. As time went on, there were fewer and fewer children present, and the tone became more confrontational. Mayor Willett testified that he was concerned that, as the protests dragged on, they risked attracting a more radical element.

On February 8, a full blockade was re-established on Highway 4, and by February 9, the CBSA closed the gates at the POE. Interestingly, the renewed blockade was a reaction to a speech made by Premier Kenney about easing public health restrictions. Although Alberta's decision to ease many of its public health measures by midnight on February 8 could be seen to have moved in the direction the protesters were advocating, many protesters viewed the premier's verbal announcement as wishy-washy, and suspected that the commitments would be easily reversed. Protesters were looking for immediate concrete action and believed that they were instead being offered a phased approach with a great deal of uncertainty about when many health

measures would be lifted. This caused a negative response from the protesters, who expressed their dissatisfaction by renewing the full blockade.

4.4 Political engagement with protesters

Throughout the protests at Coutts, a range of municipal, provincial, and federal politicians engaged with protesters in order to hear their concerns and attempt to resolve the blockade. According to Mr. Van Huigenbos, an elected municipal politician himself, many of the protesters were politically engaged through constituency associations and so had pre-existing relationships with politicians at various levels of government. Mayor Willett was also active in encouraging politicians to come to Coutts to speak with protesters in the hopes that this would end the protests.

Mr. Hunter appears to have been the first elected official to travel to the protests to speak with protesters, arriving there on January 30. He continued to meet with protesters from time to time in early February and was part of the discussions surrounding a potential withdrawal of protesters on February 3, as addressed earlier in this chapter. At other times, Drew Barnes and Shane Getson, who are also Alberta MLAs, were present. None of these individuals spoke on behalf of the Provincial Government.

On February 5, the local Member of Parliament (MP) Glen Motz came to both Coutts and Milk River and spoke with protesters, along with Lorne Buis, Mayor of the Village of Foremost. When reporting on these meetings, Mayor Willett noted that the voice of the Provincial Government was missing.

Alberta Minister of Transportation, Rajan Sawhney, was actively involved in the Government's response to the Coutts protests, given her portfolio. On at least one occasion in early February, she spoke on the phone with Mr. Van Huigenbos, though she was not speaking on behalf of the Provincial Government at the time. Mayor Willett also tried to have Minister Sawhney come to Coutts in person. In a series of text messages, she agreed to do so, subject to obtaining the agreement of the RCMP

and “the Boss” — an apparent reference to Premier Kenney. Testimony before the Commission suggested that the premier did not approve of her meeting with protesters as a Cabinet minister, though neither Minister Sawhney nor the premier testified, so I cannot draw any firm conclusion about this.

Despite these efforts, direct political engagement was not ultimately a solution. In part, this may have been because none of the politicians were there in official government roles. Another explanation was that for many protesters, dialogue was not enough. They were not looking to be heard, they were looking for their demands to be met. This was not something that MLAs and MPs could deliver, even if they wanted to. As Mr. Van Huigenbos testified:

[Y]ou know, a lot of people were looking for the mandates to be lifted. It's 12:55 and the mandates are not lifted, and it's 12:56 and they're lifted. I always knew that was never a possibility.¹

That is not to say that political engagement might not have been helpful. It may have reduced tensions and kept important dialogues going. It is simply that this was not what led to a resolution of the protests.

4.5 Efforts to procure tow trucks

Starting in the early days of the Coutts blockade, the RCMP recognized that it would need the assistance of tow trucks and other heavy equipment to clear the blockade if protesters refused to depart voluntarily. While a number of tow truck operators were initially hired to provide services, these plans began to fall apart as early as February 1. By this point, supporters of the blockade were aware that the RCMP might be starting more aggressive enforcement actions, and they encouraged the boycotting of any towing company assisting the RCMP. This online pressure caused the tow truck companies to back out of their agreements to participate in the RCMP

¹ Evidence of Marco Van Huigenbos, Transcript, Vol. 19, p. 250.

action. Between February 1 and 2, the RCMP reached out to more than 80 tow truck companies in Alberta, British Columbia, and Saskatchewan. None of the companies contacted were willing to assist in an enforcement action. The RCMP also contacted 25 American tow truck companies, all of which refused to help.

On February 4, Deputy Commissioner Zablocki signed a request for assistance to the Canadian Armed Forces for access to heavy towing capacity. This request went first to the RCMP national headquarters and subsequently to the Armed Forces. A number of days later, the RCMP was informed that the military did not have the equipment that would be suitable for use at Coutts.

The Government of Alberta was engaged in its own parallel efforts to obtain heavy tow capabilities, though both it and the RCMP were aware of each other's attempts. On February 2, Alberta Premier Jason Kenney and federal Minister of Public Safety Marco Mendicino had a phone call about this. The two discussed the situation at the Coutts POE and Alberta's request for military equipment to aid in the removal of vehicles. Premier Kenney was advised that Alberta's request should go to Minister Mendicino and the Minister of Emergency Preparedness, Bill Blair, and that the two would jointly take it to the Department of National Defence for consideration.

The formal request for assistance came in the form of a letter dated February 5, 2022, from Alberta Minister of Municipal Affairs Ric Mclver to Ministers Mendicino and Blair. The letter informed the federal ministers that the RCMP had "been unable to secure the appropriate heavy duty equipment required to remove vehicles and other items such as trailers" from the Coutts border blockade area. Consequently, the Government of Alberta was "requesting federal assistance that includes the provision of equipment and personnel to move approximately 70 semi-tractor trailers and approximately 75 personal and recreational vehicles from the area."²

² Letter from Minister Ric Mclver to Ministers Marco Mendicino and Bill Blair, February 5, 2022, SSM.CAN.00000082.

On February 7, having not yet received a response from the Federal Government regarding access to military heavy lifting equipment, and apparently unaware of the negative response that the RCMP received to its request, Alberta officials began making other efforts to procure equipment to help clear the blockade. This included identifying Alberta sheriffs who had the necessary licences to operate such equipment and reaching out again to companies previously contacted by the RCMP to see if they could be convinced to help. Alberta officials also contacted companies in Montana for these services. Minister McIver had a short discussion with Minister Blair on February 7 as well, about Alberta's request for military vehicles, but no commitments were made.

On February 8, Minister Blair and Minister McIver had an exchange of text messages, in which Minister Blair indicated that Minister of National Defence Anita Anand would be speaking with the Chief of the Defence Staff later that day about Alberta's request. On February 9, Premier Kenney and Minister Mendicino had a second phone call to discuss Alberta's request for assistance (RFA), but no federal commitments were made at that time.

While waiting for a response from the Government of Canada, Alberta had begun to procure its own heavy tow capacity using online marketplaces such as Kijiji and Truck Trader. By February 12, it had begun to receive some of the equipment it expected it would need, although it was continuing to have difficulty locating operators who were trained to use the vehicles. On February 13, the Province of Alberta informed the RCMP that it was in the process of procuring six tow trucks for use at the Coutts POE. The equipment was being staged in Lethbridge following an accelerated safety inspection process. Additional equipment was purchased by the Province of Alberta on February 14. In total, the Province purchased 12 vehicles at a cost of more than \$800,000, including tow trucks, flatbed trucks, and dozers. As discussed below, however, Alberta was not required to make use of this equipment to clear the blockade.

Alberta never received a formal response to its RFA. A letter turning down the RFA was drafted and approved by Minister Blair but was never sent. According to testimony from Jeffery Hutchinson, Assistant Secretary to the Cabinet, Emergency Preparedness, at the Privy Council Office, this was the result of human error. It appears that staff in Public Safety Canada and in Minister Blair's office each believed that the other would be sending the letter.

4.6 Security concerns, renewed enforcement, and the end of the blockades

While the blockade continued, the RCMP maintained a presence near Coutts. On February 9 – 10, the RCMP began to have increased concerns about security in the area because they only controlled one approach to the protesters. On at least one occasion, a vehicle had driven northbound through the Coutts POE in order to provide supplies to the protesters. The RCMP also had information that protesters on the American side of the border were planning to set up their own blockades near the POE. On February 11, in order to secure the southern approach to the protest site, the RCMP requested that the CBSA formally close the Coutts POE. On February 12, the CBSA suspended all operations there.

The more acute safety concern, however, had to do with the possible presence of firearms at the protest, and the risk that they presented to police. Throughout the protests, the RCMP was receiving information about firearms in the area. This information resulted in a series of police investigations, as well as reporting of security concerns "up the chain." Information related to the risk of firearms at Coutts would eventually reach all the way to the Privy Council Office.

As early as January 31, the RCMP was concerned about the possible presence of firearms within the protester group at Coutts. They had received reports of one protester who had shown others a gun that he had with him. The RCMP attempted to investigate this but could not obtain any additional information. None of the protesters

that they spoke with were willing or able to identify who among them may have had the weapon.

Concern about firearms resurfaced on February 9, when the CCMG officers obtained new information about a possible cache of weapons connected with the protests. The evidence before me was understandably vague about the details of the RCMP investigation, given that it involved covert activities, and the charges that resulted from it are still before the courts. What I can say is that on February 11, the RCMP obtained a wiretap authorization as part of this ongoing investigation. Based on the results of the authorization, the RCMP obtained a search warrant on February 13, which authorized searches of the Smuggler's Saloon as well as a motorhome and two associated trailers. I note here that this was also the time when the RCMP requested that the CBSA formally suspend operations at the POE. While the evidence on this point was not clear, it seems to me that the suspension of the POE may have been related to the ongoing police investigation.

In the early morning hours of February 14, the RCMP executed the search warrant. Nothing was found in the Saloon, but the search of the other property resulted in the seizure of 13 long guns, two handguns, two sets of body armour, a machete, a large quantity of ammunition, and high-capacity magazines. The police arrested 12 individuals during the execution of the warrants. Later that day, they arrested a thirteenth member of what Deputy Commissioner Zablocki described as the "cell" that the RCMP had been investigating. This individual was travelling from Calgary to Coutts and was arrested while allegedly in possession of two additional firearms.

One of the pieces of body armour seized by the police had patches that depicted the symbol of a group called "Diagolon." Diagolon is an entity whose character was the subject of debate among the witnesses at the Inquiry. According to RCMP documents, Diagolon is a militia-like network with supporters who subscribe to accelerationist ideologies — the idea that a civil war or collapse of western governments is inevitable and ought to be sped up. Superintendent Pat Morris of the OPP testified that Diagolon is an extremist entity. Jeremy Mackenzie, the founder of Diagolon, testified before

the Commission that he made up Diagonon as a fictitious country during a broadcast of one of his podcasts, and that it has evolved into a community of his fans. Tom Marazzo, one of the Freedom Convoy organizers, testified that Diagonon was a “fictitious meme.” Both Mr. Mackenzie and Mr. Marazzo denied that Diagonon had an extremist or violent ideology.

Whatever the nature of Diagonon, law enforcement certainly viewed it as a potentially dangerous organization, and its association with a cache of weapons at Coutts cast a pall on the protests. Police allegations that some protesters had conspired to murder police officers added to the gravity of the situation. The then Assistant Deputy Minister, Public Security Division and Director of Law Enforcement for Alberta Justice and Solicitor General, Marlin Degrand,³ testified that the arrests by the RCMP on February 14, 2022, played a significant role in ending the blockades. Mr. Van Huigenbos testified to much the same effect, stating that the message of the protesters “had been lost” as soon as the news of the seizure began to circulate. It completely overshadowed the anti-mandate protest message of those who had gathered in the area, most of whom may have been willing to engage in an unlawful blockade but had no interest in being associated with alleged violent extremists.

After the arrests, the situation at the Coutts POE returned to normal in relatively short order. As of 7 p.m. on February 14, the RCMP reached an agreement with the protesters, who promised to dismantle the blockade and disperse the next day, which they did. Protesters who were still located at the Milk River checkpoint also departed at that time. The tow trucks that the Government of Alberta had obtained were never used to remove protester vehicles blocking the highway. Ultimately their only use was to tow a tractor that had been involved in an altercation with a police vehicle on the night of February 13, which was not at the time blocking the road. The Coutts POE reopened on February 15, 2022.

³ At the time of his testimony before the Commission, Marlin Degrand’s position had been moved to the newly created Ministry of Public Safety and Emergency Services.

4.7 The impact of the blockade and its aftermath

While Highway 4 was blocked, residents of Coutts had the ability to bypass the protesters and travel north on Highway 4. This route was described by Mayor Willett as “Patty-jo’s lawn” — a parcel of private property that could allow vehicles to move in and out of the village. While commercial trucks could also theoretically have used this path, its existence was known only to locals, though the RCMP did on at least one occasion direct vehicles through this route. However, even with this route, the blockade still had a significant impact on the community of Coutts. There were challenges in transporting children to school in Milk River. Individuals dealing with health care issues and illness were unable to receive home care. Mail delivery was partially disrupted. According to Mayor Willett, one village resident, who had post-traumatic stress disorder following military deployment to Afghanistan, had to move out of the village entirely due to the impact of the protests on the resident’s mental health.

As noted, the blockade also impacted the Coutts POE’s operations. That being said, the CBSA took active steps to mitigate the impact of the blockade on commercial traffic. It did so successfully throughout the blockade. The CBSA started planning for traffic diversion to other POEs when the protesters first arrived. The nearest commercial POE to Coutts is approximately four hours away, and so the non-commercial POEs at Del Bonita and Carway, which are about 50 minutes and two hours away from Coutts, respectively, were designated as alternate POEs.

Their lack of commercial facilities was a particular problem for vehicles carrying perishable goods and livestock because neither house Canada Food Inspection Agency (CFIA) or United States Department of Agriculture (USDA) inspection facilities. The CBSA therefore worked with various partners to facilitate the movement of commercial vehicles and goods through Del Bonita and Carway. U.S.-bound commercial vehicles that entered at Carway or Del Bonita could cross to the U.S. side of the Coutts POE at Sweetgrass, Montana, and access the USDA inspection facility

there. Canada-bound vehicles had their loads inspected by the CFIA and were sealed at Sweetgrass, before driving to Del Bonita and Carway. According to Brad Wozny, the CBSA Regional Director General for the Prairie Region, to his knowledge all vehicles carrying commercial goods that were diverted from Coutts during the protest made it across the Canada – U.S. border. For his part, CBSA President Ossowski testified that the CBSA was largely successful in diverting commercial traffic. This appears to only have been possible due to extensive efforts and co-operation between U.S. and Canadian officials, as well as truckers themselves.

After the Coutts blockade ended, many protesters returned to their homes. Others — mostly from the Milk River camp — moved to a nearby location that was offered by the Provincial Government as early as February 10 as an alternative, lawful place to engage in protests. Some protesters remained in that location for weeks.

5. Emerson, Manitoba

The Emerson POE is in Emerson, Manitoba. It is the largest and busiest land border POE in Manitoba. The RCMP is the police of jurisdiction. The Emerson POE's operations were disrupted from February 10 to 16, 2022.

Emerson had been a site for anti-vaccine mandate protests soon after new border measures were brought into place on January 15, 2022. Slow roll protests took place at the Emerson POE on January 17. On January 18, drivers used 45 commercial trucks to participate in protests north of the POE. On January 29, a convoy of vehicles began to circle about five kilometres north of the POE, causing traffic congestion. The next day, vehicles blocked the southbound lanes headed to the United States approximately eight kilometres north of the POE. A blizzard was expected on January 31, and at the urging of the RCMP, protesters departed from the area by 9 p.m. that day.

On February 2, 2022, a 14-vehicle convoy appeared at the Emerson POE and conducted a slow roll protest. The leader of this convoy was the same individual who appeared to be leading the late-January protests. The RCMP was in communication with him, and he agreed that protesters would not block traffic. The protesters departed later that day. One week later, on February 9, the protest leader contacted the RCMP and advised that a group of Freedom Convoy supporters might attempt to block the Emerson POE. The next day, approximately 50 semi-trailers, farm vehicles, and passenger vehicles started a blockade about one-and-a-half kilometres north of the Emerson POE, causing a service disruption. The RCMP assembled a Divisional Liaison Team, responsible for dialogue with protest leaders. The Divisional Liaison Team eventually began to communicate with a lawyer who was representing the protesters. Through discussions, the protesters agreed to allow transports carrying livestock as well as CBSA and emergency vehicles through the blockade.

