

PUBLIC INQUIRY INTO THE 2022 PUBLIC ORDER EMERGENCY

IN THE MATTER OF A PUBLIC INQUIRY

under the *Emergencies Act*, RSC RSC 1985, c 22 (4th Supp), ss 63(1

and the *Public Inquiries Act*, RSC 1985, c I-11, Part I

WRITTEN SUBMISSIONS OF THE OTTAWA COALITION OF RESIDENTS AND BUSINESSES

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PART I: OVERVIEW

1. The Ottawa Coalition of Residents and Businesses (the “Ottawa Coalition”) is a group of community associations and Business Improvement Area (“BIA”) organizations representing residents and businesses in downtown Ottawa who were severely impacted by the “Freedom Convoy” demonstrations from January 28, 2022 to February 20, 2022.
2. The Ottawa Coalition sought standing before the Public Order Emergency Commission (“POEC”) to address the circumstances that led to the declaration of the public order emergency, including the failure of law enforcement to effectively manage the occupation in Ottawa. The Ottawa Coalition’s role in this Inquiry has been to assist the Commissioner in understanding the unprecedented nature and significant impact of the Convoy demonstration – which quickly became an unlawful occupation – on those who live, work and do business in downtown Ottawa. The residents and businesses of Ottawa deserve to know what happened and understand the breakdowns that allowed this crisis to occur and continue. They are interested in recommendations that will protect the Ottawa community from future serious threats to public safety and disruptions to their daily lives.
3. As the POEC has now heard, residents and businesses were exposed to three weeks of harassment, street blockages by semi-trailer tractor trucks and other

vehicles, ear-splitting air and train horns, and general lawlessness. Disorder and chaos ruled downtown Ottawa. Streets were littered with propane tanks, jerry cans, wood piles and burn barrels. Fireworks were going off at all hours of the night, pinging off windows of residential dwellings. Road blockades impeded access to critical public services such as paramedics, ambulances, buses, and taxis. As former OPS Chief Sloly testified, downtown Ottawa was a “tinderbox” waiting to explode.

4. Over 15,000 residents who lived in downtown Ottawa were affected by this occupation, including thousands more in the Ottawa community who were prevented from working. Residents faced street harassment and assaultive behaviour when they walked out their door, were forced to breathe diesel fumes from hundreds of commercial trucks idling non-stop, and experienced ear-splitting air and train horns day and night. Many people in Ottawa felt like they were prisoners in their own homes and felt abandoned by law enforcement and all levels of government.

5. It is estimated that over 2,000 businesses in Ottawa were affected, with hundreds forced to close completely for the duration of the occupation, with resulting business losses in the tens of millions of dollars. The Rideau Centre, the location of the largest number of private sector employees in downtown Ottawa, was forced to close for a prolonged period for the first time in its history.

6. In the submissions that follow, the Ottawa Coalition will summarize the evidence on (1) the circumstances that led to the crisis in downtown Ottawa; (2) the harm caused to Ottawa residents and businesses; and (3) various attempts to use other resources and tools to end the Ottawa occupation.

7. The Ottawa Coalition does not take a position on the invocation of the *Emergencies Act* or whether the specific measures adopted were appropriate or necessary. It is our submission, however, that there can be no dispute that downtown Ottawa was in a state of crisis from January 31, 2022 onwards and that the situation

was not improving. By February 14, 2022, the Ottawa occupation had become a highly disruptive, prolonged and dangerous public order event.

PART II: CIRCUMSTANCES THAT LED TO THE CRISIS IN DOWNTOWN OTTAWA

(i) Inadequate planning for a prolonged and dangerous occupation

8. Prior to their arrival in Ottawa, Convoy organizers and participants publicly communicated their plans to encircle and gridlock downtown Ottawa in a “Bearhug” and to stay until all public health mandates were lifted.¹ These plans were communicated widely on social media and were also shared with the City of Ottawa and police leading up to the Convoy’s arrival. It was also well-known that the Convoy organizers had raised millions of dollars through crowdfunding to support the demonstrators’ stay in Ottawa.²

9. On January 25, 2022, Mathieu Gravel, Director of Issues and Outreach at the City of Ottawa, received an email from Steve Ball, the President of the Ottawa Gatineau Hotel Association (“OGHA”), detailing the Convoy’s plan to “shut down access to the city” for a prolonged period.³ Mr. Ball advised the City that he had been

¹ See e.g. OPP Report dated January 28, 2022 [OPP00001489] discussing a video posted on the Canada Unity Facebook page and stating: “James Bauder, who is driving in the convoy, indicates that Operation Bearhug was intended to bring the law to Ottawa and they will not leave the city until the law has been restored and they get their lawful freedom back”. The GoFundMe fundraiser established by Convoy organizers Tamara Lich and BJ Dichter also conveyed that the Convoy was planning to stay in Ottawa until all mandates were lifted and were raising funds to assist with fuel, food and lodgings to complete this task: see GFM00000001.

² See e.g.: OPP email chain dated January 25, 2022 [OPP00000929] discussing *Toronto Star* article titled “Trucker convoy’s \$4 million in fundraising frozen by GoFundMe”; *Global News* article dated January 25, 2022, “GoFundMe confirms trucker freedom convoy funds being held until ‘clear plan’ is revealed” [COM00000668]. See also Interview Summary: Inspector Russell Lucas (Ottawa Police Service) at p. 4 [WTS.00000024] noting Inspector Lucas developed heightened concerns about the demonstration based on the amount of money that had been raised.

³ OTT00000101

contacted by a Convoy organizer who expressed an interest in booking a large number of hotel rooms for 30-90 day stays and confirmed the Convoy's plan to gridlock downtown. Mr. Gravel relayed this information to Steve Kanellakos (City Manager), Kim Ayotte (General Manager of Emergency and Protective Services) and Serge Arpin (Chief of Staff to Mayor Watson). In his email, Mr. Gravel expressly flagged the need to have a contingency plan for a prolonged occupation:

After having raised \$3+million through the crowdfunding initiative, the truckers are starting to reach out to hotels to book stays of at least 30 days. Steve Ball spoke to this guy and he basically laid out the plan, which is basically that they will leave their trucks in place, chain them together, and attempt to block all accesses to the city.

What is our level of preparedness to respond to this, should it go on for many weeks or months? Who is our lead in responding and presumably liaising with the federal authorities?⁴

10. Ottawa City councillors expressed similar concerns to the City and the Ottawa Police Service ("OPS") about what they were reading and hearing about the Convoy's plan to shut down the city for a prolonged period. For example:

- In an email dated January 26, 2022, Councillor Riley Brockington warned Steve Kanellakos, Diane Deans, and other City officials that "Many are now saying shut down the city until the restrictions are lifted. This is going to last more than a weekend. The OPS today estimated 1,000 to 2,000 to protest. No way. Expect many more".⁵

⁴ OTT00000101

⁵ OTT00000538

- Councillor and Ottawa Police Services Board (“OPSB”) Chair Diane Deans called a special meeting of the OPSB on January 26, 2022 because she felt that this protest was going to be different from the ones typically experienced in the National Capital Region. She personally raised concerns with then OPS Chief Peter Sloy before the first convoys arrived. The Chief assured her that he would be “very surprised if they are still here on Monday”.⁶

11. Local businesses also voiced concerns about the possibility that the demonstration might be larger than expected and would bring significant safety and security risks. Many of these concerns were passed on to the BIAs, who in turn raised them with City councillors and staff.

12. For example, in an email dated January 26, 2022, Kalin McCluskey, the Executive Director of the Byward Market BIA, asked Councillor Mathieu Fleury and Stéphane Galipeau, the City’s Stakeholder Engagement Officer, about the City’s plan for what was likely to be a major demonstration that could pose serious security and safety risks to businesses and workers.⁷ In her email, Ms McCluskey noted that “there is a legitimate concern given the influx of people, the overall atmosphere, and the outreach to date that there is the possibility for escalation”. As evidence of this risk, she pointed out that:

[Some businesses] have had anti-maskers blatantly detail that they will be showing up this weekend and will not be following any public health guidelines. Some have taken to flyer-ing calling for revolution. This, of course, in the context of coverage detailing that there are some protesters suggesting and hoping that this weekend will be a Canadian equivalent of the American riots of January 6, 2021.

⁶ Interview Summary: Diane Deans (City of Ottawa) at p. 2 [WTS.0000010]

⁷ COA0000004. Councillor Fleury subsequently forwarded Ms McCluskey’s email to OPS Chef Peter Sloy, Kim Ayotte (General Manager of Emergency and Protective Services at the City of Ottawa) and Roger Chapman (Chief of By-Law and Regulatory Services at the City of Ottawa) [OPS00003441]

13. Nathalie Carrier, the Executive Director of the Vanier BIA, testified that it was clear to her, as a layperson, that the Convoy demonstrators were planning to stay for a prolonged period. It appeared to her, based on publicly available information and other information such as that shared by OGHA President Steve Ball, that the City should have known as of January 25, 2022 that protesters were intending to stay much longer than just the weekend.⁸

14. Typically, when demonstrations or protests are planned to take place in downtown Ottawa, the City and OPS consult with BIAs regarding how best to mitigate impacts on local businesses. The BIAs, the City and the OPS work together to develop and implement an appropriate plan. The BIAs are typically consulted about logistical issues such as traffic, road closures, parking, safety and security. The BIAs are often able to share important information with the City and the OPS and are also then able to pass important information on to their members. In the case of the Freedom Convoy, this advance consultation and collaboration with the BIAs did not occur.⁹ The Ottawa Coalition submits that, had meaningful consultation with the BIAs occurred prior to the Convoy's arrival, it is possible that this would have led to better contingency planning.

15. Despite the many indicators and warnings that the Freedom Convoy could become a prolonged and dangerous occupation of the City of Ottawa, the OPS failed to plan for this possibility.

