



PARLIAMENT | PARLEMENT
CANADA

**REVIEW OF THE EXERCISE OF POWERS AND
THE PERFORMANCE OF DUTIES AND
FUNCTIONS PURSUANT TO THE DECLARATION
OF EMERGENCY THAT WAS IN EFFECT FROM
FEBRUARY 14, 2022, TO FEBRUARY 23, 2022**

**Report of the Special Joint Committee
on the Declaration of Emergency**

**Hon. Gwen Boniface, Rhéal Éloi Fortin and Matthew Green
Joint Chairs**

DECEMBER 2024

44th PARLIAMENT, 1st SESSION

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THE SPECIAL JOINT COMMITTEE ON THE DECLARATION OF EMERGENCY

has the honour to present its

THIRD REPORT

Pursuant to its Orders of Reference from the Senate on Thursday, March 22, 2022, and from the House of Commons on Wednesday, March 2, 2022, the committee has studied the Review of the Exercise of Powers and the Performance of Duties and Functions Pursuant to the Declaration of Emergency that was in effect from Monday, February 14, 2022, to Wednesday, February 23, 2022 and has agreed to report the following:

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SUMMARY

The “Freedom Convoy” was a protest movement against public health measures in response to the COVID-19 pandemic, driven by those who opposed government-imposed vaccination mandates for individuals holding certain types of employment. In early 2022, the “Freedom Convoy” movement spread rapidly through social media, culminating in several weeks of protests and blockades in locations across Canada, and particularly at ports of entry and in downtown Ottawa. The “Freedom Convoy” was able to fundraise several million dollars on the crowdfunding platforms GoFundMe and GiveSendGo.

Some of these blockades and protests became entrenched over the ensuing days and weeks in January and February 2022, and local police services seemed unable to bring the demonstrations to a conclusion. In the meantime, there were economic repercussions and impacts on residents, especially in Ottawa.

On 14 February 2022, the prime minister announced that the Governor in Council had invoked the [Emergencies Act](#) for the first time since its adoption, issuing a [Proclamation Declaring a Public Order Emergency](#). This authorized the federal government to exercise certain special temporary powers to bring an end to the “Freedom Convoy.”

These special temporary measures were made through the [Emergency Measures Regulations](#) and the [Emergency Economic Measures Order](#). Among other measures, the *Emergency Measures Regulations* included measures to prohibit certain kinds of public assembly and allow certain places to be secured, while the *Emergency Economic Measures Order* provided a regime whereby certain financial institutions could freeze financial accounts used to support the “Freedom Convoy.”

Ultimately, a police operation brought an end to the occupation of downtown Ottawa and the blockades taking place at various ports of entry concluded. The declaration of emergency was revoked on 23 February 2022.

Subsection 62(1) of the *Emergencies Act* provides that a parliamentary review committee must review the “exercise of powers and the performance of duties and functions pursuant to a declaration of emergency.”

Accordingly, on 3 March 2022, a special joint committee of the Senate and the House of Commons was established for this purpose (Special Joint Committee on the Declaration

of Emergency), and it began its review of the exercise of powers and the performance of duties and functions pursuant to the declaration of emergency in March 2022.

Under paragraph 62(6)(c) of the *Emergencies Act*, the parliamentary review committee is obligated to report to Parliament within seven sittings days after the revocation of the declaration of emergency. As such, the Committee presented its [first report](#) in March 2022, which indicated that the Committee intended to present additional reports at a later time. The Committee then continued to hear from witnesses until the end of 2022.

The Committee's work coincided with the work of the Public Order Emergency Commission, which was the inquiry established in accordance with section 63 of the *Emergencies Act* to examine "the circumstances that led to the declaration being issued and the measures taken for dealing with the emergency."

The Committee presented a [second interim report](#) on 7 October 2024 to the House of Commons and on 8 October 2024 to the Senate, providing an update on the status of its ongoing work.

LIST OF RECOMMENDATIONS

As a result of their deliberations, committees may make recommendations that they include in their reports for the consideration of the Senate, House of Commons or the Government. Recommendations related to this parliamentary review are listed below.

Recommendation 1

That the federal government amend the *Emergencies Act* to ensure that the parliamentary review committee:

- **is appointed within 48 hours after the proclamation of the emergency;**
- **sit only over the course of the emergency in an oversight capacity; and**
- **not sit simultaneously with the inquiry provided for in section 63 of the *Emergencies Act*..... 19**

Recommendation 2

That the federal government amend the *Emergencies Act* to require that the motion considered in each house of Parliament to confirm a declaration of emergency also make provision for the designation or establishment of the parliamentary review committee, so as to ensure that the committee becomes active at the earliest possible opportunity. 19

Recommendation 3

That the Senate and House of Commons administrations provide any future parliamentary review committee with an overriding priority to access the use of parliamentary resources available for committee meetings during a period of national emergency..... 19