Starting on February 10, the CBSA began diverting traffic away from the Emerson POE to the smaller neighbouring POEs at Gretna and Tolstoi in Manitoba. Though this traffic diversion increased travel times for truck drivers and border wait times, the Emerson blockade did not otherwise affect the ability of commercial traffic to cross the border.

From February 10 to 14, the Divisional Liaison Team remained in contact with protesters to discuss a resolution to the blockade. During these discussions, the RCMP observed a gradual reduction in the number of vehicles occupying the area. On February 13, the RCMP informed the lawyer who was advising protesters that enforcement actions might occur soon, and that charges could be laid. The next day, the RCMP completed a plan to initiate a “takedown” operation to clear the blockade if it did not resolve by February 15. This plan was never put into operation because the protesters informed the RCMP on February 15 that they had agreed to depart midday the next day. They did so, and the Emerson POE resumed normal operations.

According to Mr. Wozny, the overall impact of the protests and blockades on the Emerson POE was relatively minor. He credited this to the fact that both the RCMP and the CBSA had the benefit of dealing with the Coutts protest, and so were better prepared.

6. Pacific Highway, British Columbia

The Pacific Highway POE is in Surrey, British Columbia, approximately 30 km south of Vancouver. Sitting opposite the Blaine, Washington POE in the United States, the Pacific Highway POE is primarily accessed via Highway 15 in Canada, and Interstate 5 from the United States. The Pacific Highway POE provides both traveller and commercial processing and is open 24/7, year-round. It is the fifth busiest commercial land border crossing in Canada. The RCMP is the police of jurisdiction at this POE. Service at the POE was suspended from February 12 to 15, 2022, and then again briefly on February 19.

On February 5, the RCMP became aware of plans for a convoy of vehicles to meet in Aldergrove and drive to the Pacific Highway POE to protest. On February 7, small groups of protesters began to assemble at the POE. On February 9, the CBSA identified 20 – 30 protesters in the area.

Protests began to escalate rapidly on February 12. At 3:45 a.m., 50 demonstrators had assembled in a parking lot close to the POE. By 10 a.m., the number had increased to between 150 and 200. By 6:15 p.m., the number had grown to approximately 800. The aggressive conduct of the protesters led to a service disruption at the POE and caused the local RCMP to call in reinforcements from nearby detachments. While services at the POE were not formally suspended, the CBSA advised travellers to use an alternative border crossing due to the disruption.

On February 13, 2022, the RCMP moved protesters who had been blocking vehicle access from the POE and made a small number of arrests. By February 14, 25 – 50

vehicles and their operators remained on the road and refused to leave. The RCMP identified these as the hardcore protesters who had been in the area since the early morning of February 12 and who were intent on staying long-term. An additional 12 arrests were made on February 14, and multiple vehicles were removed from the area. Police set up concrete barriers and maintained a presence at the POE. On February 15, the POE became operational, though southbound access was restricted because of the barricades.

On February 18, the RCMP set up additional checkpoints to prepare for another convoy heading toward the POE. On February 19, the RCMP had information regarding a convoy of approximately 400 big rigs and passenger vehicles approaching the area. At 12:07 p.m., the RCMP announced that they would be conducting vehicle check stops and might divert non-local vehicles from the area. At 12:30 p.m., as a preventive measure and to help ensure safety, the RCMP stopped vehicles and pedestrians from accessing the Pacific Highway POE. A service disruption was declared at 4 p.m. At 5:07 p.m., Surrey RCMP became aware of several incidents involving a group of aggressive protesters who surrounded members of the media. Police intervention was required to ensure that the journalists had safe passage to their vehicles. Protesters were cleared over the following hours, and the service disruption was lifted at 11:34 p.m.

On February 20, approximately 80 – 100 demonstrators and 40 – 50 vehicles remained in the area. On February 21, a small group of demonstrators remained at the intersection of 176 Street and 8th Avenue, north of the POE. The protesters vacated the area by February 22.

The City of Surrey reported that the protests that took place at the POE produced a number of impacts on the local community. These included increased traffic, public urination and defecation, disruption of infants at a local daycare, and harassment. The City and the Surrey Board of Trade also reported negative impacts on local businesses — some of which were forced to close during the demonstrations — as well as on supply chains.

However, as in Coutts and Emerson, most of the commercial traffic at the Pacific Highway POE was diverted to neighbouring POEs during the blockade. Both the Aldergrove and Abbotsford – Huntingdon POEs are commercial POEs located close to the Pacific Highway POE, though neither has the same commercial processing capabilities. The CBSA had to expend real effort and work with its partners to facilitate the continued movement of traffic.

7. Other ports of entry

Coutts, Emerson, Pacific Highway, and the Southern Ontario POEs experienced the most significant disruptions in January and February 2022, but they were not the only border sites targeted by protesters. Protests at ports of entry occurred in many additional locations. Some resulted in partial disruptions, such as a protest at the Woodstock, New Brunswick POE on January 29, which shut down one lane of traffic heading toward the United States. Others raised particularly complex problems for Canadian authorities, such as a February 13 protest at the Cornwall, Ontario POE. That protest, which involved approximately 75 vehicles, did not fully block the POE and did not interfere with its operations. However, the number of vehicles could have done so, and risked cutting off the Akwesasne Mohawk community that lives on Cornwall Island from the rest of Canada. However, for the most part, protests did not lead to serious disruptions to POE operations. Throughout this period, CBSA, law enforcement, and government officials were confronted with a constantly changing environment, in which intelligence about potential protests and disruptions developed and shifted rapidly. Officials were required to make significant efforts to respond to these threats to POE operations, even though in most cases, disruptions did not ultimately occur.

The CBSA, for example, reported protests or other disruptions related to COVID-19 vaccine mandates at 19 POEs in January and February 2022. In many cases, they received information suggesting that blockades might occur at these locations. There were also concerns about possible blockades of a railway crossing at Fort Frances

in Ontario and attempts to interfere with cargo ship operations at the Port of Halifax. Neither of these concerns materialized.

Blockades were not the only concern that the CBSA and local police of jurisdiction faced during this time. They also reported several incidents that gave rise to concerns about violence. Threats against CBSA employees on social media and through phone calls featured in CBSA reports, as well as a reported spike in inquiries about how to import armour-piercing bullets and a range of firearms.

There were also instances where protests at POEs became aggressive. For the most part, protest activities at POEs remained lawful, and frequently had little or no impact on border operations. However, they often involved enough vehicles that, had protesters become more aggressive, events could have quickly evolved into blockades. Managing these various protests required a significant use of resources across multiple federal, provincial, and municipal agencies.

Chapter 12

Other Protests



Other Protests

1. Introduction

Events in Ottawa and at Canada's borders caused serious disruption and received national attention. Yet protests and disruptions in January and February 2022 were not limited to those locations. Protests also occurred in cities and smaller communities around the country. Though they may not have received national media attention, these protests were often major events from a local perspective. Nearly all required significant resources and efforts from government and law enforcement at the provincial and local levels.

In this chapter, I discuss protests that occurred in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, and Nova Scotia. These protests, not discussed elsewhere in my Report, underscore the national scope of events related to or inspired by the Freedom Convoy. Many of the events described in this chapter also illustrate how different public order measures could be used in a way that minimize public disruption while still guaranteeing the right to protest. I note that the Freedom Convoy inspired not only these protests throughout Canada, but also in other locations around the world.

This chapter is not an exhaustive account of protests supporting the convoy that occurred in early 2022. Protests occurred in many other places as well, but this summary is based on, and limited by, the evidence before the Commission. For the most part, this evidence was provided in writing, often in the form of Institutional Reports, by the local and provincial governments that were responsible for responding to these protests. The Commission also had at its disposal several Situational Reports

generated by police. There is, therefore, some risk that this evidence presented only one perspective on the events in question. Given the limited time available to the Commission, I could never have heard detailed evidence about these smaller events; however, I approached the evidence with an awareness of these limits.

2. British Columbia

In February 2022, there were numerous protests across British Columbia in addition to those at the Pacific Highway border crossing. The largest protests took place in Victoria and Vancouver.

From February 5 to 6, protesters supporting the convoy to Ottawa gathered at the Provincial Legislature in Victoria. That weekend, there were also protests in Kelowna, Salmon Arm, Osoyoos, Powell River, the Fraser Valley, Campbell River, Fort Nelson, Fort St. John, 100 Mile House, Nelson, and Vancouver. These involved marches and slow roll convoys. The convoy in Vancouver on February 5 caused significant congestion in the downtown core and was met by counter protesters. The Vancouver Police Department (VPD) arrested five protesters.

On February 12, additional protests occurred across the province, including convoys from Surrey, Langley, and Chilliwack, which went to the Pacific Highway border, and rallies in Kelowna and Osoyoos, which occurred at the border. A protest in Victoria took place at the Legislature, with many people honking horns. The Victoria Police Department handled this and reported no major issues.

On February 14, a convoy left Terrace for the Pacific Highway border crossing, stopping in Prince George on the way, for a protest at City Hall. There was also a gathering at the Fort St. John City Hall that day.

Demonstrations at the Legislature in Victoria persisted through February 10 – 20. There was honking in front of the Legislature from 1:30 – 4:30 p.m. every day and

protesters said they would remain until COVID-19 mandates ended. By February 17, only about 30 people were left, but on Saturday, February 19, a convoy of 400 vehicles drove from Campbell River to the Legislature. There was also a counter protest that day. According to the Royal Canadian Mounted Police (RCMP), the mood of the gathering became anti-police, and while protest numbers were smaller, the crowd was more problematic.

Also, on February 19, a convoy of 400 vehicles participated in a rally in Chilliwack. On the same day, vehicles went from Vernon to the Osoyoos border crossing. Small protests occurred in Penticton and at the Paterson border crossing on February 20.

On February 22, organizers of a convoy called “Stand Up BC Forestry, Convoy and Rally” cancelled a rally at the Legislature, citing the *Emergencies Act* as the reason. That day, the RCMP reported that a convoy was on its way from Langford (just outside Victoria) to the Legislature.

3. Alberta

Several convoys, rallies, and protests occurred throughout Alberta between January 29 and February 22, 2022. The Government of Alberta reported that these events were generally peaceful, non-violent, and did not result in multi-day occupations of cities or other locations. Generally speaking, these protests consisted of daytime events, mostly held on weekends, which usually dispersed at the end of the day.

Alberta Justice and Solicitor General (JSG), the RCMP, and police agencies across Alberta coordinated and shared information throughout this time. The Government of Alberta held regular meetings of the Cross-Agency Public Disorder Information Group (PDIG), whose purpose was to discuss potential public safety risks and how to mitigate them. The PDIG consists of representatives from the Provincial Security & Intelligence Office (PSIO), the RCMP, the Calgary Police Service (CPS), the Edmonton Police

Service (EPS), the Medicine Hat Police Service, Criminal Intelligence Service Alberta, Provincial Sheriffs, and the Alberta Crown Prosecution Service.

Starting on January 26, 2022, social media monitoring indicated that several anti-vaccination protest events were being organized throughout Alberta, including drives in Fort McMurray, attendance at ports of entry, and six events planned to converge on Edmonton at the Alberta Legislature.

The Government of Alberta believed that these events were organized independently from each other and, while some anti-government and anti-authority sentiment appeared in online commentary, there was a low risk of planned violence. Organizers told law enforcement that they had been explicit about the need for peaceful protests. Traffic disruptions were seen to be the most likely tactic employed by protesters, though there was a possibility of impromptu expressions of anger and violent activity. Confusion around the convoy, chaotic planning, and the emotive nature of the protests were identified by officials as contributing to the risk of more aggressive conduct.

Approximately 9,000 people and 200 vehicles converged on Edmonton on January 29, 2022. These initial protests were followed up by calls on social media using the keywords “Bear Hug” and “Farmers for Freedom,” referring to blockades and highway slow downs. Bear Hug appears to have been a reference to the “Operation Bearhug” convoy organized by James Bauder in 2021, which I discuss in Chapter 5. These social media calls promoted the idea of using trucks and farm equipment for small blockades on highways throughout the province. Protests or blockades were reported on highways near Fort Macleod, Pincher Creek, and Grande Prairie on February 1.

Convoy activity intensified on the weekend of February 4 – 6. Government officials believed that these activities still lacked central leadership. Although there was no indication of planned violence and little indication of counter-protest activity, the Provincial Operations Centre (which coordinates the Government of Alberta’s response to emergencies and disasters) was elevated to “Level 2 – Augmented,”

indicating that there were conditions or an incident with the potential of significant disruption to the community.

On February 5, the EPS reported a growing but peaceful crowd of approximately 1,000 people at the Alberta Legislature. Traffic around the Legislature flowed, despite the presence of approximately 2,500 convoy vehicles in Edmonton. Some counter protests occurred involving condominium owners in the downtown area throwing eggs off balconies at protesters. It was reported that protest events were dispersed by the end of the day. There were no arrests or tickets issued, and sheriffs did not note any reportable incidents. Although there was no overnight occupancy of the Legislature grounds, the EPS reported some mischief by protesters, including fireworks, flares, and open alcohol.

February 5 saw significant protests in the City of Calgary. Media reported that thousands of people marched through downtown Calgary. A Freedom Rally took place in Central Memorial Park involving an estimated 3,000 – 4,000 protesters and approximately 20 vehicles, including a dump truck that continuously blew its horn, resulting in several noise complaints. The rally started at 1 p.m. and ended at 4:20 p.m. The CPS issued 80 tickets.

Protest activity resumed on the weekend of February 11 – 13. Although protests of the previous weekend were reportedly peaceful, the City of Edmonton still obtained an interim injunction from the Court of Queen’s Bench on February 11, prohibiting:

the frequent or sustained sounding of motor vehicle horns, truck air horns, equipment horns, megaphones and other similar noise making devices within the boundaries of the City contrary to the Community Standards Bylaw 14600.¹

¹ Government of Alberta Institutional Report, ALB.IR.00000001, para 77.

Edmonton’s downtown core experienced traffic congestion that weekend, but the number of vehicles involved was 700 – 800, down from approximately 3,000 the weekend before. About 30 counter protesters associated with “Climate Justice Edmonton” also blocked traffic in both directions on River Valley Road while a convoy was trying to move through. An estimated 200 convoy protesters attempted to march toward the counter protesters, but the EPS kept them apart and, after negotiations with counter protesters, got them to move off the roadway. Protests in Edmonton concluded at around 7 p.m. The EPS issued 10 tickets and one warning and identified 50 violations for which they would issue tickets by mail, including nine violations of the City’s injunction. There was no significant protest activity at the Legislature on February 13.

Approximately 5,000 people, accompanied by a convoy of about 50 vehicles, attended a rally against public health measures in Calgary from February 11 to 13. Minor rallies or other supporting events also took place in High Prairie and Fort McMurray. An attempt to charter a bus from Fort McMurray to Ottawa apparently failed because of a lack of interest.

On the afternoon of February 22, about 225 vehicles and 1,500 pedestrians demonstrated in front of the Alberta Legislature, dispersing at around 4 p.m. The EPS issued 109 violations during this event.

4. Saskatchewan

Saskatchewan saw protests in Regina near the Provincial Legislature and near the Regway and North Portal border crossings. Before these events materialized, Saskatchewan authorities had an opportunity to observe protesters and their activities as the Freedom Convoy heading to Ottawa passed through Regina.

The Government of Saskatchewan became aware that a “Freedom Convoy” protest was planned for Saturday, February 5, 2022, at the Legislative Building located in

Wascana Centre in downtown Regina. The protest was about COVID-19 public health measures, including vaccination requirements for crossing the Canada – U.S. border. The aim of the convoy was to occupy the Legislature grounds until protesters had a satisfactory resolution with respect to public health measures. The Provincial Government formed a multi-agency group to manage the protest, including personnel from the Regina Police Service (RPS), the Ministry of Government Relations, the Provincial Capital Commission, the Ministry of Corrections, Policing and Public Safety, the Ministry of the Environment, Saskatchewan Highway Patrol, the Ministry of SaskBuilds and Procurement, the Sergeant at Arms for the Legislature, and the Regina Emergency Measures Organization. The Saskatchewan Provincial Emergency Operations Centre of the Saskatchewan Public Safety Agency coordinated meetings and provided situation reports to the group.