16. Mr. Kanellakos testified that the City relied on the OPS to determine what information was reliable and to develop a plan.¹⁰ When asked whether there was any

⁸ Examination of Nathalie Carrier, Transcript Volume 2 dated October 14, 2022 at p. 100

⁹ Institutional Report of the Ottawa Coalition of Business Improvement Areas (OCOBIA) at para. 6 [COA.IR.00000001]

¹⁰ Examination of Steve Kanellakos, Transcript Volume 3 dated October 17, 2022 at pp. 12-13

initial contingency plan for a prolonged demonstration, he testified that the initial assessment provided by the OPS was that the demonstration would last the weekend and possibly as long as Wednesday of the following week and that “[t]here wasn’t an assessment that said it would have been longer than that”.¹¹ In response to a follow-up question about whether anybody from the City specifically asked about a contingency plan or raised that the City was hearing information suggesting that the demonstration could last longer, Mr. Kanellakos stated that no contingency planning was discussed at the City and reiterated that the City relied on planning by the OPS.¹²

17. OPS witnesses confirmed that the Service did not have any written contingency plan to deal with the possibility of a significant number of demonstrators staying beyond the first weekend. Deputy Chief Trish Ferguson testified that the initial OPS operational plan did not contain planning for the demonstration continuing beyond January 31st at noon.¹³ Inspector Russell Lucas similarly testified that contingency plans were not included as part of the initial operational plan.¹⁴ While the plan noted that the convoy trucks could “pose a significant safety and logistical hazard due to their large footprint and weight”¹⁵ and that the Convoy “will be able to stop and effectively shut down movement if they desire,”¹⁶ there did not appear to be any strategy in place for what to do if this happened and went on for a prolonged period.

18. It is not entirely clear from the evidence why contingency plans were not more

¹¹ Examination of Steve Kanellakos, Transcript Volume 3 dated October 17, 2022 at p. 13

¹² Examination of Steve Kanellakos, Transcript Volume 3 dated October 17, 2022 at p. 14

¹³ Examination of Patricia Ferguson, Transcript Volume 6 dated October 20, 2022 at pp. 30 and 169

¹⁴ Examination of Russell Lucas, Transcript Volume 9 dated October 25, 2022 at pp. 35-36

¹⁵ OPS Freedom Convoy - Canada Unity Operational Plan, authored by Sgt. Sean Kay on January 28, 2022 at p. 7 [OPS000004262]

¹⁶ OPS Freedom Convoy - Canada Unity Operational Plan, authored by Sgt. Sean Kay on January 28, 2022 at p. 7 [OPS000004262]

fully developed by the OPS. On the one hand, it appears that the OPS did have access to intelligence and open-source information suggesting that this would be a “significant and extremely fluid event that could go on for a prolonged period”.¹⁷ On the other hand, OPS witnesses testified that they did not have adequate resources or processes in place for monitoring and assessing open-source information at that time.¹⁸ Deputy Chief Ferguson’s Interview Summary states that “[s]he was not aware at that time that Freedom Convoy leaders were indicating that they intended to stay in Ottawa until their demands were met”.¹⁹ This admission by the Deputy Chief in charge of operations is startling given the overwhelming evidence available.

19. For many Ottawa residents and businesses, there was a troubling incongruence between the information they were seeing and hearing about the Convoy’s intentions to occupy Ottawa for a prolonged time and the OPS’ planning for a weekend-long demonstration. As noted in the Commission’s presentation summarizing the public

¹⁷ See e.g. INTERSECT email dated January 21, 2022 [OTT00000259]. See also Interview Summary: Superintendent Robert Bernier (Ottawa Police Service) at p. 3 [WTS.00000030]. Supt. Bernier stated that “[w]hen he received Project Hendon reports on January 27, [he] became concerned that the Freedom Convoy could cause serious disorder in the City. Specifically, he observed that Project Hendon reports indicated that protestors were planning to stay in Ottawa until their demands were met, that some of them hoped to force a change in government, that some of them held anti-government attitudes, that they were acquiring supplies along the way, and that they were bringing trucks, tractors, and heavy equipment to Ottawa”. He further stated that he was “not surprised that thousands of Freedom Convoy vehicles ultimately arrived in Ottawa by the weekend of January 29-30”. Finally, he stated that he passed along information to the Special Events team about the fact that farmers were clearing out massive tracts of parking space in fields to the west, east and south of Ottawa to make space for Convoy trucks to park.

¹⁸ See e.g. Interview Summary: Acting Deputy Chief Patricia Ferguson (Ottawa Police Service) at p. 18 [WTS.00000023] under “Lessons learned”: “OPS has already reformed its processes for collecting and disseminating intelligence. OPS created an open-source intelligence team that gathers open-source information and provides briefings on it without waiting for that information to be corroborated by two sources”. See also Interview Summary: Superintendent Robert Bernier (Ottawa Police Service) at p. 3 [WTS.00000030]: “Superintendent Bernier observed that OPS did not have a formalized open-source Intelligence Directorate at the time of the Freedom Convoy, although it developed one following the Freedom Convoy”.

¹⁹ Interview Summary: Acting Deputy Chief Patricia Ferguson (Ottawa Police Service) at p. 6 [WTS.00000023]

submissions it received, the OPS' lack of a plan (or, at least, a contingency plan) for a prolonged major event contributed to a sense of abandonment and a loss of trust in authorities: "Many questioned how the three police forces in Ottawa could not contain a protest that was foreseeable—the Act would not have been necessary if police had been more prepared and acted earlier on".²⁰

20. The Ottawa Coalition expects that other parties may provide more fulsome submissions about the availability and adequacy of intelligence relied on by the OPS in their contingency planning (or lack thereof) for the Freedom Convoy.

21. Should it be determined that there were deficiencies in the availability and adequacy of intelligence available to the OPS, the Ottawa Coalition would support recommendations aimed at addressing this issue. In particular, the Ottawa Coalition would support a recommendation encouraging police services to establish/evaluate systems for monitoring, integrating and analyzing open-source information and intelligence. The Ottawa Coalition would also support recommendations aimed at improving channels of communication so as to ensure that the police have access to relevant information (including information passed on from residents, businesses, and City Councillors) when contingency planning for major events.

(ii) Decision to allow trucks downtown

22. Several police witnesses suggested that, in hindsight, it was a critical mistake to allow heavy trucks and vehicles to enter the downtown core. These witnesses highlighted that this was a key "lesson learned" from the Ottawa Convoy occupation and that police services have subsequently taken steps to prevent heavy vehicles from entering downtown areas during other demonstrations.²¹

²⁰ POEC Public Submissions Summary Presentation at p. 31

²¹ See e.g.: Interview Summary: Chief Superintendent Carson Pardy (Ontario Provincial Police) at p. 17 [WTS.00000033] ("OPS should always be able to shut down the downtown" and "OPS should have a core

23. There was some conflicting evidence around why Convoy vehicles were allowed downtown and who was responsible for making this decision.

24. Chief Sloly testified that he was advised that the OPS did not have the legal authority to deny the Freedom Convoy access to downtown Ottawa, as this could infringe upon demonstrators' *Charter* rights.²² He testified that OPS had obtained legal opinions to this effect, including a written legal opinion dated January 28, 2022 from "external" legal counsel²³ as well as a prior legal opinion (for which there appeared to be no record) from his "own general counsel".²⁴ When asked about the basis for his opinion when advising the City Manager, Mayor, and Councillors on January 26, 2022 that the OPS could not legally hold trucks to truck routes (and thereby prevent them from entering downtown), Chief Sloly stated that he didn't have an independent recollection but thought he might have been relying on advice given by his general counsel.²⁵

25. Deputy Chief Bell and Acting Deputy Chief Ferguson described the basis for allowing trucks downtown a bit differently. Deputy Chief Bell testified that while he believed OPS did have the authority to stop vehicles from entering downtown, he did

hardening plan for when it needs to limit access to downtown Ottawa"; "TPS learned from the Ottawa situation and it blocked access to Queen's Park when protesters attempted to protest there so that trucks could not embed themselves in downtown Toronto"). See also: Interview Summary: Commissioner Thomas Carrique (Ontario Provincial Police) at pp. 2-3 and 9; Interview Summary: RCMP Panel at p. 26 [WTS.00000069] ("Deputy Commissioner Duheme observed that the Rolling Thunder protests in late April 2022 showed that OPS had learned from the Freedom Convoy. He noted that OPS negotiated with Rolling Thunder protestors that a small number of motorcycles could stop in the downtown core, but that all other motorcycles and vehicles had to drive by")

²² Interview Summary: Former Chief Peter Sloly (Ottawa Police Service) at p. 15 [WTS.00000040]

²³ OPS00003692

²⁴ Examination of Peter Sloly, Transcript Volume 12 dated October 28, 2022 at p. 233 and Transcript Volume 13 dated October 31, 2022 at pp. 168-169

²⁵ Examination of Peter Sloly, Transcript Volume 12 dated October 28, 2022 at p. 233

not view this as necessary since the Service had successfully managed vehicle convoys in the past.²⁶ Acting Deputy Chief Ferguson similarly testified that, based on decades of past experience managing events, OPS believed it had the capacity to manage trucks in the core.²⁷

26. As yet another take on this decision, OPS Inspector Lucas' evidence was that he approved the decision to allow trucks to park on Wellington Street to protect the rest of the City from disruption. He was concerned that blocking access to Wellington Street would displace Convoy trucks and vehicles into other Ottawa neighbourhoods, where they could interfere with residents' daily activities, public transit, key bridges, and access to hospitals.²⁸ Unfortunately, as we now know, this happened anyway after the heavy vehicles were allowed into the downtown core. It appears that Inspector Lucas did not consider the large number of trucks that were converging on downtown, and failed to model what that would look like.

27. While several OPP witnesses were critical of the OPS' decision to allow trucks into the downtown core, it appears that the OPP did not raise objections to this plan in advance of the Convoy's arrival.²⁹ As the police service of jurisdiction over highways, the OPP were actually responsible for guiding the trucks to particular ramps

²⁶ Examination of Steve Bell, Transcript Volume 8 dated October 24, 2022 at p. 57

²⁷ Examination of Trish Ferguson, Transcript Volume 6 dated October 20, 2022 at p. 165

²⁸ Interview Summary: Inspector Russel Lucas (Ottawa Police Service) at p. 5 [WTS.00000024]

²⁹ See e.g. Interview Summary: Commissioner Thomas Carrique (Ontario Provincial Police) at pp. 2-3. Commissioner Carrique stated that it was his understanding (from Deputy Commissioner Harkins) that the OPS' plan would in fact prohibit the trucks' access to downtown. He stated that while he did not ask for our see the OPS' operational plan, he was aware that OPP Supt. Abrams was in direct contact with the OPS. There is no indication that Supt. Abrams objected to the OPS plan to allow trucks downtown, and his evidence was that he was not concerned with this decision because he trusted OPS' considerable experience policing major events: Interview Summary: Superintendent Abrams (OPP) at p. 2 [WTS.00000013]

and routes to downtown.³⁰

28. To the extent that OPS believed – and publicly communicated – that they could not block truck access to downtown because of the *Charter*, the Ottawa Coalition submits that this appeared to convey a double standard for how different protests are treated by police. Many Ottawa residents and businesses perceived that police were giving significant latitude to Convoy demonstrators to engage in disruptive activities, where such latitude would not normally be afforded to other types of protesters. This sentiment was articulated by Minister of Justice David Lametti in a text message sent to his Chief of Staff on January 30, 2022 “Do we have a contingency for these trucks to be removed tomorrow or Tuesday? (If they were black or indigenous...)”.³¹ During his testimony about this exchange, Minister Lametti explained “there was legitimate criticism being levelled at police authorities with respect to that weekend, that if it had been a Black Lives Matter protest or an Indigenous protest that perhaps the police reaction might have been different”.³²

29. In the course of this Inquiry, the public has also learned about an OPS Intelligence Assessment, authored by Sgt. Chris Kiez on January 25, 2022, which displays sympathy towards the Convoy demonstration (referring to this as a protest that reflects the views of the “silent majority”) while deriding other types of social justice protests (“This event is, as described above, less of a “professional protest” with the usual sad players”).³³ This document again raises questions about biases and double standards that appears to have influenced police intelligence and planning failures with respect to the Convoy protest.

³⁰ Examination of Craig Abrams, Transcript Volume 7 dated October 21, 2022 at pp. 95 and 97

³¹ Text messages between Minister Lametti and Alex Steinhouse dated January 30, 2022 [SSM.CAN.00007845]

³² Examination of David Lametti, Transcript Volume 29 dated November 23, 2022 at p. 53

³³ OPS00003086 at pp. 4-5

(iii) OPS overwhelmed by occupation as of Monday, January 31, 2022

30. By Saturday January 29, 2022, it was already apparent to Former Chief Sloly that the OPS was confronting something unprecedented.³⁴ According to Insp. Lucas, starting on the 29th the OPS became increasingly overwhelmed and he and the National Capital Region Command Centre were “drinking from the firehose.”³⁵ Sloly told that Commission that it was more like drinking from several dozen firehoses due to the unexpected number of convoys that arrived, the -35C temperature, the high levels of fatigue being experienced by OPS officers and the significant erosion of public trust.³⁶

31. Whereas on the Friday, convoy participants were largely complying with agreements to take their vehicles to designated areas, this started to unravel with the arrival of the Western convoy on the Saturday.³⁷

32. In Sloly’s view, the Freedom Convoy was an unlawful protest by January 29, 2022, at which time he described an “alarming level of public safety issues.”³⁸

33. On January 30, 2022 in a phone call with Prime Minister Trudeau, Ottawa Centre MP Yasir Naqvi described the situation in Ottawa as “very dire, the community feels under siege.” Naqvi highlighted the hate symbols and harassment of residents

³⁴ Examination of Peter Sloly, Transcript volume 12, October 28, 2022 at p 55

³⁵ See Witness Statement of Insp. Lucas WTS.00000024 and Examination of Insp. Lucas, Transcript volume 9, October 25, 2022 at pp 36-38.

³⁶ Examination of Peter Sloly, Transcript volume 12, October 28, 2022 at p 61

³⁷ Examination of Insp. Lucas, Transcript volume 9, October 25, 2022 at p 37

³⁸ Examination of Peter Sloly, Transcript volume 12, October 28, 2022 at p 62

trying to go about their daily lives.³⁹

34. By Monday, January 31, 2022, Chief Sloly knew he was contending with an occupation and started to referring to it as such. Sloly understood the OPS would have to “pivot into this next phase of this occupying period.”⁴⁰

35. That same day Chief Sloly met with Commissioners Carrique and Lucki of the OPP and RCMP. Chief Sloly communicated that the Freedom Convoy was looking like a prolonged occupation. He noted that the convoy had money, capacity and commitment and that the OPS could not safely remove them without hundreds of additional officers.⁴¹ Commissioner Carrique indicated that Sloly’s assessment that this was now an occupation was “spot on.”⁴²

36. Later that day, Chief Sloly met with members of City Council where he advised that the protest was now an occupation. He noted that the protesters were becoming increasingly volatile and aggressive and that any effort by police to intervene and remove the convoy gave rise to “massive risk” of injury or loss of life. Sloly advised Councillors that he would be seeking additional resources from the RCMP and OPP.⁴³

PART III: HARM TO OTTAWA RESIDENTS AND BUSINESSES

37. It is critical that the Commissioner’s findings set out an accurate characterization of the situation on the ground in Ottawa throughout the convoy

³⁹ Read out of call between PM Trudeau and Yasir Naqvi, SSM.CAN.NSC.00002813_REL.0001

⁴⁰ Examination of Peter Sloly, Transcript volume 12, October 28, 2022 at pp 61-62; See also Notes from Comman Briefing #7, OPS00004976 at p 1

⁴¹ Notes of Christine Huneault, General Counsel to OPS dated January 31, 2022, OPS00014454 pp 1-2

⁴² Notes of Christine Huneault, General Counsel to OPS dated January 31, 2022, OPS00014454 p 2

⁴³ Notes of Christine Huneault, General Counsel to OPS dated January 31, 2022, OPS00014454 p 6-7

occupation. The nature and scope of the crisis is necessary for the Commission's analysis of the appropriateness and effectiveness of the Federal Government's decision to invoke the *Emergencies Act*. The evidence overwhelmingly establishes that residents and businesses of Ottawa were subjected to significant and traumatic harms and that the occupation was neither lawful nor peaceful.

38. As early as January 31, 2022, only three days into the occupation, Soly testified that there were "massive public safety concerns across the downtown in the red zone" and described what was happening in Ottawa as a "significant public safety event."⁴⁴

39. The Ottawa Coalition submits that its video compilation⁴⁵ is a representation of the chaos and disruption caused by convoy participants over the course of their occupation of Ottawa. What it does not capture, however, is the cumulative emotional and physical impacts to residents over time.

40. The Ottawa Coalition submits that both *actual* harm and serious *risks* to public safety are relevant to the Commission's analysis.

(i) Harms caused by trucks: horns and diesel fumes

41. From the first week of the occupation, the impacts of relentlessly honking horns (truck horns, air horns and train horns) can not be understated. According to data represented on an interactive map created by Aaron Bernard of Spatial Media, most of the red zone had *average* daytime noise levels of between 90 decibels and 110 decibels in the first week.⁴⁶

⁴⁴ Examination of Peter Soly, Transcript volume 12, October 28, 2022 at p 224

⁴⁵ COA00000135

⁴⁶ Exhibit D to the Affidavit of Aaron Bernard, affirmed October 7, 2022, COM00000736

42. According to Mr Bernard, sounds registering at 100-110 decibels are “similar to a lawnmower.”⁴⁷

43. By way of contrast, on February 19, 2022, after the convoy vehicles had been cleared out of the intersection of Rideau Street and Sussex Street, Ottawa resident Sean Flynn recorded a sound level of only 45 decibels,⁴⁸ or similar to moderate rainfall.⁴⁹

44. It is important to note that the decibel measurements represented on the map are averaged over the course of a week. As both Ms. Li and Ms. De La Ronde testified, there were frequently times that the horns they were hearing were much louder than a lawnmower. For example, when a “roving train horn” attached to a truck would arrive in the area of Ms Li’s residence, the sound was much louder than the average.⁵⁰

45. Using an application downloaded onto her cell phone, Ms Li was also able to measure the noise levels *within* her residence, which is located above the tenth floor of her building. At times those readings were as high as 85 to 90 decibels.⁵¹ To register at such high levels, indoors and over ten floors above street level, the noise levels being emitted by the horns would have been much louder than that.

46. Throughout the first week of the occupation the honking was almost constant,

⁴⁷ Exhibit D to the Affidavit of Aaron Bernard, affirmed October 7, 2022, COM00000736

⁴⁸ Exhibit J to the Affidavit of Sean Flynn, affirmed September 30, 2022, COA00000117

⁴⁹ Exhibit D to the Affidavit of Aaron Bernard, affirmed October 7, 2022, COM00000736

⁵⁰ Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at pp. 28-29

⁵¹ Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at pp. and 51 and 58.

continuing throughout the day and night.⁵² Although the honking abated after the February 7, 2022 injunction order, the horns continued to disturb residents. For example, on February 12, 2022, Mr Flynn registered sound levels of 101 decibels from truck horns at 9:45 pm.⁵³

47. The impacts of the incessant horn honking on affected residents were not trivial. They included:

- Lack of sleep;
- Anxiety, particularly when horns abated;
- Hearing loss;
- Loss of balance;
- Vertigo;
- Accelerated heart rate;
- Loss of appetite;
- Trauma;
- Hearing phantom honks.⁵⁴

48. Hundreds of affected residents contacted their ward Councillors daily to complain about the intolerable effects of the horns.⁵⁵

49. On February 7, 2022, Mayor Jim Watson and Police Services Board Chair Diane

⁵² Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at pp 165,169, 172; Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at pp 5, 12, 19, 34; Examination of Peter Sloly, Transcript volume 13, October 31, 2022 at p. 136.

⁵³ Exhibit F to the Affidavit of Sean Flynn, affirmed September 30, 2022, COA00000117

⁵⁴ Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at pp. 164 and 172; Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at pp 5 to 7, 13 and 56; See also OTT00014415.

⁵⁵ Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p. 166-167.