Barricades blocking all vehicle traffic were set up at the entrances to Wascana Centre before convoy protesters arrived on February 5, 2022. These barricades prevented unauthorized vehicles from accessing Wascana Centre, where a winter festival was being held from February 4 to 10. Barricades remained in place until February 14.

Starting on Saturday, February 5, convoy protesters and their vehicles blocked the right driving lane of a loop of streets around Wascana Centre, while leaving the left driving lane open for emergency vehicles. The RPS monitored the situation and developed a traffic plan. Some protesters were upset and verbally abusive when ticketed for violating by-laws. The RPS issued 32 tickets. Most protesters left by midnight on February 6, and the following morning, police initiated an enforcement plan involving tow trucks to disperse remaining protesters. One vehicle was seized, and police also issued parking and summary offence tickets. No significant activity was reported in Regina for the remainder of the week, as the protesters' focus had apparently shifted to Saskatchewan border crossings.

Starting on February 7, the RCMP received intelligence of planned protest activity at the Regway border crossing for February 12, and at the North Portal border crossing

for February 18. The RCMP obtained assistance from Saskatchewan Highway Patrol to manage the situation. The RCMP arranged areas where the protesters could gather off the thoroughfare, so ports of entry were not blocked. Protesters in vehicles set up camps on private property near the border crossings at the invitation of the owner. Delays were initially expected at the border crossings, but it appears that blockades never materialized. Some protesters were charged with minor offences under the *Highways and Transportation Act* and the *Criminal Code*. Police scaled back their operations on February 20, when convoy numbers and associated disruption was less than expected.

5. Winnipeg

Protest activity in Manitoba centred around the Provincial Legislature building in downtown Winnipeg, at the corner of Broadway and Osborne Streets, both of which are major traffic arteries. Kennedy Street, which flanks the Legislature on its eastern side, is a residential street. Memorial Boulevard leads to the front of the Legislature and is perpendicular to Broadway. The area falls within the jurisdiction of the Winnipeg Police Service (WPS).

As in Saskatchewan, Ottawa-bound Freedom Convoy vehicles passed through Winnipeg on their way to the national capital. On February 1, 2022, the WPS became aware of planned protests modelled on the protests underway in Ottawa. A group of people and vehicles first gathered in the Legislature area on the morning of Friday, February 4. They stayed there for just under three weeks until February 23. Approximately 100 – 300 protesters attended initially, but attendance peaked at around 1,000 on weekends. On Saturday, February 12, around 200 – 300 counter protesters also attended the area. Manitoba's Assistant Deputy Minister of Public Safety, Michael Koppang, told Commission counsel that, though some counter protesters opposed the convoy, others appeared to support an array of causes with no coherent ideology among them. According to Mr. Koppang, some seemed to be well-intended counter

protesters while others appeared to be “rabble-rousers” wanting to join in on the activity.

The Government of Manitoba reports that, overall, traffic disruptions were minimal. Vehicles associated with the protest parked along Memorial Boulevard, which is not a major traffic artery. During the first weekend of protests, protesters blocked the intersection of Memorial Boulevard and York Street, a major traffic artery, but police re-established traffic flow in time for the weekday morning commute. The objective of the WPS was to prevent protesters from blocking Broadway or Osborne and to avoid occupation of the legislative grounds. The WPS maintained communication with protesters and negotiated with them to achieve that objective.

Traffic disruptions were minimal, but the protests generated considerable noise in one of Winnipeg’s most densely populated areas. By February 15, the WPS had received 154 noise complaints, although judging by the lack of complaints after February 13, protest activity seems to have decreased by that time. There was minimal violent activity, with one notable exception: a car, apparently unconnected to the protest, drove into three or four protesters. The driver was arrested by the WPS and was criminally charged.

Protest activity ended on February 23, 2022. The WPS delivered a letter to protest organizers, warning that anyone who remained after 5 p.m. risked being arrested and charged under the *Criminal Code* for mischief or intimidation, under Manitoba’s *Highway Traffic Act*, or the City’s noise by-law. Police also warned remaining protesters that their vehicles could be seized and subject to forfeiture application by the Crown or under measures brought in under the federal *Emergencies Act*, which by this time had been invoked.

Manitoba reports that the WPS followed established policing practices, such as de-escalation tactics and developing contingency plans specific to the situation. At no time was it suggested that the existing array of measures available to police was

insufficient to deal with the situation. The WPS maintained a full-time presence throughout the protest events, liaising with organizers in efforts to maintain dialogue and find a peaceful solution. The WPS also kept the public informed by issuing regular news releases. Few tickets were issued and use of force was minimal. Except for the arrest of the driver mentioned earlier, no other arrests were made during the protests. There were, however, a small number of temporary detentions made under *The Intoxicated Persons Detention Act*. The RCMP reported that the protests at the Legislature were well managed by the WPS.

6. Toronto

Several convoy-related demonstrations occurred in Toronto, as well as counter protests. Protests were largely peaceful and did not result in any injury to police or members of the public. There were no reported incidents of hate crimes or terrorism.

The Toronto Police Service (TPS) closely monitored those engaged in the Freedom Convoy, both before and during the Ottawa protests, using internal intelligence capacity and external partnerships. The TPS learned in or around early February 2022 that convoys from multiple locations were planning to converge on Toronto on February 5 to replicate events in Ottawa. Among other sources, posters had circulated online about “Convoy for Freedom Toronto,” calling on sympathizers to “cruise to Queen’s Park” on February 5. On February 1, TPS Intelligence Services issued an event notification in relation to “Convoy for Freedom Toronto,” as potential risks for Toronto had crystallized at that point.

On February 3, the TPS’s Emergency Management and Public Order (EMPO) Unit began developing a plan to protect critical public services. The EMPO is a specialized unit within the TPS that develops plans to manage major events and emergencies likely to affect the city as a whole and to require a service-wide response. The EMPO plan regarding the Toronto Freedom Convoy was scalable and emphasized:

- a. identifying and securing strategic or key infrastructure sites in the downtown core, including Hospital Row, Queen's Park, City Hall, courthouses, and Toronto Police Headquarters;
- b. creating a strategic traffic plan, directing convoy vehicles to perimeter positions where there were resources to deal with them;
- c. having a communication plan with key stakeholders, including hospital administration and government officials, using social media as well as traditional media outlets;
- d. facilitating peaceful and safe protest at likely demonstration sites;
- e. identifying and safely removing tents or other structures;
- f. staging vehicle towing assets throughout the perimeter area as a deterrent; and
- g. developing a strategy to support the Toronto Fire Service, especially in relation to risks posed by incendiary materials such as gasoline carried in "jerry cans" or other containers.

The TPS activated its Major Incident Command Centre to facilitate the plan's implementation. Implementing the plan was a substantial task that drew considerable resources and required a significant amount of time. Implementation took police resources away from other ongoing tasks, including investigations.

As the TPS expected, convoys converged on Toronto on February 5. Planned traffic redirection and management prevented convoy vehicles from reaching their destinations in front of and around Queen's Park. Implementation of the TPS's plan resulted in no occupation of transportation infrastructure and no major disruption of critical public services in Toronto. Several large trucks and pickup trucks managed to

block the intersection of Avenue Road and Bloor Street West, but as this area is some distance from critical public service locations, traffic disruption was less than it would have been had it occurred closer to the Provincial Legislature. The intersection was reopened to traffic at around 9 p.m. that day. The TPS was involved in facilitating the protesters' exit from the city.

On February 9, Chris Barber, one of the Ottawa convoy organizers, posted a video online suggesting that protesters would converge once again on Toronto. Given Mr. Barber's role in the Ottawa protests, the TPS took pre-emptive action to prepare for a second protest. A convoy event did not in fact take place.

When the TPS learned that a convoy intended to target Toronto's downtown core on February 12, police developed another response plan, which included controlled access to certain parts of University Avenue. The plan could be quickly implemented and supported by barricades, barrels, variable message signage boards, heavy vehicle trucks, and Toronto Transit Commission event buses at key locations. Police officers were positioned near public facilities that were identified as critical so that they could be deployed immediately if needed, and a surge capacity was built into operations. As with the convoy events of February 5, events on February 12 resulted in limited disruption to municipal and critical services, while permitting protests to take place.

In the Institutional Report that the TPS provided to the Commission, it stated that its operations were successful because it allowed those with the required training, expertise, and experience to perform their duties unimpeded. Though the chief of police and Senior Command provided oversight, the incident commander and his team were empowered to make operational decisions as events unfolded. The TPS also credits its success to having early, continuous, and accurate information about the Freedom Convoy, which allowed it to respond appropriately and in real time to events as they unfolded. Prior to the events of February 2022, the TPS benefited from the initiatives of Project Hendon, an intelligence group led by the Ontario Provincial

Police (OPP), which I discuss extensively in Chapter 7. To share information and collaborate on a public order response, the TPS also leveraged an existing working group of Ontario police agencies with public order teams and resources. According to the TPS, this collaboration ensured an appropriate police response to Freedom Convoy activity across jurisdictions.

In materials filed with the Commission, the TPS also credited effective information exchanges between the TPS, the Toronto Police Services Board, and the municipality for its ability to respond appropriately to the protests. It says that it applied the lessons of the *Independent Civilian Review into Matters Relating to the G20 Summit*, also known as the “Morden Report,” and the *Missing and Missed* report into the Bruce McArthur case and other missing persons investigations. Both reports highlight the importance of sharing operational information between a chief of police and their police services board when a “critical point” has been identified. Convoy-related events resulted in the TPS identifying a critical point and subsequently engaging with the Toronto Police Services Board.

7. Quebec

Quebec’s response to protests was coordinated between the Sûreté du Québec (SQ), municipal police forces, Contrôle routier Québec (CRQ), which oversees road safety and inspects heavy vehicle traffic, and other provincial agencies.

Prior to planned protests at the National Assembly from February 3 to 6, 2022, discussions between Québec City’s police force, the Service de police de la Ville de Québec (SPVQ), and the SQ revealed that three groups of truckers were expected in Québec City. The SPVQ was in constant contact with the organizers of the different convoys converging on the city. Protest organizers collaborated with the SPVQ and indicated a willingness to respect measures put in place by police.

Protests in support of the Ottawa Freedom Convoy occurred from February 3 to 6, 2022. About 10,000 protesters converged at the National Assembly, peaking on Saturday, February 5, with 2,000 in front of the Legislature and nearly 8,000 on René-Lévesque Boulevard, between Honoré-Mercier and Claire-Fontaine avenues. Because of the number of people, the SPVQ closed the main roads around the National Assembly. It also refrained from issuing tickets for parking violations. The SQ reported that the atmosphere was festive. Most demonstrators left the city by the evening of February 6.

For the February 3 – 6, 2022 protests, the SPVQ expected a maximum of 10,000 people and had a phased plan to deploy police according to how many people and heavy vehicles showed up. Mobile police teams would be deployed to the outskirts of the city to respond to calls and intervene, if necessary, as the convoys moved to the National Assembly. Because of Carnival celebrations in Québec City, pedestrian spaces had already been planned around the city. Command posts were arranged for officers to monitor events and intervene as necessary. SPVQ officers were to ensure special vigilance around hospitals and social service offices. The SQ assigned patrol vehicles and sentries to the National Assembly and made further personnel available. The SQ deployed an Emergency Measures Structure from February 3 to 6 to supervise the convoys to Québec City and the rally at the National Assembly. It also had a control centre, a command post at the National Assembly, three operational centres, and an operational plan to protect the legislative buildings.

On February 16, 2022, the SQ reported about 20 convoys in the province but none were obstructing critical infrastructure. Also, on February 16, the RCMP and open-source information suggested that protesters would attempt to block the Saint-Bernard-de-Lacolle border crossing. The SQ, being the police of jurisdiction in that area, prepared a risk assessment and an operational plan in response to this threat. Pursuant to the plan, the SQ created checkpoints and controlled the traffic on the highway leading to the border crossing. This operation was widely publicized. Ultimately, no blockade materialized.

Prior to a protest planned for February 19, the mayor of Québec City gave new powers to the SPVQ to control traffic and prevent alcohol consumption. The SPVQ and the SQ aligned their operations and used what they learned from the February 5 – 6 demonstration to improve their response to the anticipated February 19 protest. While the SQ had no credible information regarding a blockade at the Quebec and Pierre Laporte bridges, they nevertheless prepared for this contingency. CRQ was also ready to intervene in demonstrations at the request of police. Fences were installed around the National Assembly, some of its access points were closed, and SQ guards were posted.

As expected, there was a major demonstration at the National Assembly on February 19, 2022. The SPVQ accompanied convoy vehicles entering the city. The SQ Emergency Measures Control Centre operated from February 18 to 20, supervising the protests and deploying SQ sentries and platoons at the National Assembly. As for the February 5 – 6 protests, the SQ had a detailed plan to ensure the security of the Legislature. Police negotiated an agreement with protesters to allow those with trucks, tractors, and tractor trailers parked in front of the National Assembly to blow their horns for two blocks of time on February 19. Protesters largely followed the rules, parking vehicles in designated areas. The protest dispersed on the afternoon of February 20. Police arrested eight people and issued 167 tickets.

The SQ attributed the difference in the number of protesters between the February 5 – 6 protest (10,000) and the February 19 protest (3,000) to the gradual softening of public health measures by the Quebec Government during that period. Indeed, by February 14, 2022, most measures in Quebec had been lifted. In managing the protests, police in Quebec relied on existing laws and by-laws and no police force in the province of Quebec used the powers granted under the *Emergencies Act*.

8. New Brunswick

New Brunswick had multiple anti-mandate protests starting in mid-January 2022. Many were associated with the Eastern Canada convoy passing through New Brunswick on its way to Ottawa. Some of these events resulted in significant traffic disruptions, notably near Fredericton City Hall on January 22, where traffic was disrupted for two hours; in downtown Moncton on January 23, where roughly 1,500 attendees disrupted traffic for approximately three hours; and at the New Brunswick – Nova Scotia border on the same day, where 200 attendees disrupted traffic sporadically throughout the afternoon.

In late January, protests occurred at the New Brunswick – Nova Scotia border and the New Brunswick – Maine border crossing, but these blockades did not last longer than an hour and a half because of severe weather conditions. There were also small convoys and protests in Fredericton, Moncton, Saint John, Bathurst, Quispamsis (at the premier’s residence), and Grand Falls during the week of February 4 – 10, with no reported threats to public or police safety.

In anticipation of further disruptions, the Government of New Brunswick amended its existing Mandatory Order under the *Emergency Measures Act* to include prohibitions on blockades and other related restrictions. The Government of New Brunswick had been made aware by police officials and public sources that some protests could be unlawful in nature. It was feared that protesters would target critical infrastructure, primarily transportation systems. The amendments to the Mandatory Order were intended to promote public safety, keep the peace, and protect critical infrastructure without unduly limiting the right to protest.

A planned four-day demonstration at the Provincial Legislature in downtown Fredericton began on February 11, 2022, when a convoy of vehicles from around New Brunswick met at the Big Stop gas station at Blue Canoe and headed to the city. The City of Fredericton, provincial emergency personnel, the Department of Justice

and Public Safety, the Office of the Public Safety Advisor, Fredericton police, and police from other municipalities worked together to manage the protest.

On February 11, police set up four blockades near the Legislature and 15 checkpoints at entrances to the city. At the traffic checkpoints, all heavy trucks were stopped, their manifests checked, and any drivers whose manifests did not show that they needed to do business in Fredericton were turned away. All personal vehicles were allowed through. On February 12, there were about 700 people protesting in downtown Fredericton. Fredericton Mayor Kate Rogers said that protests were peaceful. Most resident complaints in relation to the protests were about horn honking.

By Sunday, February 13, only about 50 people and fewer than 10 vehicles were left. Fredericton police seized three trucks for violations of the *Emergency Management Act*, ticketed under that Act for partial blockages of traffic, and arrested two people for breach of the peace. The RCMP reported that enforcement activity successfully mitigated traffic gridlock. A small group continued demonstrating at the Legislature until February 15.

On February 19, there was another protest at the Legislature in Fredericton, one in Moncton, and a slow roll convoy starting in Hampton and ending at the premier's residence in Quispamsis.