Deans sent a letter to Premier Ford and then Solicitor General Sylvia Jones in which they described the horn honking as being “tantamount to psychological warfare.”⁵⁶

50. Some more vulnerable residents were particularly affected. Ms. De La Ronde, who is visually impaired, testified about her loss of independence due to the chaos in the streets and her inability to navigate by relying on auditory cues.⁵⁷ Women who were homeless experienced 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.⁵⁸

51. In addition to the impacts from the horns, residents were also exposed to diesel fumes from many large trucks idling in their neighbourhoods. The smell of diesel fumes was so pronounced that it wasn’t only an issue when outside. In some cases, a dull gaseous odour permeated inside residential units.⁵⁹

52. Mr Bernard produced a projection of the impacts of diesel fumes from idling trucks based on the number of trucks known to be on the road during the occupation. His analysis showed that air quality would have been on average approximately 32% lower than international guidelines established by the World Health Organization (the “WHO”). Standard air quality in downtown Ottawa is normally approximately 12% better than the WHO guidelines.⁶⁰

53. The reduction in air quality was apparently of concern to Ottawa Public Health

⁵⁶ OTT00005513.00001

⁵⁷ Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at p 8.

⁵⁸ OCOBIA Institutional Report, COA.IR.00000001 at para. 18

⁵⁹ Affidavit of Sean Flynn, affirmed September 30, 2022, COA00000117 at para. 8; Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at pp 20 and 54; Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p. 249 and 250.

⁶⁰ Exhibit D to the Affidavit of Aaron Bernard, affirmed October 7, 2022, COM00000736

(“OPH”). On February 18, 2022, an OPH message “regarding convoy-related air quality concerns” was shared with various officials with the Ottawa Police Service with a request that it be passed on to “colleagues who are working or travelling to” the affected areas. The message contained concerning warnings about the effects of prolonged exposure to diesel exhaust.⁶¹

54. According to OPH, “Diesel exhaust can irritate the eyes, nose, throat and lungs, and it can cause coughs, headaches, lightheadedness and nausea... Exposure to diesel exhaust also causes inflammation of the lungs, which may aggravate chronic respiratory symptoms and increase the frequency or intensity of asthma attacks.” It further warned that “diesel exhaust has been identified as a carcinogen” and that children are more susceptible than healthy adults because their lungs and respiratory systems are still developing.⁶²

(ii) Assault and harassment of residents and businesses

55. Downtown Ottawa residents and businesses were subjected to so much intimidation and harassment from convoy participants that many were too fearful to go outside, making them feel trapped in their own homes.⁶³

56. Former 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.⁶⁴ Sloly further described this conduct as “violence impacting

⁶¹ See OTT00030002.0001

⁶² *Ibid.*

⁶³ Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 157; Examination of Peter Sloly, Transcript volume 13, October 31, 2022 at p 161

⁶⁴ Examination of Peter Sloly, Transcript volume 12, October 28, 2022 at p. 236. See also pp. 47, 80, 83

communities.”⁶⁵ This conduct included but was not limited to *Criminal Code* assaults.⁶⁶

57. The Commission heard evidence of assaults, harassment and intimidation including:

- A 70 year-old woman was punched in the face by a man with flags on him;
- A man was accosted on the LRT for not wearing a mask and had his nose broken;
- People getting circled and intimidated by convoy participants;
- An elderly couple had their masks stripped off their faces while waiting for a bus;
- Assault of an unhoused person residing at the Shepherds of Good Hope shelter in the Byward Market;
- Crowds of convoy participants entering local businesses, taking over the space and threatening staff;⁶⁷
- Crowds of convoy participants harassing residents for wearing masks outside;⁶⁸
- Truckers intimidating residents with their vehicles;⁶⁹

⁶⁵ Examination of Peter Sloly, Transcript volume 13, October 31, 2022 at p 136

⁶⁶ Examination of Peter Sloly, Transcript volume 13, October 31, 2022 at pp 76-77.

⁶⁷ Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at pp 170-172, 198

⁶⁸ Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at 214, ; Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at pp 8, 15; Examination of Nathalie Carrier and Kevin McHale, Transcript volume 2, October 14, 2022 at pp 82, 83; Affidavit of Kiavash Najafi, affirmed October 7, 2022 at para. 15, COA00000116.

⁶⁹ Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at p 32; Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 214, 222

- Threats and intimidation at local schools.⁷⁰

58. The Commission heard evidence of violent threats uttered against various elected officials including Mayor Jim Watson, Councillor Mathieu Fleury, Councillor Catherine McKenney, Councillor Diane Deans, and Chief Soly as well as the lead Plaintiff in the class action against the convoy, Zexi Li.⁷¹

59. In addition to the kinds of threats and intimidation set out above, residents were horrified to see 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.⁷²

60. Not only were there hate symbols in the community, there were examples of symbols of inclusion such as the Pride flag, being targeted and defaced. In one case, a family had to obtain a police escort to leave Ottawa on the first weekend after being targeted for having a Pride flag in their window. Someone defecated on their back step and a pickup truck full of angry people harassed and yelled at them causing them to feel very unsafe.⁷³ There was other evidence of LGBTQ residents being subjected to homophobic or transphobic slurs and of racialized residents feeling particularly

⁷⁰ Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 175, 188, 248, 249

⁷¹ Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at p 48-49; Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 162, 233, 235; Examination of Peter Soly, Transcript volume 13, October 31, 2022 at pp 163-164; Examination of Jim Watson, Transcript volume 4, October 18, 2022 at p 182; Examination of Diane Deans, Transcript volume 5, October 19, 2022 at p 59.

⁷² Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 156; Affidavit of Kiavash Najafi, affirmed October 7, 2022 at para. 5, COA00000116

⁷³ Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 157

vulnerable.⁷⁴

61. The OPS was so overwhelmed and had very limited, if any, capacity to respond to assaults, harassment and hate-motivated offences. While someone was arrested in relation to the threats against Jim Watson,⁷⁵ no one from OPS ever followed up with Sloy or Fleury in relation to the threats made against them. When a truck connected to Convoy showed up at Councillor Fleury's home, he moved his family to keep them safe. Councillor McKenney was also forced to relocate their young daughter because of direct threats made against them, with reference to their home address.⁷⁶

62. Residents expressed dismay about the lack of police presence or enforcement action in residential areas of the occupied zone.⁷⁷ Police and bylaw (who were under OPS command) frequently failed to respond to calls for service or enforcement, at least when the complaints related to the convoy.⁷⁸

63. Sloy acknowledged that OPS officers had "maximum discretion" when it came to decision whether to arrest alleged offenders due to the risk of escalating safety issues for the public, police officers and convoy participants, meaning that in some cases offenders were not arrested despite the existence of reasonable grounds to

⁷⁴ Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 162

⁷⁵ Examination of Jim Watson, Transcript volume 4, October 18, 2022 at p 177;

⁷⁶ Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at pp. 235 and 240-241; WTS.00000025 at p. 3

⁷⁷ See e.g. OTT00017349.0001

⁷⁸ See e.g. Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at p 52 and Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 209-210. Note, however, there was evidence the bylaw still ticketed the vehicles of parents parked outside their children's school and OPS investigated an incident of downtown residents throwing eggs at convoy vehicles in frustration.

believe an offence had been committed.⁷⁹

64. Sloly further testified that there were challenges in investigating many alleged offences for a variety of reasons including that the identity of the perpetrator would not be known to the complainant.⁸⁰ He agreed that “a lack of charges doesn’t necessarily mean [assaults] were not taking place” and 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.”⁸¹

65. The relative lack of police or bylaw response during the occupation contributed to a sense of lawlessness, disorder and abandonment which exacerbated the fear and anxiety being experienced in and around the occupied areas of downtown Ottawa.

66. In view of the foregoing, the Ottawa Coalition cautions the Commissioner against relying on arrest statistics or the absence of evidence of grievous bodily harm to underpin a conclusion that the convoy occupation was non-violent or peaceful.

67. Furthermore, for reasons of expediency, the Commissioner limited evidence regarding the experiences of residents and businesses to five witnesses on a single day. In those circumstances, it would be unfair to infer that the absence of first-hand accounts of physical assaults and other *Criminal Code* offences means that they did not take place.

⁷⁹ Examination of Peter Sloly, Transcript volume 12, October 28, 2022 at p 78.

⁸⁰ Examination of Peter Sloly, Transcript volume 13, October 31, 2022 at pp 106 and 162

⁸¹ Examination of Peter Sloly, Transcript volume 13, October 31, 2022 at pp 100 and 164

(iii) Risk of fire and obstruction of emergency vehicles

68. Throughout the occupation of Ottawa convoy participants were transporting canisters, or jerrycans, of fuel from locations outside the core into the red zone and distributing them to truckers so they could fuel their vehicles.

69. Some of the fuel was stored at the Coventry Road encampment. Nathalie Carrier of the Vanier Business Improvement Area observed jerry cans being filled with gas in a manner that was “very unsecured - certainly not legal by normal standards.”⁸²

70. The Ottawa Coalition submits that the handling of diesel, gasoline and propane by convoy participants posed a clear safety risk. Several witnesses described seeing diesel stored alongside other flammable materials including propane tanks, wooden pallets and fireworks.⁸³ In some areas of the red zone and at Coventry Road there were open fires in the streets.⁸⁴

71. Residents described a profound sense of anxiety driven by the potential of a major fire and the risk that emergency services vehicles would be unable to access the scene due to the convoy vehicles blocking the streets.⁸⁵ Ms De La Ronde told the Commission: “I was concerned because there was the smell, and I was informed as well about gas spills on the street, that there was open bonfires, that they were

⁸² Examination of Nathalie Carrier and Kevin McHale, Transcript volume 2, October 14, 2022 at p 166

⁸³ See e.g Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at p 10; Examination of Nathalie Carrier and Kevin McHale, Transcript volume 2, October 14, 2022 at 87; Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 188; Examination of Peter Sloly, Transcript volume 12, October 28, 2022 at p 86; Video of Coventry Road taken COM0000749; Affidavit of Kiavash Najafi, affirmed October 7, 2022 at para. 23, COA00000116 (See also the photograph at Exhibit E to Mr Najafi’s affidavit)

⁸⁴ Email from Councillor McKenney to Mayor Watson and others dated February 2, 2022, OTT00014570.0001 and Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at pp 31 and 52

⁸⁵ See e.g. Affidavit of Kiavash Najafi, affirmed October 7, 2022 at para. 21, COA00000116.

roasting food out a few meters from my building, so there was a potential for a fire, a huge fire, and an explosion.”⁸⁶

72. In fact, Ms De La Ronde was so worried about the potential for a fire overnight that despite the insufferable noise from honking horns, she did not wear earplugs to sleep for fear that she would not hear a smoke alarm if her building caught on fire.⁸⁷

73. On February 15, 2022, the General Manager of the Rideau Centre alerted Councillor Fleury to a serious safety risk in the mall’s underground parking garage. A pickup truck was parked with a diesel fuel supply tank in the back and protesters were going back and forth filling gas cans. Despite calling 911 and bylaw, the truck remained for over 36 hours until the driver eventually removed it voluntarily.⁸⁸

74. Councillor Fleury explained that for a public safety risk of that magnitude, had it not been for the convoy occupation consuming so many policing resources, he would have expected an immediate evacuation of the area by emergency services personnel and removal of the vehicle.⁸⁹

75. On February 8, 2022, a major sprinkler failure at the Chateau Laurier Hotel at the corner of Rideau Street and Sussex Drive triggered a fire alarm. According to the Hotel’s General Manager, fire trucks were not able to access the hotel due to obstructions from convoy vehicles.⁹⁰

⁸⁶ Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at p 45

⁸⁷ Examination of Zexi Li and Victoria De La Ronde, Transcript volume 2, October 14, 2022 at p 20 and 54.

⁸⁸ See OTT00008282.0001 and Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 210.

⁸⁹ See OTT00008282.0001 and Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 203.

⁹⁰ See OTT00005511 and Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 243-244

76. In response to a question put to him by Commissioner Rouleau, the City of Ottawa's General Manager of Emergency and Protective Services acknowledged that it would have been a problem had it been a real fire and "we were lucky there were no serious fires."⁹¹

77. Mr. Ayotte also testified that the 911 service was completely overwhelmed. In addition to a higher than usual number of calls for service, there were also a "tremendous amount" of false calls to 911, including, for example, a false bomb threat to the Children's Hospital of Eastern Ontario on February 21, 2022.⁹² This assault on critical emergency services infrastructure posed an additional public safety risk because it could have resulted in delays in a genuine emergency.

78. The combined effects of a higher risk of fire, the impairment of 911 due to fraudulent calls, and the inaccessibility of certain parts of the City by emergency vehicles, means that had there been a significant fire its impacts would have been devastating and would almost certainly have resulted in serious injury or even loss of life. While it was, as Mr. Ayotte put it, lucky, that there were no serious fires, the Ottawa Coalition submits that the Commission should take this very real risk into consideration when articulating the nature of the threat to public safety that existed in Ottawa during the occupation.

(iv) Harm to businesses and their staff

79. The above-noted harms did not only affect residents. Businesses and their staff operating in and around the red zone were similarly impacted by the horns, fumes, intimidation and harassment by convoy participants. Like residents, businesses in

⁹¹ Examination of Kim Ayotte, Transcript volume 4, October 18, 2022 at pp 276- 277

⁹² Examination of Kim Ayotte, Transcript volume 4, October 18, 2022 at p 266. See also OTT00008740.00001

downtown Ottawa are used to experiencing some level of disruption during the many protests which take place in the City by virtue of its status as the national capital. However, businesses never before considered closing due to a protest. Typically, they work with the City to mitigate the negative impacts but also sometimes enjoy benefits such as increased foot traffic into their premises by protesters.⁹³

80. Representatives of the local Business Improvement Areas observed from the outset that one thing which made the anticipated arrival of the Freedom Convoy different from past protest events was how little information and support they were receiving from the City and the OPS.⁹⁴

81. Some BIAs expressed concerns that in addition to the obvious issues such as traffic disruptions, they had particular concerns regarding safety and security. Aware that the Freedom Convoy was at least in part a protest against certain vaccination mandates, some businesses worried about anti-mask protesters showing up and refusing to follow public health measures and what that might mean for the safety of their staff.⁹⁵

82. During the first weekend, the BIAs were overwhelmed by messages of concern and distress from their members. By the Saturday, many made the awful decision to close, including the Rideau Centre.⁹⁶

83. According to Kevin McHale, Executive Director of the Sparks Street BIA, approximately 85% of the businesses in his area stayed closed for the remainder of

⁹³ Examination of Nathalie Carrier and Kevin McHale, Transcript volume 2, October 14, 2022 at pp 73, 77 and 78.

⁹⁴ Examination of Nathalie Carrier and Kevin McHale, Transcript volume 2, October 14, 2022 at p 66; See also OCOBIA Institutional Report, COA.IR.00000001 at paras. 3-11.

⁹⁵ OCOBIA Institutional Report, COA.IR.00000001 at para 8.

⁹⁶ OCOBIA Institutional Report, COA.IR.00000001 at para 13-16.

what would become the occupation of Ottawa.⁹⁷

84. The conduct of convoy participants led to many businesses closures for a variety of reasons:

- Maskless protesters harassing staff and/or stripping people of their masks;⁹⁸
- Concern for the safety of more vulnerable staff such as racialized people and members of the LGBTQ community both while at work and when travelling to and from work;⁹⁹
- Vandalism of storefronts;¹⁰⁰
- Attacks on Google Reviews of businesses;¹⁰¹
- Parking vehicles in a way that blocked access to customers and/or delivery services;¹⁰²
- Downtown core seen as generally uninviting and dangerous to potential customers from other parts of the City;¹⁰³

85. In the case of the Rideau Centre, maskless protesters confronted staff, in some

⁹⁷ Examination of Nathalie Carrier and Kevin McHale, Transcript volume 2, October 14, 2022 at pp 89-90

⁹⁸ Examination of Nathalie Carrier and Kevin McHale, Transcript volume 2, October 14, 2022 at p 82; Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 172. Note this posed an additional challenge to businesses because pursuant to public health regulations they were responsible for enforcing public health measures and risked consequences, including fines, if unmasked patrons were found on the premises.

⁹⁹ OCOBIA Institutional Report, COA.IR.00000001 at para 14

¹⁰⁰ OCOBIA Institutional Report, COA.IR.00000001 at para 14

¹⁰¹ Examination of Nathalie Carrier and Kevin McHale, Transcript volume 2, October 14, 2022 at p 92

¹⁰² OCOBIA Institutional Report, COA.IR.00000001 at para 23(c); Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 200; and Examination of Nathalie Carrier and Kevin McHale, Transcript volume 2, October 14, 2022 at p 76

¹⁰³ OCOBIA Institutional Report, COA.IR.00000001 at paras 23(a) and 25(c)

cases aggressively.¹⁰⁴ There were large, gatherings of convoy participants in the food court contrary to provincial public health regulations.¹⁰⁵ It took over four hours to clear out the mall and it remained closed for the next 24 days.¹⁰⁶

86. The closure of the Rideau Centre resulted in lost profits for 175 businesses and lost wages for thousands of employees. In its 40 years of operation a closure this significant was unprecedented.¹⁰⁷ It is estimated that the Rideau Centre closure triggered losses of approximately \$2 million per day.¹⁰⁸

87. The closure of the Rideau Centre also affected residents because it is a well-travelled thoroughway for pedestrians including transit riders who pass through the mall to access transit routes.¹⁰⁹

88. The timing of the convoy occupation was particularly painful for local businesses because certain public health regulations were set to be lifted on Monday January 31, 2022, following a very difficult period when many were required to remain closed to anything other than curbside pickups.¹¹⁰

89. The economic harm caused to downtown businesses and their employees was significant. The Ottawa Coalition cautions the Commission not to minimize or in any way trivialize the economic impact of the convoy occupation on Ottawa's local

¹⁰⁴ See COA00000124 and OCOBIA Institutional Report, COA.IR.00000001 at para 16.

¹⁰⁵ Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 198

¹⁰⁶ Examination of Catherine McKenney and Mathieu Fleury, Transcript volume 2, October 14, 2022 at p 197

¹⁰⁷ OCOBIA Institutional Report, COA.IR.00000001 at para. 16.

¹⁰⁸ Examination of Nathalie Carrier and Kevin McHale, Transcript volume 2, October 14, 2022 at p 93

¹⁰⁹ OCOBIA Institutional Report, COA.IR.00000001 at para. 16

¹¹⁰ Examination of Nathalie Carrier and Kevin McHale, Transcript volume 2, October 14, 2022 at p 78.

economy by comparing it to the economic harms associated with the various border blockades. The impacts in Ottawa were felt primarily by small and medium-sized businesses who were already hurting from the impacts of the COVID-19 pandemic and who had limited capacity to absorb these unexpected losses.

90. Deloitte LLP has estimated that losses suffered by businesses and employees within the occupation zone was between \$150 million and \$210 million and that the range of lost profits suffered by businesses was between \$45-million and \$60-million.¹¹¹

PART IV: ATTEMPTS TO OBTAIN RESOURCES AND USE OTHER TOOLS TO END THE OCCUPATION

(i) Challenges obtaining support from other police services and various levels of government

(a) Efforts to get help from OPP, RCMP and various levels of government

91. On January 31, 2022, after the first weekend of the occupation, Ottawa Centre MP Yasir Naqvi had a conversation with Prime Minister Justin Trudeau wherein he asked “for more public resources to be deployed to assist these residential areas”.¹¹²

92. Around the same time, OPS Chief Sloly started making requests to other police forces for additional officers and resources. Chief Sloly’s interview summary describes requests for additional assistance from municipal police agencies, the OPP and the RCMP during the week of January 31, 2022.¹¹³

¹¹¹ Affidavit of Larry Andrade, sworn February 25, 2022, COA00000145 at paras. 10 and 61-64.