9. Nova Scotia

On or about January 15, 2022, Nova Scotia Department of Justice officials began to receive information through social media that a blockade of Highway 104 at, or near, the Nova Scotia – New Brunswick border was planned by protesters for January 29 in support of the Freedom Convoy. On January 20 and 21, further situational updates and a review of social media confirmed that the planned blockade would be well attended.

Highway 104 is the main artery between New Brunswick and Nova Scotia and connects the latter with the rest of Atlantic Canada and the country. It is the main land route in and out of Nova Scotia and is key to the province's supply chain. A blockade of Highway 104 would create significant delays in moving goods and people in and out of the province, and in the case of certain kinds of goods, like fish and lobster, would give rise to a risk of spoilage. It is also a transportation corridor for emergency personnel, health care workers, and physicians to get to work in hospitals and clinics in the region.

Nova Scotia had previously experienced a blockade of Highway 104 by anti-public health measure protesters in June of 2021. It resulted in a complete shutdown of the interprovincial border, which had a significant impact on the movement of people, goods, and supplies across the border.

The Government of Nova Scotia's response to the planned blockade of January 2022 was informed by the experience of the blockade in June of the previous year. The Government began to convene "Friday Operations Meetings" as early as January 21, which brought together a range of law enforcement and government officials.

The Government of Nova Scotia initiated Friday Operations Meetings to ensure a broad understanding of planning undertaken to mitigate any impacts resulting from blockades across Nova Scotia. At the first of these meetings, the Amherst Police Department and the RCMP presented their operations plans. Following the meeting, the RCMP's H Division (Nova Scotia) and J Division (New Brunswick) were in contact and sharing operational information regarding the interprovincial border.

During the week of January 26, 2022, Nova Scotia officials continued receiving confirmation that a border blockade was being planned. On January 28, in response, the minister of Municipal Affairs and Housing issued a direction pursuant to the *Emergency Management Act* that specifically prohibited stopping, parking, or operating a vehicle in a such manner as to create or contribute to a partial or complete blockade

of normal traffic on a road, street or highway, with additional measures pertaining to Highway 104 and the interprovincial border. The direction also prohibited financing, organizing, aiding, encouraging, or supporting the interruption of the normal flow of traffic.

Though the border blockade was scheduled to go ahead on January 29, a snowstorm occurred on that day, which resulted in sections of Highway 104 being closed. Most vehicles were unable to get to the location of the planned protest, which ultimately did not take place.

There were other protests across Nova Scotia in solidarity with the Ottawa Freedom Convoy, none of which had major impacts on infrastructure operations. These include:

- a. a slow roll convoy protest in Halifax on February 6;
- b. protests near the Marine Atlantic Facility in North Sydney on February 11, when about 12 vehicles blocked regular access to ticket booths. There was no impact on operations;
- c. a similar protest at the ferry terminal on February 12, with traffic to the ferry affected;
- d. protest activity in Halifax, in the Enfield area, in Yarmouth, and in Amherst at the Nova Scotia – New Brunswick border on February 12;
- e. a slow roll convoy of about 170 vehicles through Yarmouth before participants held a rally there on February 21; and
- f. a slow roll convoy from February 19 to 21, made up of people from around the province, driving 50 – 75 vehicles. This convoy went through Greenwood, Digby, Yarmouth, Bridgewater, and Halifax, where it joined an existing rally at Citadel Hill on February 20. On February 21, the

convoy went to Antigonish, where it ended. No incidents were reported to the RCMP.

As with the response to the Highway 104 protests, the Government of Nova Scotia's response to these other protests included cross-provincial agency operational planning, intergovernmental coordination, and the implementation of directives under its *Emergency Management Act*. The Government's response also involved deploying uniformed police in a show of force. Nova Scotia says that these measures ensured no impact on critical infrastructure and no blockages on its roads or highways.

10. Protests in other countries

The Freedom Convoy inspired protests in many locations across Canada: ports of entry, provincial capitals, and smaller municipalities all had protests which, like the protests in Ottawa, criticized public health measures and invoked “freedom” as an animating value. But the reach of the Freedom Convoy protests appeared to extend beyond Canada's borders and inspire protests in other countries. Global Affairs Canada took note of these foreign protests due to their concern that they were negatively impacting Canada's reputation abroad. Associate Deputy Minister of Foreign Affairs Cindy Termorshuizen testified to the reputational harm that Global Affairs Canada was assessing through the use of the Canadian flag in foreign countries as a symbol of defiance of the law.

The largest foreign protest that appears to have been inspired by the Freedom Convoy took place in Wellington, New Zealand. In mid-February 2022, up to 3,000 protesters set up camps around the Parliament buildings in Wellington, blocking road access to the precinct. The protesters grew increasingly entrenched, with well-stocked kitchens, a medical centre, and even a daycare. Canadian flags, along with flags bearing the name of former U.S. President Donald Trump, were hoisted on flagpoles by protesters.



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While the New Zealand protests were the largest, they were not the only foreign protests where the Canadian flag or other allusions to the Freedom Convoy protest were prominent. Smaller-scale protests also took place in Paris, the Hague, and other locations.

Chapter 13

Financial Support for the Protests



Financial Support for the Protests

1. Introduction

Moving hundreds of people across the country and establishing them in the nation's capital for weeks required everything from fuel, food, and lodgings to laundry, portable toilets, tents, and cooking equipment. Protesters also brought a variety of non-essential goods, including the stage and sound system that was set up on Wellington Street, a hot tub, and even a bouncy castle. Whether purchased or donated, the material support required for these protests was significant.

At the time of the protests, much of the public attention was focused on the story of Tamara Lich and the CAD\$10 million that she raised online to support the Freedom Convoy. Companies such as GiveSendGo became household names, and “foreign funding” was a hot topic of discussion. Not only did this fundraiser capture media and public attention, but it also captured the attention of governments and law enforcement who then made significant efforts to target fundraisers to cut off the protesters' resources and end their activities. Numerous court applications were brought in a variety of forums, in February 2022, to restrain or freeze the money being donated to the protesters' cause. At the same time, private actors within the financial system worked to restrict protesters' access to donations. From the crowdfunding platforms to banks and payment processors, many non-governmental entities used their own power to cut protesters off from the millions of dollars that they had raised.

Despite the attention surrounding Ms. Lich's crowdfunding campaign, this was not what ultimately fuelled the protests. Of the millions of dollars that she raised, it appears that only a few thousand were ever accessible to her. More significant

financial support for the protests came from lesser-known crowdfunding campaigns, email money transfers, cryptocurrencies, and simple donations of cash, services, and goods.

In this chapter, I set out what the Commission learned not only about the Freedom Convoy crowdfunding campaign, but the many additional means by which the Ottawa protests were sustained.¹

2. Fundraising in the digital age

The financial support for the Ottawa protests was an exercise in contrasts. Much of the support was provided through face-to-face donations involving money or goods. At the same time, organizers used technologies to raise large sums of money from thousands of donors worldwide. To understand the different ways money was raised, transferred, spent, and restrained, it is helpful to have a basic understanding of the many tools and entities involved in online fundraising. These include crowdfunding platforms, payment processors, email money transfers, and cryptocurrencies.

A crowdfunding platform is an online service allowing individuals or groups to solicit donations from multiple donors. Crowdfunding platforms permit an organizer to establish a campaign supporting a beneficiary. A beneficiary may be the person who creates a campaign or someone else the organizer wishes to support. The campaign solicits donations from people who view its webpage, which is usually housed on the platform's website. Crowdfunding platforms often help organizers to integrate campaigns across social media, thereby attracting more donors. Visitors to a campaign's website can view information about the fundraiser and are given an easy means to donate. Depending on the platform, donations may or may not be made anonymously. Both GoFundMe and GiveSendGo, discussed extensively in this chapter, are examples of crowdfunding platforms.

¹ The majority of this chapter is based on evidence presented to the Commission in the Overview Report *Fundraising in Support of Protestors*, COM.OR.00000005.

The role of most crowdfunding platforms is to provide a social dimension to the raising of funds. Rather than accepting online payments, holding funds, or transferring them into a beneficiary's bank account, fundraisers use the platforms to put out their message, attract individual donors, and provide a convenient user experience. The actual work of transferring money is done by entities called payment processors. A payment processor manages electronic financial transactions between merchants and financial institutions. In the case of crowdfunding, payment processors act as a bridge between donors and beneficiaries, mediating transactions between different financial institutions. As the discussion in this chapter shows, payment processors play an often invisible yet highly significant role in online fundraising. Stripe Inc. and its Canadian subsidiary Stripe Payments Canada Limited (collectively, "Stripe") were the leading payment processors for GoFundMe and GiveSendGo.

Outside of crowdfunding campaigns, there were other online avenues for collecting donations, email money transfers being perhaps the most familiar. For years, Canadians have been able to send money via online banking by associating their email addresses with their bank accounts. Using websites, social media, or even word of mouth, individuals can advertise that they are accepting donations at a particular email address, allowing nearly anyone who banks with a Canadian financial institution to send them money electronically.

Cryptocurrencies, also referred to as crypto assets or virtual currencies are not universally understood. While many people have heard of "Bitcoin," few know how it works. Simply put, a cryptocurrency is a digital asset or token that can serve several purposes, including acting as a medium of exchange, similar to traditional currencies like the dollar. Cryptocurrency is held in a password-protected electronic "wallet" identified by a unique online address. There are several ways to purchase, exchange, and sell cryptocurrencies. Cryptocurrency exchanges are online platforms that permit individuals to trade different kinds of cryptocurrencies and convert them to and from "ordinary" currencies like the dollar. These platforms resemble online brokerage

accounts, which let individuals buy and sell stocks and bonds. Cryptocurrencies may also be exchanged directly between individuals.

Anyone with an online banking or brokerage account understands the idea of owning and managing money and assets online. However, cryptocurrencies differ from those accounts in that they do not require the involvement of a financial institution. While many people hold cryptocurrencies in online wallets hosted by a third party, they may also hold them in a wallet that only they control, allowing them to send and receive without any intermediaries. The absence of intermediaries can make regulation of cryptocurrency transactions challenging. Without an entity like an exchange, it is difficult to prevent individuals from exchanging cryptocurrencies, just as it is challenging to prevent two individuals from exchanging physical currency. Because cryptocurrencies are traded online and can occur anonymously between people anywhere in the world, these peer-to-peer transactions are even more difficult to monitor.

Another important way these assets differ from other online financial services is the nature of the “blockchain.”² A blockchain is a distributed ledger, which reports every transaction involving a particular cryptocurrency. These ledgers are “distributed” in the sense that there is no central point of control. The content of a blockchain is the result of sophisticated computer code that creates a consensus between thousands of participants as to what transactions have actually occurred, and therefore, where cryptocurrency is located. The blockchain is also public — anyone with a computer can examine it and see every transaction. Critically, however, the blockchain does not show who controls the digital wallets involved in any given transaction. Cryptocurrency transactions are, therefore, both transparent and anonymous.

² More properly, “blockchains,” as a variety of them exist.

3. The original “Freedom Convoy 2022” fundraisers

To raise money to support the convoy to Ottawa, Ms. Lich created a GoFundMe crowdfunding campaign on January 14, 2022, and an email money transfer campaign, advertised on the Freedom Convoy Facebook page beginning January 18. Both of these campaigns were set up to receive donations into an existing savings account that Ms. Lich had with the Toronto-Dominion Bank (TD). This account was created in Ms. Lich’s name on March 4, 2020.

When Ms. Lich created the GoFundMe campaign, she was required to write a description explaining the fundraiser’s purpose. This description would be edited several times as the campaign continued. At the end of the day on January 14, 2022, it read:

To our Fellow Canadians, the time for political over reach is over. Our current government is implementing rules and mandates that are destroying the foundation of our businesses, industries and livelihoods. Canadians have been integral to the fabric of humanity in many ways that have shaped the planet.

We are a peaceful country that has helped protect nations across the globe from Tyrannical governments who oppressed their people, well now it is happening to us. We are taking our fight to the doorsteps of our Federal Government and demanding that they cease all mandates against its people. Small businesses are being destroyed, homes are being destroyed, and people are being mistreated and denied fundamental necessities to survive. It’s our duty as Canadians to put an end to this mandates. It is imperative that this happens because if we don’t our country will no longer be the country we have come to love. We are doing this for our future Generations and to regain our lives back.

We are asking for Donations to help with the costs of fuel, food and lodgings to help ease the pressures of this arduous task. But it's a small price to pay for our freedoms. We thank you all for your Donations and know that you are helping reshape this once beautiful country back to the way it was.³

Within a few hours of its creation, the speed at which the Freedom Convoy 2022 campaign was getting donations brought it to the attention of GoFundMe. On reviewing the campaign description, GoFundMe became concerned about Ms. Lich's ability to distribute the funds in accordance with the description. GoFundMe's terms of service require that all funds raised in a campaign are used consistently with the campaign's purpose, in terms of who receives the money and how it will be spent. These rules exist so donors can rely on a campaign's description when deciding to contribute. GoFundMe wanted more information from Ms. Lich about how she would ensure that donations would go to truckers to reimburse them for the cost of fuel. GoFundMe's "VIP Team," which was responsible for high-profile fundraisers, began requesting this information from Ms. Lich on January 16, 2022.

Around this time, Ms. Lich heard from individuals who wanted to contribute but did not want to use GoFundMe, so she began an email donation campaign as well. On January 14, 2022, she connected the email address tbofconvoy2022@protonmail.com to the TD account, which was also connected to the GoFundMe fundraiser. Four days later, on January 18, she added financeconvoy2022@protonmail.com as a second email address connected to the account. Connecting these addresses allowed her to deposit email money donations into the TD account automatically. On January 18, Ms. Lich published the second email address on the Freedom Convoy 2022 Facebook page and immediately began receiving donations.

On the same day, the description of the GoFundMe campaign was updated to add additional information about how the money would be used and distributed:

³ Fund Edit History, GFM00000001, p. 32.

****Money raised will be dispersed to our Truckers to aid them with the cost of the journey****

****Funds will be dispersed via e-transfer (preferred) but can also be sent by cheque if absolutely necessary****

****Funds will be spent to help cover the cost of fuel for our Truckers first and foremost, will be used to assist with food if needed and contribute to shelter if needed**⁴**

The campaign's description was again edited on January 22, when the following text was added:

In order for your generous donations to flow smoothly, the good people at Go Fund Me will be sending donations directly to our bulk fuel supplier and are working out the details now which means your hard earned money is going to straight to who it was meant for and need not flow through anyone else. Any left over donations will be donated to a credible Veterans organization which will be chosen by the donors.⁵

For its part, GoFundMe continued to have concerns about the campaign, particularly the pledge that leftover funds would be donated to a veterans' organization chosen by the donors. By this time, thousands of donors had contributed to the campaign, and it was not clear how the organizers could get approval from "the donors" for any particular proposal.

GoFundMe had not yet released any donations to Ms. Lich and the funds remained in bank accounts maintained at HSBC Canada by Stripe, GoFundMe's payment processor. By this time, a committee of volunteers was helping Ms. Lich to manage the fundraiser, including communications with GoFundMe. The committee had asked

⁴ Fund Edit History, GFM00000001, p. 30.

⁵ Fund Edit History, GFM00000001, p. 22.

GoFundMe for a release of funds, but the company required more assurance about how the money would be used before doing so. On January 26, 2022, GoFundMe emailed the committee a series of questions, the most important of which was whether the organizers intended to reimburse truckers' fuel costs only or if they intended to cover food and shelter as well. They also asked for copies of documents that the organizers intended to use to track requests for reimbursement. The committee provided the requested information and documents and, at the same time, asked GoFundMe to make an initial release of CAD\$1 million so that they could begin reimbursing truckers.

The last step before GoFundMe would release funds into Ms. Lich's bank account was to have her sign a "Letter of Attestation," confirming that she would only use the funds as outlined in the campaign. The letter also confirmed the existence of a five-person finance committee responsible for the funds and required the committee to obtain documentation from recipients demonstrating their eligibility to receive funds. Finally, the letter required that the funds be distributed via e-transfer, to better track payments. On January 27, 2022, GoFundMe sent the letter to Ms. Lich, who signed it the same day.⁶

After receiving the attestation letter, GoFundMe directed Stripe to initiate a CAD\$1 million payment to Ms. Lich's TD account and notified the organizers that the payment was being made. However, the funds did not arrive in Ms. Lich's account until February 2, 2022, because of a delay by Stripe in initiating the payment. During the Commission's investigation, representatives from Stripe and GoFundMe provided conflicting information about the reason for this delay. GoFundMe blamed human error on the part of Stripe. Stripe said that it was directed to pause, and later reinstate, the transaction by GoFundMe. I do not have a clear basis for preferring one version over the other, but little turns on this.