¹¹² SSM.CAN.NSC.00002813

¹¹³ Interview Summary: Former Chief Peter Sloly (Ottawa Police Service) at p. 24 [WTS.00000040]

93. On February 2, 2022, Chief Sloly attended an OPSB meeting where he stated that there “may not be a policing solution” to the Freedom Convoy. In his evidence, he claimed that this statement was actually a plea for resources.¹¹⁴

94. On February 5, 2022, Councillor Deans called a special meeting of the OPSB with Chief Sloly and asked what he needed to “get the job done”.¹¹⁵ The next day, Chief Sloly stated that he would need 1800 personnel and provided a list detailing the specific resources needed.¹¹⁶

95. On February 7, 2022, Mayor Watson and OPSB Chair Diane Deans sent letters to the Government of Canada and Province of Ontario asking for the 1800 police personnel requested by Chief Sloly.¹¹⁷

(b) Resources delayed due to bad OPS “plan” and Inaction by OPSB

96. OPP Commissioner Carrique testified that he was not prepared to send the resources requested by the OPS until he was satisfied that his officers would be properly deployed.¹¹⁸ The RCMP was similarly reluctant to send any resources until they understood that the OPS had a plan for their use.¹¹⁹ Both the RCMP and OPP reported their concerns up to the political levels in the provincial and federal

¹¹⁴ Interview Summary: Former Chief Peter Sloly (Ottawa Police Service) at p. 20 [WTS.00000040]

¹¹⁵ Interview Summary: Diane Deans (City of Ottawa) at p. 3 [WTS.00000010]

¹¹⁶ Interview Summary: Diane Deans (City of Ottawa) at p. 3 [WTS.00000010]

¹¹⁷ Letter to Premier Ford and Solicitor Jones [OPP00002000] and Letter to Prime Minister Trudeau and Minister Mendicino [OTT00004847]

¹¹⁸ Examination of Thomas Carrique, Volume 11 of the Transcripts, October 27, 2022, at p. 68

¹¹⁹ Examination of Michale Duheme and Brenda Lucki, Volume 27, November 15, 2022, pp. 332-34, 57, 204 and 207

governments. Deputy Solicitor General Di Tommaso testified that the lack of an adequate plan was the “obstacle” to the deployment of additional police resources to Ottawa.¹²⁰

97. Mayor Watson testified that he heard about the concerns with the lack of an OPS plan from Premier Ford and Prime Minister Trudeau.¹²¹ His Chief of Staff was also hearing it from other officials at the provincial and federal levels.¹²² Yet Mayor Watson testified that he did not wish to share this important information with the OPSB because it would, he claimed, because he felt his discussions with the Premier and the Prime Minister were confidential.¹²³ In fact, Mayor Watson did not have direct communications with Ms Deans, the Chair of the OPSB. He admitted she did not have his cell phone number, despite the fact many others did. Indeed, the Mayor acknowledged that he had very regular communications with Chief Sloly and Deputy Chief Bell, and this was despite the fact he was not on the OPSB.¹²⁴

98. Under s. 9 of the *Police Services Act*, only the OPSB can immediately override the chief of police and call in the OPP to take over command of local police services. While the Chair of the OPSB admitted she was hearing rumours about the lack of a plan causing operational issues and perhaps delays,¹²⁵ she could not recall the source and she was clear that there certainly was no formal communication of this

¹²⁰ Examination of Mario Di Tommaso, Volume 21 of the Transcripts, November 10, 2022, at pp. 283-284

¹²¹ Examination of Jim Watson, Volume 4 of the Transcripts, October 18, 2022, at p. 155

¹²² Examination of Serge Arpin, Volume 3 of the Transcripts, October 17, 2022, at p. 252

¹²³ Examination of Jim Watson, Volume 4 of the Transcripts, October 18, 2022, at p. 158. Deputy Solicitor General Di Tommaso testified that he believed it was important to share this information with the OPSB and that the Mayor had “a duty” to do so: Volume 21, p. p. 275 and p. 278.

¹²⁴ Examination of Jim Watson, Volume 4 of the Transcripts, October 18, 2022, at pp. 153-154

¹²⁵ Examination of Diane Deans, Volume 5 of the Transcripts, October 19, 2022, at p. 185

information to her or the Board.¹²⁶ Mayor Watson did not see fit to do so, and Chief Sloy did not candidly share this with her. The Chair also spoke with Deputy Chief Bell about whether there were problems with OPS command and whether he would have done anything differently. Despite the fact Deputy Chief Bell was hearing directly from police partners that there was a lack of confidence in the Chief, and that he also had his own concerns, Deputy Chief Bell simply advised the Board Chair that he would not have done anything differently.¹²⁷

99. The evidence reflected a breakdown in the appropriate civilian governance of the OPS as the OPSB failed to take meaningful action with Chief Sloy. While the OPSB cannot direct the OPS on operational matters, it has overall responsibility for ensuring adequate and effective policing services. The OPSB also had the power to request that the OPP assume command. To discharge its role and make these important decisions, the Board needs to receive timely and appropriate information.

(c) Ontario indifference

100. The Government of Ontario did not appear to be engaged with the public order issues in Ottawa for the duration of the Convoy occupation. While Premier Ford did have conversations with the Mayor and the Prime Minister, and promised certain strong and colourful action to compel his officials to become more involved, the evidence instead demonstrated indifference at the level of cabinet.

101. Most notoriously, the “tripartite” table established to deal with the emergency did not truly involve all three levels of government because Ontario chose not to participate. Solicitor General Sylvia Jones declined to take part and berated federal Minister Mendicino with profanity when he made inquiries. Minister of Transport

¹²⁶ Examination of Diane Deans, Volume 5 of the Transcripts, October 19, 2022, at pp. 49, 63-64 and 76-78

¹²⁷ Examination of Diane Deans, Volume 5 of the Transcripts, October 19, 2022, at pp. 117, 124-125

Caroline Mulroney would not return calls from her federal counterpart, despite the fact heavily regulated commercial trucks were the most significant cause of disorder in Ottawa.

102. Unfortunately, Premier Ford and Minister Jones refused to provide testimony to the Commission, despite being served with a summons. Their evidence would have been enormously helpful to understand the stance of the provincial government and its relative lack of engagement with the public order crisis in Ottawa.

103. Deputy Solicitor General Mario Di Tommaso did testify. As the top public security official in the provincial government, his testimony about his understanding of the situation in Ottawa and his interactions with Minister Jones and Premier Ford was telling. It demonstrated that an attitude of indifference and ignorance about what was happening in Ottawa prevailed at the highest levels of Queen's Park. For example, Mr Di Tommaso testified:

- (a) He did not believe or understand that the Convoy was protesting against provincial public health restrictions and mandates as well, and only learned of this during the Commission proceedings;¹²⁸
- (b) He initially believed the protests in Ottawa were an inconvenience and did not appreciate or believe that they presented a public safety risk;¹²⁹
- (c) He coordinated a phone call between Chief Sloly and Minister Jones, but he did not brief Minister Jones before the call and he did not receive a debrief afterwards;¹³⁰

¹²⁸ Examination of Mario Di Tommaso, Volume 21 of the Transcripts, November 10, 2022, at pp. 279-281

¹²⁹ Examination of Mario Di Tommaso, Volume 21 of the Transcripts, November 10, 2022, at pp. 159 and 282, and only reluctantly agreed at p. 283 that the OPS were unable to maintain control over the situation.

¹³⁰ Examination of Mario Di Tommaso, Volume 21 of the Transcripts, November 10, 2022, at pp. 139-140

(d) He did not even review the Mayor of Ottawa's declaration of State of Emergency until the Commission proceedings;¹³¹ and

(e) He did not bother to discuss with Minister Jones the urgent letter from Mayor Watson and OPSB Chair Diane Deans imploring the province for more police resources and setting out the circumstances in Ottawa, including the fact that residents were living in fear and were terrified.¹³²

104. Mr Di Tommaso also testified that he and OPP Commissioner Carrique disagreed with Minister Jones' public statement that there were 1,500 OPP officers in Ottawa. The number was not only misleading, it was unhelpful to police operations.¹³³ The fact that Mr Di Tommaso was not even consulted by Minister Jones about this prior to her statement strongly suggests that the Minister issued it for political reasons.

105. Perhaps most significantly, Mr Di Tommaso testified that he never spoke to Premier Ford during the entire Convoy protest.¹³⁴ It seems incredible that the Premier never believed it was important to speak to his top public safety official about events that ultimately led the Government of Canada to invoke the *Emergencies Act*. This stands in contrast with the extensive evidence of many public officials at the federal level regularly and frequently communicating with the Prime Minister throughout the crisis.

106. Given that policing is provincial jurisdiction, this disinterest or even apathy of the Premier and his cabinet towards the public order crisis in Ottawa is deeply troubling, if not shocking. The steadfast refusal of the Premier and Minister Jones to

¹³¹ Examination of Mario Di Tommaso, Volume 21 of the Transcripts, November 10, 2022, at p. 284

¹³² Examination of Mario Di Tommaso, Volume 21 of the Transcripts, November 10, 2022, at p. 289

¹³³ Examination of Mario Di Tommaso, Volume 21 of the Transcripts, November 10, 2022, at p. 286

¹³⁴ Examination of Mario Di Tommaso, Volume 21 of the Transcripts, November 10, 2022, at p. 160

testify before the Commission only serves to highlight their indifference to what happened to the people of Ottawa.

(d) Lack of federal jurisdiction over downtown Ottawa for policing purposes

107. On February 10, 2022, the City of Ottawa petitioned the Government of Canada to assume responsibility for public safety and security within the Parliamentary Precinct and to commit to an immediate and significant increased level of support to the Ottawa Police.¹³⁵ This request was made further to a motion that was brought forward by Councillor McKenney and approved by Council on February 7, 2022.

108. Ultimately, this request was not fulfilled. Chief Sloy provided evidence that, while he supports highly integrated operations, he would not have given up control of an Ottawa operation to another police force and would have resisted any effort to remove and replace the OPS as the police of jurisdiction.¹³⁶

109. The Ottawa Coalition anticipates that the National Police Federation will be making detailed submissions on this issue. The Coalition is supportive of recommendations aimed at improving integration and eliminating jurisdictional barriers to allow police to effectively respond to significant public order events in Ottawa in future.

(ii) Ineffectiveness of the Mayor's deal

110. On February 10, 2022, Mayor Watson was contacted by Dean French, who offered to facilitate negotiations with the Convoy organizers. Mayor Watson then put

¹³⁵ Letter from Mayor Watson to The Right Honourable Justin Trudeau, dated February 10, 2022 [OTT00006416]

¹³⁶ Interview Summary: Former Chief Peter Sloy (Ottawa Police Service) at pp. 32-33 [WTS.00000040]

Mr. French in contact with his Chief of Staff, Serge Arpin.¹³⁷ Mr. Arpin had several conversations with Mr. French to finalize the details of the agreement.¹³⁸

111. On February 13, 2022, Mayor Watson and Tamara Lich exchanged letters regarding an agreement to move trucks off residential roadways and onto Wellington Street.¹³⁹ The OPS was also advised of this deal on February 13, 2022. On February 14, 2022, approximately 40 large trucks (and a number of light vehicles)¹⁴⁰ were moved out of residential areas before the operation stopped mid-morning due to communications and logistical issues.¹⁴¹ Unfortunately, many heavy trucks and other vehicles continued to occupy residential areas in Centretown – including in particular the area along Kent Street, which remained totally impassable – and the situation remained largely unchanged for residents.¹⁴²

112. The Ottawa Coalition accepts that the City entered into negotiations with the Convoy organizers, through Mr. French, in good faith with the objective of bringing some relief to residential areas impacted by the demonstrations. The Ottawa Coalition submits, however, that the City's negotiations with Convoy organizers were

¹³⁷ Examination of Steve Kanellakos, Transcript Volume 3 dated October 17, 2022 at p. 81; Examination of Serge Arpin, Transcript Volume 3 dated October 17, 2022 at p. 198

¹³⁸ Examination of Serge Arpin, Transcript Volume 3 dated October 17, 2022 at pp. 200-202

¹³⁹ Examination of Steve Kanellakos, Transcript Volume 3 dated October 17, 2022 at p. 83 (Mr. Kanellakos testified that he believed the letters were dated February 12th, but exchanged on the 13th); Tamara Lich letter to Mayor Watson dated February 12, 2022 [OTT00006965]; Mayor Watson Letter to Tamara Lich dated February 12, 2022 [HRF00000107]

¹⁴⁰ Examination of Serge Arpin, Transcript Volume 3 dated October 17, 2022 at p. 224 (Arpin stated that there were approximately 102 vehicles total moved, including 40 heavy trucks)

¹⁴¹ Examination of Steve Kanellakos, Transcript Volume 3 dated October 17, 2022 at pp. 93 and 155 (in cross-examination, Mr. Kanellakos stated that the operation ended because there were people parked in the street who were refusing to move their vehicles who “weren’t accepting the deal” and because the OPS then decided to stop the operation).

¹⁴² Examination of Catherine McKenney and Mathieu Fleury, Transcript Volume 2 dated October 14, 2022 at pp. 185-186, 207 and 233

misguided and, ultimately ineffective in resolving the situation, for several reasons.

113. First, it is unclear why the City perceived Mr. French to be credible or neutral mediator. In this respect, City officials testified as follows:

- Mr. Kanellakos stated: “he contacted me and basically announced himself as a helpful third party that was going to try to mediate between the two and try to come up with an agreement”;¹⁴³
- Mr. Arpin stated: “Mr. French was a credible individual we dealt with in the past” and “we felt he was reliable”;¹⁴⁴ and
- Former Mayor Watson stated: “I appreciate the fact that he stuck his neck out. There was nothing in it for him, from what I could see” and “he didn’t offer an opinion that he supported their grievances or anything like that to me in that phone call”.¹⁴⁵

114. In reality, however, Mr. French was very supportive of the Convoy and was in regular contact with Keith Wilson, a lawyer from the Justice Centre for Constitutional Freedoms (“JCCF”) assisting the Convoy organizers. In text messages exchanged with Mr. Wilson, Mr. French: applauded the Convoy organizers for raising so much money;¹⁴⁶ referred to Mr. Wilson as a “patriot”;¹⁴⁷ and helped Mr. Wilson arrange an interview with Fox News.¹⁴⁸ It does not appear that the City performed their due

¹⁴³ Examination of Steve Kanellakos, Transcript Volume 3 dated October 17, 2022 at p. 81

¹⁴⁴ Examination of Serge Arpin, Transcript Volume 3 dated October 17, 2022 at p. 210

¹⁴⁵ Examination of Jim Watson, Transcript Volume 4 dated October 18, 2022 at pp. 162-163

¹⁴⁶ HRF00000513

¹⁴⁷ HRF00000513

¹⁴⁸ HRF00000513

diligence on probing Mr. French’s position and interests before agreeing to engage him as a “third party” mediator.

115. The Ottawa Coalition submits that the City’s decision to negotiate with Convoy organizers, as suggested and facilitated by Mr. French, contributed to an ongoing loss of public confidence in the steps taken by government and authorities to end the occupation.

116. Mr. French’s ties to the Ontario government also appeared to undermine his credibility and neutrality in the eyes of some Convoy organizers. Convoy organizer BJ Dichter testified that he was skeptical of organizers’ attempts to negotiate with the City, especially given that Mr. French—Premier Doug Ford’s “buddy” and former Chief of Staff--was involved.¹⁴⁹ This skepticism provoked Mr. Dichter to tweet (from both his Twitter account and Ms. Lich’s) that “no deal” had been made after the letters between Ms. Lich and Mayor Watson became public.¹⁵⁰ As the Commission heard, some protesters then ultimately refused to abide by the terms of the Mayor’s deal.¹⁵¹

117. Second, the deal did not result in any significant movement of trucks away from many residential Centretown streets, such as Kent Street.¹⁵²

¹⁴⁹ Examination of BJ Dichter, Transcript Volume 16 dated November 3, 2022 at p. 49

¹⁵⁰ Examination of BJ Dichter, Transcript Volume 16 dated November 3, 2022 at pp. 66-70

¹⁵¹ Examination of Steve Kanellakos, Transcript Volume 3 dated October 17, 2022 at p. 155

¹⁵² Examination of Catherine McKenney and Mathieu Fleury, Transcript Volume 2 dated October 14, 2022 at pp. 185-186, 207 and 233 (at p. 185 McKenney described a video they had taken of truck lined up down Kent Street stated that they “saw this every night for the entire occupation at this area, in this area”; at p. 186 McKenney described a video they had taken walking along Kent Street on February 16, 2022, during a City Council meeting to show their colleagues what was still happening in that area and at p. 233 McKenney testified that they wanted to show those “counting trucks” after the Mayor’s deal that the street was not cleared and trucks had not in fact been moved from residential neighbourhoods--“I was very concerned—you know, that the mayor was relaying to council and to the public that trucks had been relocated off of residential streets”; at. p. 207 McKenney testified that there was never an emergency lane open on Kent Street for the duration of the occupation)

118. Third, police witnesses expressed concern that the City's deal with organizers took resources away from ongoing and planned police operations and undermined the work of the PLTs.¹⁵³ Further, the very premise of the deal would have imposed operational obligations on the OPS, despite the fact that political officials cannot direct police on operational matters. While OPS was generally aware of the Mayor's interactions with the Convoy organizers, the Mayor and his Chief of Staff negotiated the terms of the "deal" without consultation with the OPS. This put the OPS in a difficult position and could have caused further friction with the Convoy.

(iii) Occupiers emboldened and citizens fight back

119. As the occupation in Ottawa continued, the public's sense of abandonment and loss of trust in authorities grew. As summarized in the POEC's public feedback presentation, this sentiment was tied to perceived police inaction and non-enforcement of laws.¹⁵⁴ Many wondered why the police were not using the tools at their disposal to enforce existing laws.¹⁵⁵

120. In his testimony, former Chief Sloly discussed the feedback that he received during the occupation from Navigator and Advanced Symbolics Incorporated, which included information about the public's perception of OPS enforcement efforts (or lack thereof). One of the recommendations shared by Navigator was that OPS should

¹⁵³ See e.g. Interview Summary: superintendent Robert Bernier (Ottawa Police Service) at pp. 17-8 [WTS.00000030]

¹⁵⁴ POEC Public Submissions Summary Presentation at pp. 13, 31 and 33. From p. 13: "Many felt the police did not protect them since many reported incidents were not investigated and laws/by-laws were not enforced". From p. 33: "The Ottawa Police remained inactive despite complaints of harassment and intimidation by residents of the downtown core".

¹⁵⁵ POEC Public Submissions Summary Presentation at pp. 30-31. Ottawa resident Zexi Li testified that "There is a certain frustration when the people that are supposed to help you aren't helping you", referring to the lack of enforcement by police and by-law officers during the Convoy: Examination of Zexi Li and Victoria de la Ronde, Transcript Volume 2 dated October 14, 2022 at pp. 51-53

emphasize enforcement efforts, to let the public know that the police were not letting people break the law and get away with it.¹⁵⁶ During cross-examination by counsel for the Ottawa Coalition, Mr Sloly agreed that it was important for public trust for the police to be seen to be engaging in enforcement activities in and around the red zone, but that these activities were not merely “small wins” or “pandering to residents” and were instead critical to upholding public order and maintaining public safety.¹⁵⁷

121. Enforcement activities were not commenced after the Convoy arrived, primarily because of risks to officer and public safety. Witnesses testified that there was concern that enforcement activities could have risked inflaming demonstrators. There was also evidence about concerns for officer safety and the lack of police resources to safely carry out enforcement activities.¹⁵⁸ Even before the Convoy arrived, the OPS and City of Ottawa had apparently deemed the crowd dynamics to likely be too volatile and unsafe for City by-law officers to conduct enforcement activities in the red zone on their own.

122. The inability to carry out sustained enforcement activities appeared to be tied to a lack of policing resources. Had reinforcements been requested and delivered from other police services earlier, it is likely that more consistent enforcement activities could and would have been safely carried out. Indeed, Insp. Lucas highlighted this issue several times in the “lessons learned” offered in his Interview

¹⁵⁶ Examination of Peter Sloly, Transcript Volume 13 dated October 31, 2022 at p. 64

¹⁵⁷ Examination of Peter Sloly, Transcript Volume 13 dated October 31, 2022 at pp. 161-162

¹⁵⁸ See e.g. Examination of Peter Sloly, Transcript Volume 13 dated October 31, 2022 at pp. 292-295. At p. 293, Sloly recounted that there were many incidents of officers and even groups of officers being swarmed, which posed serious safety concerns and hindered further enforcement activities. When Prime Minister Trudeau testified later during this Inquiry, he noted that the risk of violence posed to police officers trying to enforce the law was a significant consideration weighed in the federal government’s decision to ultimately invoke the *Emergencies Act*: see Examination of Justin Trudeau, Transcript Volume 31 dated November 25, 2022 at pp. 148-149.