It is clear that Ms. Lich was never able to use this money. A series of actions taken by GoFundMe and TD prevented Ms. Lich from receiving additional funds or withdrawing

⁶ GoFundMe Attestation Letter, dated January 27, 2022, GFM00000156.

the funds that she had received. Subsequent legal proceedings — first by the Attorney General of Ontario and then by Ottawa resident Zexi Li, the proposed representative plaintiff of a class action against convoy organizers — further prohibited access to this money. As a result of these actions, the money was ultimately transferred to a third-party escrow agent for holding, pending the outcome of a civil lawsuit that is continuing as of the time of this Report’s writing.

Before turning to these events, it is necessary to discuss an entirely different fundraiser that ran in parallel with Ms. Lich’s campaign, Adopt-A-Trucker, created by Chris Garrah. Although well publicized in its own right, Adopt-A-Trucker garnered less attention than Ms. Lich’s campaign. Ironically, being less well known made Adopt-A-Trucker more successful than Ms. Lich’s campaign in getting money into the hands of the protest movement.

4. Adopt-A-Trucker

Chris Garrah lived in Mallorytown, Ontario and worked as a contractor and a volunteer firefighter. During the COVID-19 pandemic, he created a website — waroomcanada.net — which he used to engage in citizen reporting on the pandemic, particularly on protests against public health measures. In mid-January 2022, Mr. Garrah participated in a Zoom call with several of the early organizers of the Freedom Convoy during which they discussed organizing convoys as well as local planning in Ottawa for when the convoys arrived. While not a resident of Ottawa, Mr. Garrah was located closer to the city than other organizers and could act as “boots on the ground” to help prepare for the arrival of the convoy participants. Mr. Garrah agreed to play this role.

Mr. Garrah’s work took on two primary forms: organizing local volunteers to provide things like food, showers, and laundry; and raising money to help pay for this local support. Mr. Garrah termed this work the Adopt-A-Trucker campaign and, like Tamara Lich, used crowdfunding and email money transfers to raise funds. Unlike Ms. Lich, Adopt-A-Trucker also solicited cryptocurrencies.

Mr. Garrah created the crowdfunding campaign on a platform called GiveSendGo on January 18, 2022. The campaign was connected to an account he had set up at the Royal Bank of Canada (RBC). The description posted to the campaign’s page on GiveSendGo discussed not only the fundraising purpose of Adopt-A-Trucker, but also the volunteering aspect of the initiative:

We at Warroomcanada have started up Adopt a trucker in Ottawa as part of the convoy 20/22 that will be coming in on January 28/2022. We are endorsed by Pat King and Canada-unity. These people will need housing, water, food and shuttle. Any donations would be amazing! The truckers will need accommodations. This is a Canadian wide rally to stop all mandates and allow CANADA to be free again and to go back to what we call freedom. This is for everyone who wants to contribute but cannot be there in person. This is a great way for you to be a part of this movement, all the effort we put in now will bring us one step closer to gaining back ALL our constitutional rights and freedoms. We are also looking for volunteers on ground zero, right in Ottawa. Please email if your interested. A need for all levels of logistics like food preps, generators, showers, security and pilons etc. keepcanada@protonmail.com or janetseto@protonmail.com.⁷

While the GiveSendGo page began raising funds quickly, it was not an ideal tool for coordinating Ottawa-area volunteers. When Mr. Garrah arrived in Ottawa on January 25, 2022, he met a man identified as “Serge” (last name unknown), who offered to create the Adopt-A-Trucker website to help coordinate volunteers. That website also solicited donations via email money transfer to donations@adopt-a-trucker.ca, which Mr. Garrah connected to the same RBC account associated with GiveSendGo. Visitors were also invited to donate cryptocurrencies, which “Serge” controlled.

⁷ Adopt-A-Trucker page on GiveSendGo, January 21, 2022, COM00000571.

Unlike Ms. Lich, Mr. Garrah did not initially struggle to get access to donated funds. After an initial holding period, Stripe began releasing money to Mr. Garrah, and donations quickly flowed into his RBC account. Between January 24 and February 11, Mr. Garrah received 18 payments totalling CAD\$330,470.92. Although less than the CAD\$1 million released by GoFundMe to Ms. Lich, Mr. Garrah's fundraising was ultimately more successful because the donations were accessible.

5. The Freedom Convoy campaign moves to GiveSendGo

Between January 26 and February 4, 2022, there was a flurry of activity related to the Freedom Convoy 2022 crowdfunding campaign. Over the course of those 10 days, GoFundMe suspended and then removed the Freedom Convoy fundraiser from its platform; the convoy organizers incorporated a not-for-profit corporation to better manage the funds; TD froze two bank accounts controlled by Ms. Lich and Chris Barber (another convoy organizer); and a new fundraiser was created on GiveSendGo. The result was even greater notoriety for the GiveSendGo campaign, both from potential donors as well as those seeking to prevent the protesters from accessing this money.

5.1 GoFundMe's continuing concerns and the suspension of the fundraiser

In between GoFundMe's decision on January 27, 2022 to release CAD\$1 million to Ms. Lich and the money arriving on February 2, GoFundMe continued to communicate with Ms. Lich's fundraising committee. On January 28, this committee asked GoFundMe about how to have additional funds released. GoFundMe responded that they needed information on how much the organizers were requesting and how many trucker expenses they anticipated reimbursing. GoFundMe also inquired as to whether the organizers intended to create a separate bank account for donations. In a subsequent series of emails sent that day, organizers mentioned that they were

considering setting up a separate bank account to handle donations, and that they were now working with an accountant. That accountant was Chad Eros.

Chad Eros is a chartered professional accountant from Saskatchewan and a friend of Chris Garrah. When Mr. Garrah learned that members of the Freedom Convoy's finance committee were having difficulties with GoFundMe, he referred them to Mr. Eros. After speaking with the committee, Mr. Eros agreed to help them.

By this point, GoFundMe was concerned with more than simply ensuring that the Freedom Convoy 2022 fundraiser organizers would comply with the campaign's description. It also began to also have concerns that the campaign could violate GoFundMe's terms of service, which prohibit the explicit or implicit purpose of promoting hate, violence, discrimination, and the violation of any law. GoFundMe enforces these terms of service through its Trust and Safety Team, which monitors both on- and off-platform activities by campaign organizers and beneficiaries. The Trust and Safety team had been involved in monitoring the Freedom Convoy 2022 campaign, and when protesters began to arrive in Ottawa, it heard conflicting reports about their conduct. Some media characterized protester activities as involving harassment and violence, while others depicted them as peaceful.

This new concern about the conduct of protesters in Ottawa led GoFundMe to seek new assurances from the organizers — not just that the funds would only be used for the purposes outlined in the campaign's description, but also that no money would go toward individuals engaged in unlawful acts. For example, on January 31, 2022, GoFundMe's VIP team emailed campaign organizers with the following message:

Are you able to confirm that funds raised will only go to reimburse the fuel costs of participants: (1) for their travel to Ottawa (not any other locations or with any other convoys); and (2) who engage in peaceful and lawful protests, i.e., no vandalism of property, no blockades of roads and highways?

We just want to make sure we are still aligned and there isn't anything that may be considered a violation of GoFundMe's Terms of Service.⁸

GoFundMe did not receive a reply to this email. It followed up with another email asking additional questions about how funds had been distributed to date, how further funds would be distributed, whether the organizers had set up a separate bank account for the funds, and whether they intended to make a statement on their fundraising page stating that they did not condone acts or threats of violence. GoFundMe requested a response within 24 hours. GoFundMe's email also informed organizers that they intended to contact local law enforcement in Ottawa:

Lastly, we wanted to let you know that, as is our standard practice in potentially volatile situations like this, we will be reaching out to local law enforcement to obtain information on the individuals suspected of engaging in illegal activity during the protests. We will provide as much information as possible regarding the individuals to you so that you can ensure they do not receive a disbursement of money from your fundraiser. It is very important that funds are only distributed to those who engage in peaceful protesting as our platform cannot be used to fund violence, vandalism, or illegal activities. This is against our Terms of Service.⁹

Campaign organizers responded to this email, copying Chad Eros, stating that Mr. Eros was in the best position to answer GoFundMe's questions. GoFundMe responded later in the day, asking Mr. Eros to provide information on the number of convoy participants who had been reimbursed to date, the sum of funds that had been reimbursed, and the amount that organizers were requesting be released by GoFundMe. GoFundMe did not get an immediate reply.

⁸ Email from GoFundMe to Campaign Organizers, January 31, 2022, 12:46 p.m., GFM00000106.

⁹ Email from GoFundMe to Campaign Organizers, February 1, 2022, 11:55 a.m., GFM00000106.

On February 1, 2022, GoFundMe’s Trust and Safety team emailed the Ottawa Police Service (OPS) to establish a line of communication. It asked the OPS for information on individuals that the OPS suspected had engaged in criminal activities. GoFundMe indicated that it was seeking this information so it could work with the campaign organizers to ensure that funds did not support those individuals. The police acknowledged receipt of the email a few minutes later.

On February 2, 2022, GoFundMe senior management decided to suspend the Freedom Convoy 2022 campaign pending a further investigation. This decision was based on concerns about the lack of substantive responses from the fundraising committee to GoFundMe’s requests for information and assurance. During this suspension, the campaign remained visible on the GoFundMe website, but had a banner indicating that the campaign was under review. Donations to and withdrawals from the campaign were disabled.

The campaign organizers were notified of GoFundMe’s decision on February 2 by email. GoFundMe indicated that the suspension was due to reports:

of potentially unlawful activities by protesters in Ottawa and nonresponse to our multiple requests for assurance that no funds raised on GoFundMe have been or will be transmitted to individuals suspected of acting unlawfully.¹⁰

5.2 The creation of the Freedom Corporation and the parallel fundraiser on GiveSendGo

Before the GoFundMe campaign was suspended, Chad Eros had been working to correct what he perceived to be issues with the fundraiser’s initial set-up. One of the most significant issues, from his perspective, was that donations were set to go to

¹⁰ Email from GoFundMe to Campaign Organizers, February 2, 2022, 1:29 p.m., GFM00000160.

Ms. Lich's personal bank account. When GoFundMe told the finance committee that it would release CAD\$1 million, Mr. Eros expressed concern about the optics of one individual receiving the money. He advised that it would be better if the money was directed to a more suitable entity, such as a non-profit corporation.

To this end, on January 30, 2022, Mr. Eros met with Ms. Lich, lawyer Jeffrey Rath, Russell Hiebert (a former British Columbia MP), and Sandy Sable (an individual associated with anti-lockdown / vaccine mandate group Take Action Canada). During that meeting, Mr. Eros discussed the creation of a non-profit corporation to manage the money. Mr. Hiebert offered, both in the meeting and a follow-up email, to contact a law firm he knew that could set up such a company within a week. Mr. Eros believed that this was too long to wait, and later in the day he incorporated the Freedom 2022 Human Rights and Freedoms Non-Profit Corporation (the Freedom Corporation) under the *Canada Not-for-profit Corporations Act*. The initial directors of the Freedom Corporation were Chad Eros and Chris Garrah. The purpose of the Freedom Corporation, as stated in its Articles of Incorporation, was:

Advocacy against government, agents of government and any other organization person or individuals' actions, laws policies and practices that violate human rights and freedoms paying special attention to creation of class systems through mandates, social credit systems (rewards and punishments for government compliance), passport systems and more.¹¹

Mr. Eros informed Ms. Lich, Mr. Hiebert, Ms. Sable, and Mr. Barber that he had created the Freedom Corporation and offered it to be used as the recipient of donated funds. He suggested that money received by Ms. Lich be transferred to the Corporation. He also suggested ways to deal with GoFundMe and how to appropriately manage and spend donated funds. The convoy organizers agreed to use the Freedom Corporation,

¹¹ Certificate of Incorporation and Articles of Incorporation for Freedom 2022 Human Rights and Freedoms, GFM00000124.

and Tamara Lich, Benjamin Dichter, Sean Tiessen, Chris Barber, and Miranda Gasior were subsequently added as directors.

Meanwhile, a different group of people were attempting to move the Freedom Convoy fundraiser from GoFundMe to a different platform. This process was initiated by two men associated with an American social media platform called CloutHub: founder Jeff Brain and investor and supporter John Ballard. CloutHub did not ultimately play a significant role in the Freedom Convoy; however, their early involvement helped to move the Freedom Convoy 2022 fundraiser from GoFundMe to GiveSendGo.

On January 26, 2022, John Ballard contacted Jacob Wells, Co-Founder of GiveSendGo. Mr. Ballard told Mr. Wells that he knew of the Freedom Convoy GoFundMe campaign and suggested they work together to move it to GiveSendGo in case GoFundMe shut down the campaign.

Mr. Ballard contacted Mr. Eros to arrange a call for January 31 with himself and a representative of GiveSendGo to discuss starting a fundraiser on that platform. On January 30, Mr. Eros received a call from James Peloso, who was associated with Taking Back Our Freedoms, a Canadian organization opposed to vaccine mandates. Mr. Peloso indicated that he should be involved in fundraising calls, as he had major donors who would not contribute to the fundraiser unless Mr. Peloso was on the “inside.”

On January 31, Mr. Brain, Mr. Ballard, Mr. Wells, Mr. Eros, and Mr. Peloso shared a conference call in which Mr. Ballard described how campaign organizers could create a new crowdfunding campaign on GiveSendGo, using CloutHub to host the convoy’s web presence. Mr. Ballard suggested that organizers could use CloutHub’s secure network to communicate with each other confidentially. Mr. Brain offered Mr. Eros \$250,000 in operational funding pending the organizers’ ability to get access to donated funds.

Despite Mr. Ballard's offer, neither Mr. Eros nor the other organizers were convinced to use CloutHub or accept Mr. Brain's offer of funding. Indeed, Mr. Eros found the involvement of Mr. Brain, Mr. Ballard, and Mr. Peloso in the call confusing as the meeting focused on GiveSendGo, not CloutHub, and Mr. Peloso had no prior involvement with the finance committee. The meeting was, however, significant in that it put Mr. Eros in contact with Mr. Wells. Mr. Eros agreed to work with Mr. Wells to start a fundraising campaign on GiveSendGo while the finance committee continued negotiating with GoFundMe for access to more funds.

There was, however, a serious problem with establishing a live campaign on GiveSendGo. To create a fundraiser on GiveSendGo, a person needs an account with Stripe and to have an account with Stripe, a person needs a bank account. At that time, the Freedom Corporation did not have a bank account. Shortly after Mr. Eros created the Freedom Corporation, he approached TD to open an account, but the bank rejected the application. After failing with TD, the Freedom Corporation approached Steinbach Credit Union, which agreed to open an account. However, shortly after this was done, the credit union closed the account with little warning to the organizers.

The absence of a bank account in the Freedom Corporation's name was a serious roadblock to setting up the GiveSendGo campaign. Jacob Wells proposed a temporary solution: While the Freedom Corporation worked to establish a bank account, Mr. Wells would connect the Freedom Convoy campaign to his Stripe account, which was in turn connected to his personal bank account. Once the Freedom Corporation had a bank account, Mr. Wells would switch the fundraiser over to the Corporation's account and transfer any funds that had been raised in the interim. Mr. Eros agreed to this plan, and on January 31, 2022, the GiveSendGo Freedom Convoy 2022 campaign went live.

At this time, the GoFundMe campaign was still active, though the organizers had yet to receive the approved CAD\$1 million payout, and GoFundMe was asking new

questions of the finance committee. In response, Mr. Eros turned his attention back to GoFundMe, while the still-obscure GiveSendGo campaign slowly raised funds.