Summary:

- “Request reinforcements from other police services well in advance of event”; and
- “Conduct enforcement activities starting on the first day the convoy arrived”.¹⁵⁹

123. It appeared to many that the lack of consistent enforcement activities – paired with occurrences of police officers expressing support for, taking selfies with, and fist-bumping demonstrators¹⁶⁰ – emboldened Convoy participants and allowed them to become more entrenched.

124. Unfortunately, it likely did not help the situation when Chief Sloly publicly stated that “there may not be a policing solution to this demonstration” on February 2, 2022, and five days later publicly requested 1800 additional police officers from other police forces. The Commission heard evidence that the request for officers created confusion and political dispute over the number of officers that had already been sent to Ottawa. Most concerning for Ottawa businesses and residents, however, these statements signaled that the OPS were not equipped to manage the ongoing occupation.¹⁶¹ From an operational standpoint, these statements had the

¹⁵⁹ Interview Summary: Inspector Russell Lucas (Ottawa Police Service) at p. 13 [WTS.00000024]

¹⁶⁰ Former Chief Sloly accepted that photos on social media of police officers giving fist bumps and taking selfies with Convoy participants might have contributed to the erosion of residents’ trust in the OPS: Examination of Peter Sloly, Transcript Volume 12 dated October 28, 2022 at p. 242. He also suggested, however, that these photos “were used extensively in the social media disinformation and misinformation campaigns”. While he did not elaborate exactly why he meant by this statement, the Ottawa Coalition submits that it is likely that these photos may have indeed been circulated by Convoy participants to bolster the narrative of them being supported by police. Chief Sloly acknowledged, however, during cross-examination by counsel for the Ottawa Coalition [Examination of Peter Sloly, Transcript Volume 13 dated October 31, 2022 at pp. 176-177] that the OPS did receive complaints about officers displaying support for the Convoy and that he could not rule out that some of this conduct may have been “more nefarious” and not simply attempts at de-escalation.

¹⁶¹ During his testimony, Former Chief Sloly acknowledged how some might come to the conclusion that the public announcement of this large request for officers exposed the OPS’s vulnerability to Convoy

potential to jeopardize ongoing police efforts.¹⁶² No doubt these statements also fueled, with good reason, the impression of Convoy participants that they had the upper hand with authorities.

125. As citizens continued to lose trust in the ability of authorities to end the occupation, counter-protests began to rise up. For example:

- On January 31, 2022, three Centretown residents stood in the middle of Cooper Street to block and give “thumbs down” to a semi-truck occupying this residential street.¹⁶³
- On various dates, individual residents took to the streets to protest the disruption and harm they were experiencing. Examples circulated on social media, such as the counter-protester standing in the middle of the street surrounded by blaring truck horns holding a sign that read “We will not be held hostage in our own city”¹⁶⁴ and the “blue jacket” resident who took to the street to express his anger and frustration to Convoy participants.¹⁶⁵

participants (though Sloly noted that he viewed this statement to be no different than other public statements he had made after January 29th, talking about how desperately they needed resources): Examination of Peter Sloly, Transcript Volume 12 dated October 28, 2022 at pp. 167-168.

¹⁶² When the Mayor of Windsor, Drew Dilkens, testified he agreed that one of the lessons that he had learned from Ottawa’s experience was not to publicly announce the number of officers requested. He stated that, as the Chair of the Police Board, he “did not want to do anything that would jeopardize the police operation or tip our hand in terms of what additional resources might be needed specifically”: Examination of Drew Dilkens, Transcript Volume 18 dated November 7, 2022 at p. 154

¹⁶³ Affidavit of Trudy Moore, sworn October 11, 2022 at para. 18 [AFF.00000002] and accompanying compilation video at 02:45 [COA00000135]

¹⁶⁴ Affidavit of Trudy Moore, sworn October 11, 2022 at para. 19 [AFF.00000002] and accompanying compilation video at 02:48 [COA00000135]

¹⁶⁵ Affidavit of Trudy Moore, sworn October 11, 2022 at para. 32 [AFF.00000002] and accompanying compilation video at 6:31 [COA00000135]

- On February 13, 2022, a counter-protest took place at Billings Bridge, at the intersection of Bank Street and Riverside Drive. Organized by local residents, this peaceful demonstration was amplified on social media including through a tweet posted by Ottawa Centre MPP Joel Harden encouraging residents to attend. At this counter-protest, citizens joined together to physically block and divert Freedom Convoy trucks from entering downtown.¹⁶⁶ One Ottawa resident described this collective effort by citizens to be more effective than anything that law enforcement had done to curtail the occupation.¹⁶⁷

126. Councillor McKenney attended the counter-protest at Billings Bridge and described it as a “watershed moment” in the occupation “where it became very evident that residents were no longer going to just sit idly by, that they were going to take, you know, action where they felt they could”.¹⁶⁸ Indeed, given the success of this demonstration and the growing public sense of abandonment by authorities, it appears likely that these counter-protests would have increased and intensified had the occupation continued.

127. Prime Minister Trudeau and Deputy Prime Minister Freeland expressed serious concerns about citizens feeling like they were left to take matters into their own hands.¹⁶⁹ Prime Minister Trudeau testified—and the Ottawa Coalition would agree—that it was not ideal for civilians to be doing things like blocking and diverting large

¹⁶⁶ Affidavit of Sean Flynn, sworn September 30, 2022 at para. 23 [COA00000117]; Affidavit of Trudy Moore, sworn October 11, 2022 at paras. 39-40 [AFF.00000002] and accompanying compilation video starting at 7:59 [COA00000135]. See also Examination of Catherine McKenney and Mathieu Fleury, Transcript Volume 2 dated October 14, 2022 at pp. 188-192.

¹⁶⁷ Affidavit of Sean Flynn, sworn September 30, 2022 at para. 23 [COA00000117]

¹⁶⁸ Examination of Catherine McKenney and Mathieu Fleury, Transcript Volume 2 dated October 14, 2022 at p. 191

¹⁶⁹ Examination of Justin Trudeau, Transcript Volume 31 dated November 25, 2022 at pp. 52, 64, 147, 149, and 248; Examination of Chrystia Freeland, Transcript Volume 30 dated November 24, 2022 at pp. 75-76 and 111

trucks. He testified that, when considering whether there was a threat of serious violence justifying invocation of the *Emergencies Act*, he viewed the uprising of counter-protests to pose a dangerous risk of violent conflict.¹⁷⁰

PART V: CONCLUSION

128. Ottawa residents and businesses had their health, well-being and livelihoods totally upended for three weeks by the Convoy occupation. Many people felt abandoned by the authorities at all three levels of government. The first priority of government is to protect its citizens and maintain peace and order. Ottawa residents felt very unsafe and intimidated throughout this occupation, unable to find sanctuary in their own homes due to incessant horns blaring at dangerous levels. Through this Inquiry, the Ottawa community has heard evidence about the circumstances that led to this crisis and the barriers that made it difficult for law enforcement and government to resolve it. At times this evidence was conflicting, however, and the Ottawa community looks forward to the Commissioner's ultimate conclusions on these points.

129. The evidence before the Commission demonstrated serious shortcomings in police coordination, particularly at the leadership level. Moving forward with a closer integration of police command, which could have more effectively addressed the crisis, hinged largely on the discretion of a single individual, former Chief Sloy. No protocols or policies at the provincial or federal levels were available to guide Chief Sloy and others through this public order crisis, and the internal dysfunction at the OPS, and rivalries between and within different levels of government, impeded appropriate assessments and decision-making. In the meantime, the Ottawa community and those who live in the heart of our national capital were abandoned to

¹⁷⁰ Examination of Justin Trudeau, Transcript Volume 31 dated November 25, 2022 at pp. 52, 64, 147, 149, and 248

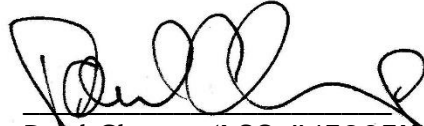
lawlessness and disorder. They deserved better from our authorities.

130. Federalism is a form of government that has served Canada very well. But this public order crisis demonstrated where the cracks can be found. The provincial government evidently did not feel responsible for the disorder because the Convoy protest was directed primarily at the federal government. Yet even though Ottawa is the national capital, the federal government had no authority to take any effective action because policing is a provincial responsibility. Informal arrangements and agreements have apparently been sufficient in the past, but this public order event strongly suggests more formal agreements and protocols, or even legislation, may be required.

131. Since Ottawa is a natural site for future protests and demonstrations, the Ottawa community will be seriously affected by the recommendations that arise from this Inquiry. Ottawa residents are proud that they are often the site of protests and democratic participation. But the malign tactics of the Convoy participants, who appear to have knowingly and deliberately inflicted harm and distress on Ottawa residents for political leverage, must not be allowed to reoccur. The residents and businesses of Ottawa are hopeful that the Commission's recommendations will guide all three levels of government and police to respond more appropriately and effectively in future to those who wish to abuse their rights and freedoms to cause harm to others. While freedom of expression and peaceful assembly must be protected and celebrated, the legitimate rights and interests of nearby residents and businesses must be balanced and respected too.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

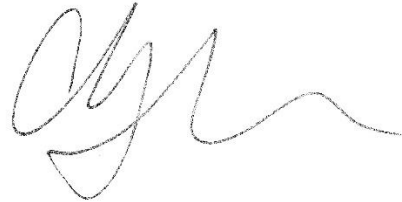
Dated at Ottawa, Ontario this 12th day of December, 2022.



Paul Champ (LSO #45305K)



Emilie Taman (LSO #52049U)



Christine Johnson (LSO #62226I)

CHAMP & ASSOCIATES
Barristers & Solicitors
43 Florence Street
Ottawa, ON K2P 0W6
T: 613-237-4740
F: 613-232-2680
E: pchamp@champlaw.ca
etaman@champlaw.ca
cjohnson@champlaw.ca

**Lawyers for the Ottawa Coalition of
Residents and Businesses**