5.3 The removal of the GoFundMe campaign and the transition to GiveSendGo

On February 2, 2022, the same day that GoFundMe suspended the Freedom Convoy 2022 campaign, members of GoFundMe’s Trust and Safety team had a call with then Deputy Chief Steve Bell of the Ottawa Police Service. During this call, Deputy Chief Bell told GoFundMe that the Ottawa protests involved residents being harassed, and that there were concerns for the safety and livability for the people of Ottawa. The next day, three representatives of GoFundMe, including its General Counsel, spoke by video with Ottawa Mayor Jim Watson and City Solicitor David White. The mayor discussed the situation in Ottawa and may have identified individuals associated with the protests as being responsible for acts of violence. The mayor expressed concern about the possibility of GoFundMe releasing additional funds.

As I already noted, when GoFundMe informed the campaign organizers on February 2 of its decision to suspend their campaign, it asked them to respond to a series of questions posed the previous day. These questions included how much of the initial CAD\$1 million had been distributed to participants, whether the organizers would reimburse participants for anything other than fuel costs, whether the organizers still sought to have the funds transferred to Ms. Lich’s personal account, and whether they had identified the organization(s) to which they might donate any excess funds. GoFundMe also asked the organizers to confirm that money would only go to individuals involved in “peaceful and lawful protests” and to update the campaign description to reiterate that protests should remain peaceful. The response to these requests ultimately came on February 3 from Keith Wilson, a lawyer who was acting as counsel for the Freedom Corporation. Mr. Wilson wrote that the organizers’ “intention is not to reimburse those committing unlawful or criminal acts.” His letter to GoFundMe also stated:

The intention [of the organizers] is to transfer the [already released] funds to the Convoy Corp so proper disbursement and accounting is completed.

We have recommended to the Committee that the monies received today be treated by the Committee as trust funds to be transferred to the Freedom 2022 bank account for disbursement in accordance with the posted objects. This will ensure provision of proper bookkeeping, accounting and legal oversight of the disbursement of funds.

...

The Committee is not requesting a further release at this time as the Committee continues to complete the establishment of the banking arrangements for Convoy Corp. The Committee and its accountant anticipate that the process will be completed in the next 24 hours. Once we provide you with confirmation that this has occurred, the Committee requests that the full balance is transferred to the Convoy Corp bank account.¹²

A call was also arranged to take place on February 3 involving representatives of GoFundMe, Ms. Lich, Mr. Wilson, Mr. Eros, and a number of others associated with the Freedom Corporation. Mr. Eros provided information to GoFundMe about how he intended to structure the financial operations of the Freedom Corporation.

GoFundMe was not satisfied by the information that it received. Senior management had particular concerns about the organizers' ability to implement their pledge not to disburse funds to individuals who were involved in illegal activities. The next day, in a second phone call between Deputy Chief Bell and representatives of GoFundMe, Deputy Chief Bell said that that the situation was escalating and that acts of violence

¹² Letter from Keith Wilson to GoFundMe, February 3, 2022, GFM00000131, pp. 2 and 3.

were taking place. Throughout this time, GoFundMe employees were also receiving harassing messages from members of the public, due to its decision to pause the Freedom Convoy 2022 campaign. On February 4, GoFundMe's Trust and Safety Team identified a man who was using his social media accounts to encourage this harassment and based on available information, they formed the view that this individual was an associate of Ms. Lich. On February 4, GoFundMe decided to remove the Freedom Convoy 2022 fundraiser from its platform.

Until this point the GiveSendGo Freedom Convoy 2022 campaign had been relatively inactive. The announcement of the GoFundMe campaign closure changed that significantly, and media reporting on GoFundMe's decision attracted considerable public attention. Convoy organizers, including Ms. Lich, used their social media accounts to direct people to the GiveSendGo campaign and donations quickly increased.

5.4 TD places a hold on the funds

Although GoFundMe removed the Freedom Convoy 2022 campaign from its website, it had already released CAD\$1 million to Ms. Lich. She had also been running a successful email money transfer campaign through social media, which accumulated more than CAD\$400,000. The bank, however, took steps to ensure that neither Ms. Lich nor the other convoy organizers were ever able to access most of this money.

TD, as part of its ordinary business practices, monitors public source media for information about events that could impact its business. Unsurprisingly, TD became aware of media reports regarding the Freedom Convoy, Ms. Lich's involvement in it, and the GoFundMe campaign. TD was also aware that Ms. Lich was one of its customers and could have been using her accounts as part of the fundraiser.

On January 28, 2022, a TD branch manager attempted to contact Ms. Lich by phone to discuss the status of her accounts. She also sent Ms. Lich an email later that day indicating that TD understood that Ms. Lich was "receiving charitable donations

via email money transfers.” Ms. Lich did not immediately respond to TD, and further attempts by the bank to speak with her in late January were unsuccessful.

On February 1, 2022, Chris Barber was added as a second account holder on the account Ms. Lich was using to receive both email money transfers and GoFundMe donations. On the same day, Ms. Lich and Mr. Barber opened a second joint account with TD. I refer to these as the “First” and “Second TD Account,” respectively. On February 3 — one day after the CAD\$1 million was deposited into the First TD Account — TD emailed both Ms. Lich and Mr. Barber separately with an identical email:

As we continue to be unable to reach you, we are further writing to request that you contact [a TD representative] with regard to your account.

We noticed that the funds you have received via Go Fund Me were recently deposited into your personal account. We need to speak with you to discuss specific account requirements for funds that have been collected in trust for beneficiaries.

In the meantime, we have placed a temporary hold on these funds (\$1,000,000.00) and we would like the opportunity to speak with you about these requirements.

Please contact us at your earliest convenience. I am in office each day from 9am – 5pmEST.¹³

On the same day, TD became aware of a large transfer of funds from the First TD Account to the Second TD Account. On February 4, 2022, TD also placed a hold on the Second TD Account.

¹³ Email from TD to Tamara Lich, February 3, 2022, 11:12 a.m., Application Record of the Toronto-Dominion Bank, TDB00000004, p. 221.

On February 5, Ms. Lich initiated a wire transfer to Northern Air Charter from an Ottawa TD branch. This was an attempt by Ms. Lich to pay for a private jet that had brought several individuals to Ottawa, including Keith Wilson, Chad Eros, and her husband, Dwayne Lich. This transaction was denied. Chris Garrah eventually paid the bill with money raised through Adopt-A-Trucker. After Ms. Lich's wire transfer was declined, she left a voicemail message with TD, inquiring about the hold placed on her account. Ms. Lich indicated that another individual was assisting with finances related to her accounts. TD spoke with Ms. Lich on February 6 and 10. TD was not satisfied with the discussions, so on February 10, TD implemented a freeze on both the First and Second TD Accounts. By the time the freeze was put in place on these accounts, Ms. Lich and Mr. Barber had only accessed CAD\$26,000.

6. Cryptocurrencies

In addition to more traditional forms of fundraising, several cryptocurrency-based fundraisers existed to support protesters. It is unclear whether these efforts had a significant impact on funding the protests. However, what the Commission learned from the cryptocurrency campaigns sheds light on how these novel digital tokens could impact future fundraising efforts.

The Commission is aware of three different campaigns that attempted to raise money through cryptocurrencies, though there could have been others. I have already discussed Chris Garrah's Adopt-A-Trucker project. When "Serge" set up its website, he included six addresses for digital wallets, each of which could hold a different cryptocurrency: Bitcoin, Ethereum, Litecoin, Cardano, Monera, and Ethereum Classic.

The second campaign involved a cryptocurrency that was created in connection with the protests. In a Facebook Live event on February 13, 2022, Pat King, another protest leader, announced a new cryptocurrency called the Freedom Convoy Token (FCT). A webpage launched for FCT instructed individuals to first purchase a different, more established cryptocurrency called BNB and then exchange it for FCT using a platform

called PancakeSwap. The FCT website also indicated that four percent of every FCT transaction would be taxed and sent to an entity called the Freedom Convoy Foundation. The FCT fundraiser, therefore, was designed to generate funds in two ways: from the sale of FCT for the established BNB, and with the creation of a long-term stream of cryptocurrency if FCT became a frequently used token. It appears that the launch of FCT had only limited success, and the Commission heard no evidence on the status, or even existence, of the Freedom Convoy Foundation.

The third cryptocurrency campaign was the most successful. Around January 27, 2022, Ottawa resident Nicholas St. Louis started a Bitcoin fundraising campaign called “Honk Honk Hodl.” The campaign was primarily hosted on Tallycoin, a Bitcoin crowdfunding platform that allows individuals to donate small amounts of Bitcoin at no cost. Court documents suggest that several individuals were associated with Mr. St. Louis in running this fundraiser, including Benjamin Dichter, Benjamin Perrin, Jeff Booth, Greg Foss, Francis Pouliot, and an individual using a Twitter account with the name “@JWWweatherman_”.

On February 12, 2022, a website associated with Mr. St. Louis reported that he was working with the directors of the Freedom Corporation to move donated funds to a “multisig” wallet, where they would be held until distributed to truckers. A multisig wallet is a digital wallet that requires a minimum number of electronic “signatures” to authorize any transfer of Bitcoin out of it. This mechanism provides a measure of control and oversight over cryptocurrency contained in the wallet. When different individuals hold the necessary signatures to access the wallet, no one person can unilaterally move tokens out of it. Like a trust that requires the agreement of more than one trustee to spend funds, a multisig wallet can help to ensure that donations are not misappropriated or squandered. As of March 2022, Mr. St. Louis had access to at least two signatures, and Benjamin Dichter had access to at least one signature. Since three signatures were required to access the multisig wallet, Mr. St. Louis and Mr. Dichter had joint control over the donated Bitcoin.

Honk Honk Hodl was highly successful. At its peak, sometime around February 14, 2022, it raised nearly 21 Bitcoin, which was at the time worth more than CAD\$1 million. Once it reached this level, Mr. St. Louis closed the Tallycoin fundraiser.

7. Ongoing barriers to accessing money: banks, payment processors, and the courts

Following the removal of the Freedom Convoy 2022 campaign from GoFundMe, the newly created GiveSendGo campaign became the focus of fundraising for the protesters. On February 4, 2022, Jacob Wells gave Chad Eros administrator privileges to the Freedom Convoy 2022's GiveSendGo page. However, the campaign remained connected to Mr. Wells' Stripe account. Stripe became aware that Mr. Wells had used an account in his name to collect funds for the Freedom Convoy 2022 campaign and requested assurances that the intended recipients of the funds would receive them.

On or about February 7, 2022, two important events occurred in relation to the GiveSendGo fundraiser. First, approximately USD\$4.9 million was transferred into Mr. Wells' personal bank account. Mr. Wells indicated that this disbursement occurred automatically and that he was surprised when he saw the funds in his account. Second, the fundraiser was switched from Mr. Wells' Stripe account to one created by Mr. Eros. According to Mr. Eros, Mr. Wells had repeatedly asked him to create his own Stripe account so that Mr. Wells did not have to continue using his own account for the campaign. Mr. Eros, who still could not get a financial institution to open an account for the Freedom Corporation, asked lawyers with the Justice Centre for Constitutional Freedoms (JCCF) whether one of them could use their trust account to receive funds. Keith Wilson agreed to do so and entered into a retainer agreement with Mr. Eros for that purpose. Sometime between February 6 and 7, Mr. Wells helped Mr. Eros create his own Stripe account, which was connected to Mr. Wilson's trust account. Starting on that date, donations to the GiveSendGo campaign began to accumulate in the Stripe account of Mr. Eros, not that of Mr. Wells.

On February 8, Stripe followed up on its discussions with Mr. Wells about his involvement in the Freedom Convoy 2022 campaign. Stripe asked Mr. Wells to provide a copy of the agreement between himself and the Freedom Convoy 2022 campaign organizers showing that Mr. Wells was authorized to collect funds on their behalf. Stripe also asked what measures GiveSendGo was taking to ensure that funds from the campaign would not be used to promote or support violence or other unlawful activity. Mr. Wells replied on February 9, indicating that he would respond shortly. On that same day, Mr. Wells emailed Chad Eros a document entitled “Authorization to Fundraise.” The purpose of this document was to formalize the agreement Mr. Wells reached with the campaign organizers on January 31 to collect funds while the organizers were setting up the Freedom Corporation’s bank account. The Authorization to Fundraise was eventually signed by Chad Eros, Tamara Lich, and Jacob Wells, and was dated February 9, 2022.¹⁴

While Mr. Wells was formalizing his agreement with Mr. Eros and Ms. Lich, Mr. Eros was encountering difficulties with his own Stripe account. On February 8, he was notified by Stripe that they had put a pause on his account. As a result of the pause, Mr. Eros reached out to Mr. Wells, and Mr. Wells re-connected the Freedom Convoy 2022 fundraiser to his own Stripe account. Mr. Wells recalls this occurring on February 10, while Mr. Eros believes that it was February 11. Throughout this period of time, the only funds released from the Freedom Convoy 2022 campaign on GiveSendGo went to Mr. Wells. There was, however, one abortive attempt to move money out of Mr. Wells’ bank account. Mr. Wells was in the process of transferring over \$3 million when Mr. Wilson sent a message through Mr. Eros on February 10 for Mr. Wells to terminate the transfer. He cancelled the transfer and the money was not moved.

¹⁴ Authorization to Fundraise, dated February 9, 2022, Exhibit C to the Affidavit of Chad Eros, dated March 8, 2022, Motion Record of the *Mareva* Respondents, March 8, 2022, HRF00001357, p. 138.

Mr. Wilson may have aborted the wire transfer on February 10, 2022, because of an application brought by the Attorney General of Ontario in the Ontario Superior Court of Justice that same day for a “restraint order” under section 490.8 of the Criminal Code regarding the money raised on GiveSendGo. The premise of the application was that the money being raised by both the Freedom Convoy and the Adopt-A-Trucker campaigns met the legal definition of “offence-related property.” This definition includes “any property, within or outside Canada... that is used in any manner in connection with the commission of [an indictable offence].”¹⁵ Offences such as mischief to property, which were allegedly being committed in Ottawa, are indictable offences, and the funds being raised on GiveSendGo were believed to be supporting those activities. The Court granted the application and ordered that all persons — including GiveSendGo, Stripe, Chris Garrah, and the Freedom Corporation — were prohibited from disposing of, or otherwise dealing with, in any manner whatsoever, any interest in the Freedom Convoy 2022 or Adopt-A-Trucker money.¹⁶

The effects of this order were quickly felt. On February 11, Stripe notified Chris Garrah that it was “pausing charges and payouts for the Canadian Adopt-A-Trucker campaign”¹⁷ due to the restraint order. Stripe sent a similar notification to Jacob Wells. Mr. Wells responded, “Thanks for reaching out about this. Not a problem. We will move this campaign over to our alternative payment solution.”¹⁸ Mr. Wells then moved the Adopt-A-Trucker campaign from Stripe to GiveSendGo’s alternative payment processor, RallyPay. The Adopt-A-Trucker campaign on GiveSendGo continued to accept payments in USD. However, Mr. Garrah’s bank, RBC, had also been served with a copy of the restraint order and froze access to his accounts.

The impact on the Freedom Convoy 2022 campaign was more complicated, in part because Stripe believed there was a distinct U.S.-based fundraiser that was beyond the jurisdiction of the Ontario court order. The confusion about the Freedom Convoy

¹⁵ *Criminal Code of Canada*, R.S.C. 1985, c. C-46, s. 2, s.v. “offence-related property”.

¹⁶ Restraint Order, February 10, 2022, STR00000009.

¹⁷ Message from Stripe to Chris Garrah, February 11, 2022, 11:04 a.m., STR00000060.

¹⁸ Message from Jacob Wells to Stripe, February 11, 2022, 8:18 p.m., STR00000063.

campaign emerged in a series of communications between Stripe and its Canadian financial institution partners. Starting on February 11, Stripe began receiving inquiries from its partners about how it was responding to the restraint order. It responded that it was suspending payments to and from the Adopt-A-Trucker campaign. HSBC Canada asked whether Stripe had also paused charges and payouts to the Freedom Convoy 2022 campaign. Stripe answered:

We are evaluating with our counsel if we are required to take steps in relation to any accounts in addition to the Canadian Adopt-A-Trucker campaign, given the global nature of protest actions. We note that the “Freedom Convoy 2022” campaign referenced in the Order is a U.S. campaign that is currently being processed with our U.S. financial partners.¹⁹

HSBC Canada responded by stating that “it’s clear that we don’t fully understand how GiveSendGo processes transactions in this scenario” and asked Stripe a series of questions, including:

[U]nder the scenario where the GiveSendGo platform for Freedom Convoy 2022 is based in the USA, does Stripe (and in turn HSBC Bank Canada) play any role in accepting any donations within Canada or payouts within Canada?²⁰

Stripe replied the following day, stating that “Stripe’s Canadian operations do not play any role in accepting donations within Canada or processing payouts within Canada for U.S.-based Freedom Convoy 2022 campaigns on GiveSendGo.”²¹ Stripe had, however, frozen the account belonging to Chad Eros, which had been receiving funds from the Freedom Convoy for at least a few days.

¹⁹ Email from Stripe to HSBC Canada, February 11, 2022, 8:51 p.m., STR00000007.

²⁰ Email from HSBC Canada to Stripe, February 11, 2022, 9:40 p.m., STR00000008.

²¹ Email from Stripe to HSBC Canada, February 12, 2022, 5:20 a.m., STR00000011.

Stripe continued to process donations to the Freedom Convoy fundraiser, which had been re-connected to Mr. Wells' account, but only because of assurances from Mr. Wells that GiveSendGo would comply with applicable Canadian laws. On February 15, Stripe contacted GiveSendGo to follow up on its February 9 request for a copy of the agreement between Jacob Wells and the Freedom Convoy 2022 campaign organizers. Stripe also requested a call to discuss GiveSendGo's plans to distribute funds in light of the invocation of the *Emergencies Act*, which had been invoked on February 14, 2022. Mr. Wells responded, apologizing for not yet sending a copy of the agreement over and agreed to a call. After the call, which took place on February 16, Stripe sent GiveSendGo a message that stated in part:

We understand that you only plan to distribute the funds in a manner compliant with Canadian law. Please provide (i) a confirmation that you will not make any disbursements unless it is legal to do so and (ii) detail other plans GSG has to comply with the Emergency Order.²²

Mr. Wells responded:

...I can confirm that I will not disburse any funds that I am holding until there is a legal plan in place for them to be disbursed under Canadian Law.

We are also in receipt of the Emergency Order you provided and are still assessing what requirements it will obligate us to. I will respond quickly as I can to that question once I have received word from our legal team.²³

Stripe asked GiveSendGo to update its donation page to confirm that it would only distribute funds in a manner permitted under Canadian law and to disclose to donors

²² Message from Stripe to GiveSendGo, February 16, 2022, 3:41 a.m., STR00000073.

²³ Message from GiveSendGo to Stripe, February 16, 2022, 6:46 p.m., STR00000073.

that restrictions were in place that could impede the ability of GiveSendGo to disburse funds. Stripe indicated that if these steps were not taken by 2 p.m. on February 17, it would pause the account. Mr. Wells responded:

Hi,

Campaign update has been posted as follows:

***Funds from this campaign will be disbursed in a manner permitted under Canadian Law and ***There are current restrictions in place that might impede the immediate ability to disburse funds to this recipient.²⁴

With this reassurance, Stripe continued to process payments made to the fundraiser.

Meanwhile, TD, which had already frozen the accounts controlled by Tamara Lich and Chris Barber, took steps to have the money in those accounts placed into the hands of the Ontario Superior Court of Justice. On February 14, it brought an application to the Court for what is known as an “interpleader,” which is an order to pay funds into the court so that they can be held in trust. It brought the application on the basis that the money being held in the two TD accounts did not belong to Ms. Lich or Mr. Barber, but rather was owned by unknown third parties: namely, the beneficiaries of the crowdfunding and email money transfer campaigns. TD’s position was that, due to the terms of the fundraising campaigns, the money belonged to “the truckers,” but it had no way of identifying who “the truckers” were. Since the First and Second TD accounts were not supposed to be used to hold funds like this, TD wished to have the money paid into court until the proper owners of the money could be determined.

A second important legal proceeding occurred on February 17. In early February, a class action was commenced by Ottawa resident Zexi Li against a number of individuals associated with the Ottawa protests and fundraising, including Chris

²⁴ Message from GiveSendGo to Stripe, February 17, 2022, 4:38 p.m., STR00000073.

Barber, Benjamin Dichter, Tamara Lich, and Patrick King. In mid-February, Ms. Li added Chad Eros, Chris Garrah, Nicholas St. Louis, and the Freedom Corporation as additional defendants. On February 17, Ms. Li obtained what is known as a *Mareva* injunction. This is a court order that is brought as part of a civil lawsuit and designed to preserve a defendant's assets pending the outcome of the case. These orders generally prohibit defendants and others from dealing in any way with certain specified property. The ultimate purpose of a *Mareva* injunction is to ensure that, if a defendant is ordered to pay damages, their money will be available.

In the case of the order obtained in the Ottawa class action, the court prohibited the defendants from dealing in any way with a range of assets. This included all assets of the Freedom Corporation, all funds held in the bank accounts belonging to Chris Garrah and Tamara Lich that were used to receive donations, and any cryptocurrencies controlled by Chris Garrah, Nicholas St. Louis, or Benjamin Dichter, or which were held in a number of listed digital wallets, as well as any account of Mr. King associated with Freedom Convoy Token.²⁵

The result of these actions was a web of overlapping barriers preventing protest organizers from accessing donations. Chris Garrah's RBC account and Stripe account had been frozen because of the restraint and *Mareva* orders, and while he may not have controlled any of the Adopt-A-Trucker cryptocurrencies, the *Mareva* injunction applied to the wallets that appeared on the website. Ms. Lich's TD accounts were frozen because of TD's own actions, as well as the restraint and *Mareva* orders. Chad Eros' Stripe account was frozen because of the restraint order, and while Jacob Wells could continue to raise money for the Freedom Convoy, he had promised Stripe that he would respect Canadian law. In any event, Mr. Wells had no place to send the money. The Freedom Corporation still did not have a bank account, the accounts associated with the fundraiser were frozen, and Mr. Wilson had cancelled the transfer of funds into his trust account. The order even purported to freeze cryptocurrency

²⁵ Order, February 17, 2022, JCF00000092.

assets controlled by Mr. St. Louis, Mr. Dichter, Mr. Garrah, and Mr. King, though for reasons related to the nature of cryptocurrencies, this aspect of the order was more difficult to enforce.

On February 28, 2022, the terms of the *Mareva* injunction were varied to appoint an escrow agent. The escrow agent was mandated to receive the specific funds targeted by the *Mareva* order, such as funds in Chris Garrah’s bank account, so that the accounts themselves could be unfrozen. The funds held in the First TD Account and Second TD Account, which were the subject of TD’s interpleader application, were subsequently also transferred to the escrow agent, as were at least some of the cryptocurrencies identified in the *Mareva* order.

8. Where did the money come from?

One of the issues that I was asked to address in my mandate was “the impact of domestic and foreign funding, including crowdsourcing platforms.” The Commission sought information from a range of sources to determine the origin of donations made to the fundraising campaigns discussed in this chapter. In doing so, the Commission’s objective was not to identify individual donors, but rather to ascertain general information. Although the Commission could not obtain comprehensive information — particularly with respect to cryptocurrency donations — it gained significant insight on the sources of funding.

According to information provided by GoFundMe, the Freedom Convoy 2022 campaign hosted on that platform had 133,836 donors. Approximately 107,000 donations originated in Canada (86%). Approximately 14,000 originated in the United States of America (11%). Approximately 4,000 originated from 80 other countries (3%). According to GoFundMe, the campaign raised approximately CAD\$10.06 million before it was shut down. CAD\$9 million originated from Canada (89%), CAD\$870,000 originated from the United States of America (9%) and CAD\$190,000 originated from 80 other countries (2%). Stripe reported different figures with respect to the total

value of the fundraiser, telling the Commission that Ms. Lich's Stripe account received CAD\$10,737,582.11 in donations.

According to records obtained from TD, approximately 3,000 email money transfers were made to the email addresses associated with the Freedom Convoy 2022 campaign and deposited into the First TD Account. The total amount of money deposited by email money transfer was CAD\$419,416.63. These donations all originated from Canadian domiciled financial institutions.

According to information provided by GiveSendGo, the Adopt-A-Trucker campaign had 8,380 donors. There were 3,640 donations that originated in Canada (43%), 4,293 from the United States of America (51%), and 447 from other countries (5%). A total of USD\$591,789.18 was donated to the Adopt-A-Trucker campaign. USD\$327,843.13 originated in Canada (55%), USD\$244,526.10 from the United States of America (41%), and USD\$19,419.95 from other countries (3%).

Documents from RBC showed that, between February 7 and 11, Chris Garrah received 170 email money transfers worth CAD\$31,067.

According to information provided by GiveSendGo, the Freedom Convoy 2022 campaign hosted on that platform had 113,152 donors. Of those, 39,498 donations originated in Canada (35%), 67,264 from the United States of America (59%), and 6,390 from other countries (6%). A total of USD\$9,776,559.50 was donated to this campaign. USD\$4,627,660.00 originated in Canada (47%). USD\$4,593,686.50 originated in the United States of America (47%). USD\$555,213.00 originated in other countries (6%).

The Honk Honk Hodl fundraiser raised approximately 21 Bitcoin on TallyCoin before it was shut down. According to RCMP documents, the Adopt-A-Trucker cryptocurrency campaign raised approximately USD\$6,040 (or CAD\$7,685.90) as of February 15, 2022.

While the Freedom Corporation did not receive any of these crowdfunding monies, it did receive a direct deposit donation of CAD\$10,000 to its account with the Steinbach Credit Union. When the account was closed, the credit union sent a bank draft in the name of the Freedom Corporation to Chris Garrah.

What the information from these institutions does not capture was the role that cash played in the protests. Outside of these centralized attempts to raise money, the protests themselves organically produced donation networks. While likely not reaching into the millions of dollars like the crowdfunding or cryptocurrency campaigns, cash donations amounting to tens of thousands of dollars got into the hands of protesters.

The Commission heard evidence that, during the Ottawa protests, there were many locations where individuals could drop off donations. For example, a table where free food was being distributed could have been a place where someone might drop off a donation to help defray the costs of people distributing food. There were many such places through the protest area, and the Commission could not assess the scale of the overall cash donations. However, the Commission did hear some specific evidence on particular cash transactions. According to Chad Eros, an unknown person placed a water jug next to the main stage on Wellington Street, which was being used by the protesters for speeches and entertainment, and placed a sign soliciting cash donations for Adopt-A-Trucker. Mr. Garrah does not know who did this and was not involved in approving it. Nevertheless, the cash donations that were dropped off there made their way to the Swiss hotel where both Mr. Garrah and Mr. Eros were staying. Unsure what to do with the money, Mr. Eros decided to document the amounts that were collected and create a system for distribution to truckers.

Keith Wilson testified that that he recalled these donations starting to come in following the Attorney General of Ontario obtaining a restraint order against the funds raised on GiveSendGo. Mr. Eros estimated that these donations could reach up to CAD\$20,000 per day. Mr. Wilson did not give an estimate of the amounts raised.

Brigitte Belton, another convoy organizer, testified that envelopes of cash were also distributed to truckers by the group that was based out of the ARC hotel. In this case, the envelopes contained \$2,000 each. She indicated that she was involved in one or two rounds of distributions, although she did not provide an estimate of the total amount distributed, nor did she indicate the specific source of the funds.

9. Where did the money go?

Between the various court orders and the actions described throughout this chapter, a significant amount of the money was returned to donors or was paid into escrow as part of the Ottawa class action proceeding, and its related *Mareva* injunction. Much of the money that made it into the hands of protesters came through donations of cash and cryptocurrencies.

9.1 Donations to the original Freedom Convoy 2022 fundraisers

The money raised by Ms. Lich through the original Freedom Convoy 2022 fundraisers ended up in three places. The bulk, raised by GoFundMe but never released, was refunded to the campaign donors. A small quantity of funds was obtained by Ms. Lich and spent on fuel payment as well as other items. The remaining funds were ultimately paid into the escrow account associated with the *Mareva* injunction.

Once GoFundMe decided to remove the Freedom Convoy 2022 fundraiser from its platform, it was faced with the question of what to do with the more than CAD\$9 million that had been donated but not released to Ms. Lich. GoFundMe initially decided to let donors choose whether to receive a refund or to have their donation directed to another charity chosen by the campaign organizers and verified by GoFundMe. They included the second option because the campaign's description already contemplated this for unspent donations. When this refund decision was announced on February 4, some online statements claimed that GoFundMe intended to select the charity itself, or that GoFundMe intended to keep the money. These inaccurate claims quickly led

to an increase in the volume of threatening emails to GoFundMe staff. Due to this reaction, GoFundMe decided on February 4 to abandon the option of allowing people to direct their donations to a different charity. Instead, they would automatically refund all donations made to the Freedom Convoy 2022 campaign. The refund would apply to all donations, even though CAD\$1 million of donor money had already been released. GoFundMe made up the difference. The company announced its new refund policy on February 5 and initiated the refund process with Stripe the same day. As of February 10, 2022, 93% of all donations to the GoFundMe Freedom Convoy 2022 campaign had been refunded. The remaining refunds were either awaiting settlement or — in the case of 144 donations — subject to chargebacks or disputes.

The First TD Account, which was under the joint control of Ms. Lich and Mr. Barber, had received CAD\$1 million from GoFundMe, plus an additional CAD\$419,416.63 through email money transfers. Of these funds, only CAD\$26,000 was ever spent. The remainder was subject to various bank freezes and court orders and was ultimately paid into escrow.

Between January 31 and February 3, when TD placed holds on the funds, there were several transactions involving the First TD Account. On January 31, an email money transfer for CAD\$3,000 was sent from the First TD Account to an individual who appeared to be a security guard in Ottawa. The same day, another email money transfer for CAD\$3,000 was sent from the First TD Account to another TD Account in the name of Tamara Lich. This money was immediately withdrawn as cash at a TD branch in Ottawa. Between January 31 and February 3, four transfers were made from the First to the Second TD Account: CAD\$3,000 on January 31, two CAD\$10,000 transfers on February 1, and CAD\$129,342.03 on February 3.

There were also two transactions involving funds that had been moved into the Second TD Account that took place before they were placed on hold by TD and subsequently frozen by court order. On February 1, there was a CAD\$10,000 cash withdrawal from

the Second TD Account, as well as a separate CAD\$10,000 wire transfer from the Second TD Account to “Fillerup.ca.”

As part of the court proceedings related to the *Mareva* injunction, Ms. Lich filed affidavit evidence with the Ontario Superior Court of Justice. She deposed that, of the CAD\$26,000 that was withdrawn from the First and Second TD Accounts, CAD\$10,000 was payment to a bulk fuel supplier, fillerup.ca; CAD\$3,000 was payment to a bulk fuel supplier in Quebec; and CAD\$13,000 was withdrawn in cash and used for “various purposes.”²⁶

On February 10, when the two TD Accounts were frozen by TD, the First Account had a balance of CAD\$1,261,072.60 and the Second Account had a balance of CAD\$132,334.38. These funds were paid into escrow.

9.2 Donations to the GiveSendGo Freedom Convoy 2022 fundraiser

The story of the donations to the Freedom Convoy 2022 fundraiser on GiveSendGo is somewhat more complicated than that of the GoFundMe donations. This is because different Stripe accounts were connected to the fundraiser at different points in time. Details about funds raised while Jacob Wells’ Stripe account was connected to the campaign were more difficult for the Commission to verify due to Stripe’s position that the information was governed by U.S. privacy laws and that it could not be required to give it to the Commission. However, the Commission did get access to various electronic communications between Stripe, GiveSendGo, and a range of financial institutions that allowed it to draw conclusions about the fate of these funds.

While the fundraiser was connected to the Stripe account in the name of Chad Eros, it received CAD\$3,763,180.40 in donations, funds which were never paid out. Stripe

²⁶ Affidavit of T. Lich, March 28, 2022, para 14, Supplementary Motion Record of the *Mareva* Respondents, HRF00001346, pp. 45 and 46.

turned over CAD\$3,401,844.30 to escrow as part of the *Mareva* injunction. According to Stripe, the discrepancy between the funds that were received and the funds paid into escrow was due to various account actions such as chargebacks or chargeback reversals, as well as various Stripe fees.

Regarding the money donated to the campaign while it was connected to Jacob Wells' Stripe account, the specific figures are more difficult to determine. According to GiveSendGo, the campaign as a whole raised USD\$9,776,559.50. Because Stripe reported donations to Mr. Eros' account in Canadian dollars, it is not simply a matter of subtraction to determine the amounts donated to Mr. Wells' account. Exchange rates change constantly, making it impossible for the Commission to determine the precise value, in both currencies, of the thousands of donations that were made. That said, the evidence indicates that, whatever the specific amount, it was all refunded to donors.

In a series of emails sent between March 6 and 7, 2022, GiveSendGo informed Stripe that it was initiating a refund of donations made to the Freedom Convoy 2022 campaign into Jacob Wells' Stripe account, net of processing fees and amounts that donors had chosen to donate to GiveSendGo as part of their contribution. This did not occur immediately because of the fact that a significant amount of the donations had already been deposited into Mr. Wells' personal bank account and was therefore not available to Stripe to refund. On March 22, Stripe emailed GiveSendGo to inquire whether they had wired a top-up payment into Mr. Wells' Stripe account "with funds already paid out (\$5,561,217.09)."²⁷ I take this figure to represent the money that Stripe had paid out of the Freedom Convoy 2022 fundraiser to Mr. Wells' personal account. In saying this, I note that there is a discrepancy between this figure and the amount that Mr. Wells told Commission counsel that he received (approximately USD\$4.9 million). There are several possible explanations for these different figures. It is unlikely that Mr. Wells was attempting to mislead the Commission on this point. He was candid in admitting

²⁷ Email from Stripe to GiveSendGo, March 22, 2022, 5:57 p.m., STR00000079.

that he personally received millions of dollars of donated funds into his bank account, and the difference between the two figures, while significant, does not suggest any intent to mislead. He could have simply been mistaken about the amount that he received. More likely is that, between February 10 or 11, when the fundraiser was re-connected to his Stripe account, and March 14, when the fundraiser was discontinued by GiveSendGo, Stripe released additional funds into Mr. Wells' account. Given the pace at which the fundraiser received donations, it would not be surprising for an additional USD\$660,000 to have been donated or released.

Mr. Wells replied to Stripe about the required top-up payment later in the day on March 22, indicating that the funds would be wired within the next day or two. On March 23, Mr. Wells confirmed that the wire had been initiated. The next day, Stripe confirmed that it would start the refund process, and that donors would receive their donations back in roughly four to five business days.

Given the contemporaneous communications between Stripe and GiveSendGo, it appears clear that, subject to certain fees and other charges being deducted, the donations made to the GiveSendGo campaign during the periods when it was associated with Mr. Wells' accounts were refunded to donors.

9.3 The Adopt-A-Trucker campaign

The evidence about the Adopt-A-Trucker campaign is also complex due to the fact that, once Stripe notified GiveSendGo of the Attorney General of Ontario's restraint order, GiveSendGo switched the campaign over to the wholly U.S.-based payment processor RallyPay. In his interview with the Commission, Mr. Wells indicated that all funds raised by this campaign and processed by RallyPay were ultimately refunded to donors. However, the Commission did not have the ability to independently verify this information.

The Commission was able to obtain information about the fate of donations made to Adopt-A-Trucker that were processed by Stripe. According to Stripe, it processed

CAD\$793,584.74 in donations to this campaign. It reported that it paid out CAD\$330,470.92 to Mr. Garrah in a series of 18 disbursements between January 24 and February 11, 2022. This figure was confirmed by records from RBC.

Stripe turned over CAD\$375,999.68, raised through the Adopt-A-Trucker campaign, to the escrow agent. Stripe told the Commission that the discrepancy between the amounts retained by Stripe in Mr. Garrah's account and the amount paid into escrow was due to various account actions such as chargebacks or chargeback reversals, and various Stripe fees.

Approximately CAD\$220,000 was withdrawn from Mr. Garrah's RBC account between January 31 and February 11, 2022. This includes approximately CAD\$150,000 in cash withdrawals, bank drafts, and other transfers; CAD\$10,553.44 in payments to the Swiss Hotel; CAD\$2,130.15 in Best Buy purchases; CAD\$1,061.02 in grocery store purchases; and a CAD\$576.30 payment to a sanitation company. Mr. Eros told the Commission that Mr. Garrah paid for the private jet that flew Mr. Eros and others to Ottawa. The RBC account contained CAD\$141,482 when this account's contents were paid into escrow.

9.4 Cryptocurrencies

As discussed earlier, the Commission was aware of at least three cryptocurrency fundraisers associated with the protests in Ottawa: Adopt-A-Trucker, Freedom Convoy Token, and Honk Honk Hodl.

The Adopt-A-Trucker campaign, run on the website operated by the person identified as "Serge" (last name unknown), solicited donations of six different types of cryptocurrencies. According to the RCMP, it raised at least CAD\$7,685.90 in various forms of cryptocurrency. These donations were subject to the *Mareva* order. In a filing from the escrow agent appointed as part of the *Mareva* order, it reported that it interviewed "Serge" (last name unknown) on March 7 and 23, 2022. The escrow

agent also reported that, on March 7, it received the following cryptocurrencies from an individual listed as Respondent A:

- a. Bitcoin: 0.052312520
- b. Ethereum: 0.392300813
- c. Litecoin: 0.047724040
- d. Ethereum Classic: 1.140560130²⁸

These cryptocurrencies were four of the six types that were being solicited by the Adopt-A-Trucker website. It is clear that these cryptocurrencies paid into escrow represented at least some of the proceeds of the fundraiser administered by “Serge” through the Adopt-A-Trucker website. Based on the prevailing exchange rates that existed on March 7, these cryptocurrencies had a combined value of approximately CAD\$3,847.13. This would leave CAD\$3,838.77 unaccounted for. All that I am able to say is that this amount of money was potentially available to the protesters.

The Freedom Convoy Token campaign appears to have largely failed. A webpage launched for FCT explained how individuals would go about purchasing this new token. As I discuss earlier in this chapter, individuals wishing to purchase FCT were directed to buy a different cryptocurrency and exchange it for the new FCT on a platform called PancakeSwap. According to publicly available sources, 77.3% of Freedom Convoy Tokens remain on PancakeSwap. The remaining FCT is held in 702 wallets, with no wallet holding more than five percent of all FCT. This suggests that only a few hundred individuals purchased this cryptocurrency. Only a limited amount of established cryptocurrency went to the proponents of FCT, and there does not appear to be an active market in FCT that would be subject to the four percent “tax” built into

²⁸ First Report of KSV Restructuring Inc. as Escrow Agent, JCF00000096, pp. 5 and 20.

the token. The Commission is not aware of what was done with cryptocurrencies that were used to purchase FCT.

The Honk Honk Hodl campaign represented the most successful of the cryptocurrency fundraisers in terms of getting cryptocurrency into the hands of protesters. On February 16, 2022, 14.4048 of the Bitcoin raised on Tallycoin was distributed into 100 wallets, each containing the equivalent of CAD\$8,019.43 at the prevailing exchange rate at the time. In a February 19 videostream on Twitter Spaces, Nicholas St. Louis announced that, from February 16 to 17, he and another individual had distributed 100 physical envelopes containing instructions on how a person could use their cell phone to access one of 100 unique digital wallets. Mr. St. Louis indicated that approximately 6.18 Bitcoin remained in a multisig wallet for which members of the Freedom Corporation held keys.

Of the 100 wallets that were distributed, 40 were untouched as of early November 2022. The remaining 60 wallets were engaged in some form of currency transfer. The full balances of 24 wallets were transferred to another wallet, where they currently remain, while 14 had their full amounts moved directly or indirectly to an exchange, where they may have been converted into other currencies, such as Canadian dollars.²⁹

On February 28, police executed a search warrant on the home of Nicholas St. Louis and seized four bitcoin wallets, including two passwords for a multisig wallet. I note that, as far as the Commission is aware, Mr. St. Louis has not been charged with any criminal offence, though he is a named defendant in the Ottawa class action. On March 8, Benjamin Dichter provided the escrow agent with a third password for the multisig wallet. On March 9, the Crown provided the escrow agent with the two passwords seized from Mr. St. Louis. The escrow agent reported receiving 5.964053980 Bitcoin on March 9, from an individual referred to as Respondent B. In addition, approximately 1.6 Bitcoin raised as part of the Honk Honk Hodl campaign

²⁹ Kroll Investigative Analysis, COM00000932, pp. 6 and 31 – 34.

was stored on Lightning / On-Chain addresses, which is an alternative method of transferring Bitcoin. Mr. St. Louis deposed that these funds were under the control of Benjamin Perrin. The escrow agent interviewed Mr. Perrin on March 22. The same day, the escrow agent received 1.60797938 Bitcoin from an individual referred to as Respondent C.³⁰

It is clear to me that the cryptocurrencies obtained from Respondents B and C were from Mr. St. Louis (through the police search of his home) and Mr. Perrin, respectively. Together, they provided 7.572033360 Bitcoin into escrow.

The largely undocumented cash donations made during the convoy took place in multiple locations and were, by far, the hardest piece of the protest financing for the Commission to assess. As such, I am not in a position to make any determination on the overall amount of physical currency that was donated or spent as part of the Ottawa protests. However, the Commission's information indicates that at least some of the cash donations were simply given to individual truckers. The cash donations left by the stage on Wellington Street were moved to the Swiss Hotel. Eventually the Adopt-A-Trucker group had to decide what to do with this money, and they decided to give it directly to truckers. Chad Eros took on a leadership role in designing a process whereby money would be placed into numbered envelopes in CAD\$500 amounts. The envelopes were signed out by volunteers who entered the protest area and handed them to individual truckers. The volunteers recorded the names and licence plates of the people who received envelopes and returned to the Swiss Hotel so that the information could be logged. The group kept these records to ensure that the money was accounted for and that truckers did not get multiple envelopes.

According to both Mr. Eros and Ms. Belton, the Swiss Hotel group was not the only one passing out money. Organizers in the ARC Hotel were handing out envelopes containing CAD\$2,000.

³⁰ First Report of KSV Restructuring Inc. as Escrow Agent, JCF00000096, pp. 5 and 20.

The final piece of financing to be addressed was the donation made to the Freedom Corporation's short-lived account with the Steinbach Credit Union. The credit union sent a bank draft in the name of the Corporation to Mr. Garrah. This bank draft was ultimately turned over to the escrow agent.

One thing I have not mentioned yet is the border protests that took place in Windsor, Coutts, Emerson, and other locations across the country. The Commission did not receive any information suggesting that funds raised by the Ottawa protest organizers were sent to any border protests. The Commission's investigation into funding focused on Ottawa, and therefore did not identify mechanisms by which border protests were funded.

Acronyms, Initialisms, and Other Abbreviations



Acronyms, Initialisms, and Other Abbreviations

| Abbreviation | Full Title |
|--------------|---|
| ADM NS Ops | Assistant Deputy Ministers' Committee on National Security Operations |
| APMA | Automotive Parts Manufacturing Association |
| ASI | Advanced Symbolics Inc. |
| BIA | Business Improvement Area |
| BLRS | By-law and Regulatory Services (Ottawa) |
| BOC | Border Operations Centre (CBSA) |
| CACP | Canadian Association of Chiefs of Police |
| CAF | Canadian Armed Forces |
| CBA | Canadian Bankers Association |
| CBSA | Canada Border Services Agency |
| CCLA | Canadian Civil Liberties Association |
| CCMG | Consultative Conflict Management Group |
| CCUA | Canadian Credit Union Association |
| CEA | the <i>Canada Evidence Act</i> |
| Cell (the) | Integrated Planning Cell |
| CIC | Critical Incident Command(er) |
| CIG | Combined Intelligence Group |
| CME | Canadian Manufacturers & Exporters |
| CN Rail | Canadian National Railway |
| CSE | Communications Security Establishment |



Acronyms, Initialisms, and Other Abbreviations

| | |
|---------------------|--|
| CSIS | Canadian Security Intelligence Service |
| <i>CSIS Act</i> | <i>Canadian Security Intelligence Service Act</i> |
| CVOR | Commercial vehicle operator's registration |
| DHS | Department of Homeland Security |
| DLT | Divisional Liaison Team |
| DMOC | Deputy Ministers' Committee on Operational Coordination |
| DND | Department of National Defence |
| DSC | Deputy Secretary to Cabinet |
| <i>EA</i> | <i>Emergencies Act</i> |
| <i>EEMO</i> | <i>Emergency Economic Measures Order</i> |
| <i>EMCPA</i> | <i>Emergency Management and Civil Protection Act</i> |
| <i>EMR</i> | <i>Emergency Measures Regulations</i> |
| EOC | Emergency Operations Centre (Ottawa) |
| EPCRS | Emergency Preparedness and COVID Recovery Secretariat |
| FINTRAC | Financial Transactions and Reports Analysis Centre of Canada |
| FMM | First Ministers' Meeting |
| FPT | federal – provincial – territorial |
| FPT CPPC | Federal, Provincial, and Territorial Crime Prevention and Policing Committee |
| Freedom Corporation | Freedom 2022 Human Rights and Freedoms Non-Profit Corporation |
| GAC | Global Affairs Canada |
| GDP | Gross Domestic Product |



| | |
|--------------------|--|
| GIC | Governor in Council |
| GOC | Government Operations Centre |
| IAS | Intelligence Assessment Secretariat |
| ICS | Incident Command System |
| IGA Secretariat | Intergovernmental Affairs Secretariat |
| IMCIT | Ideologically Motivated Criminal Intelligence Team (RCMP) |
| IMVE | ideologically motivated violent extremism |
| IRG | Incident Response Group |
| ITAC | Integrated Terrorism Assessment Centre |
| JCCF | Justice Centre for Constitutional Freedoms |
| JIG | Joint Intelligence Group |
| MCM | Major Case Management |
| MLA | Member of the Legislative Assembly |
| MOU | memorandum of understanding |
| National Framework | National Framework for Police Preparedness for Demonstrations and Assemblies |
| NCC | National Capital Commission |
| NCR | National Capital Region |
| NCRCC | National Capital Region Command Centre |
| <i>NDA</i> | <i>National Defence Act</i> |
| NSIA | National Security and Intelligence Advisor |
| OCPC | Ontario Civilian Police Commission |
| OPP | Ontario Provincial Police |



Acronyms, Initialisms, and Other Abbreviations

| | |
|----------------|---|
| OPS | Ottawa Police Service |
| OPSB | Ottawa Police Services Board |
| <i>PCMLTFA</i> | <i>Proceeds of Crime (Money Laundering) and Terrorist Financing Act</i> |
| PCO | Privy Council Office |
| PIU | Protective Intelligence Unit (RCMP) |
| PLT | Police Liaison Team (OPS)* |
| PLT | Provincial Liaison Team (OPP)* |
| PMO | Prime Minister's Office |
| POE | Port of Entry |
| POGG power | Peace, Order, and good Government power |
| POU | Public Order Unit |
| PPS | Parliamentary Protective Service |
| PS | Public Safety |
| <i>PSA</i> | <i>Police Services Act</i> |
| PSPC | Public Services and Procurement Canada (department of) |
| RBC | Royal Bank of Canada |
| RCMP | Royal Canadian Mounted Police |
| RE | reporting entity |
| RFA | Request for Assistance |
| SIRA | Strategic Intelligence, Research, and Analytics Unit (FINTRAC) |
| SJAM | Sir John A. Macdonald Parkway |
| SPVG | Service de police de la Ville de Gatineau |
| SQ | Sûreté du Québec |



Report of the Public Inquiry into the 2022 Public Order Emergency

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|------------|---|
| SSE | Safety, Security, and Emergencies (Cabinet Committee) |
| TBOF | Taking Back Our Freedoms |
| TD | Toronto-Dominion Bank |
| TIMG | Traffic Incident Management Group |
| TPS | Toronto Police Service |
| TPSB | Toronto Police Services Board |
| <i>WMA</i> | <i>War Measures Act</i> |
| WPS | Windsor Police Service** |
| WPS | Winnipeg Police Service** |
| WPSB | Windsor Police Services Board |

* PLT can refer to either Police Liaison Team or Provincial Liaison Team, depending on the context.

** WPS can refer to either Windsor Police Service or Winnipeg Police Service, depending on the context.