Recommendation 4

That the federal government collaborate with Parliament to ensure that the *Emergencies Act* is amended to include an automatic review of the Act itself by way of a joint parliamentary committee, either within the 12 months following the production of the final report on the mandated inquiry when the Act has been invoked, or every 10 years when the Act has not been invoked. 19

Recommendation 5

That the federal government amend the *Emergencies Act* to provide that it be required to undertake and set the parameters for consultations with Indigenous peoples prior to the invocation of the *Emergencies Act*, with due regard to the principles of the *United Nations Declaration on the Rights of Indigenous Peoples*, including justice, democracy, respect for human rights, non-discrimination and good faith. 24

Recommendation 6

That the municipalities that bear costs reasonably incurred as a result of an emergency (such as, jersey barriers) be indemnified in the event of such expenses; and that a tripartite roundtable composed of federal, provincial and municipal appointees be convened to discuss these costs in the aftermath of an emergency..... 28

Recommendation 7

That the federal government amend the *Emergencies Act* to provide a clear and delineated role for the provinces in the event of future disruptions, and that, as part of this exercise: (a) there should be a review of policing roles, including jurisdictional responsibilities; (b) the three levels of government should enter into an agreement that clearly delineates those roles and responsibilities in the event of an emergency in the National Capital Region and at border crossings; and (c) other crucial areas and infrastructure should also be considered within this review. 29

Recommendation 8

That the federal government, in conjunction with Indigenous, provincial, and territorial governments; police and intelligence agencies; the Parliamentary Protective Service; the Canadian Association of Chiefs of Police; and other stakeholders, develop or enhance protocols on information sharing, intelligence gathering, and distribution that:

- **identify how and by whom information and intelligence should be collected, analyzed and distributed for major events, such as protests, that have multijurisdictional or national significance;**
- **enhance the ability to collaboratively evaluate information collected for reliability;**
- **adhere to the *Canadian Charter of Rights and Freedoms* and the reasonable expectations of privacy of those affected;**
- **enhance record-keeping regarding the collection, analysis and distribution of information and intelligence;**
- **ensure compliance with legislative mandates, for example, statutory limits on surveillance of lawful protests by the Canadian Security Intelligence Service;**
- **promote appropriate access to and interpretation of social media and open-source materials;**
- **ensure that, where appropriate, comprehensive, timely and reliable intelligence is communicated to police and government within their appropriate spheres of decision making; and**
- **promote objective, evidence-based risk assessments that are written to both acknowledge information deficits and avoid misinterpretation. 35**

Recommendation 9

That the federal government, in conjunction with Indigenous, provincial, and territorial governments; police and intelligence agencies; the Parliamentary Protective Service; the Canadian Association of Chiefs of Police; and other stakeholders, consider the creation of a single national intelligence coordinator for major events of a national, interprovincial or interterritorial dimension. 36

Recommendation 10

That the Parliamentary Precinct be expanded to include Wellington Street; and that additional expansions to the Parliamentary Precinct be considered in consultation with the Parliamentary Protective Service, Ottawa Police Service, Ontario Provincial Police, and the federal, provincial and municipal governments. 41

Recommendation 11

That, in view of the above recommendation, the federal government give consideration to resource allocation for the Parliamentary Protective Service to secure an enlarged Parliamentary Precinct; and that Wellington Street be closed to vehicular traffic in order to further secure Parliament Hill for parliamentarians, visitors and residents of the area..... 42

Recommendation 12

That decisions concerning parliamentary security operations, and particularly in striking the right balance in ensuring the Parliament of Canada is safe and secure while remaining open and accessible to all, including those peacefully protesting, be the responsibility of security and policing professionals, and be subject to parliamentary oversight. 42

Recommendation 13

That the federal government review the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* to determine if the Financial Transactions and Reports Analysis Centre of Canada should be given any additional powers when there are “threats to the security of Canada” as defined by the *Canadian Security Intelligence Service Act*..... 45

Recommendation 14

That the federal government review the *Canadian Security Intelligence Service Act* to ensure that the definition of “threats to the security of Canada” and the Canadian Security Intelligence Service’s operational mandate are adequate and consistent with the *Emergencies Act*..... 56

Recommendation 15

That the federal government remove the incorporation by reference into the *Emergencies Act* of the definition of “threats to the security of Canada” from the *Canadian Security Intelligence Service Act*. 56

Recommendation 16

That the federal government assess the role that economic factors may play in determining the existence of a “national emergency” and amend the *Emergencies Act* accordingly..... 56

Recommendation 17

That the federal government, in collaboration with the Canadian Bankers Association, the Canadian Credit Union Association and the Financial Transactions and Report Analysis Centre of Canada, develop standardized processes regarding freezing and unfreezing accounts in the case that the *Emergencies Act* is invoked..... 67

Recommendation 18

That the federal government review the financial measures of the *Emergencies Act* and the amendments made to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* in April 2022 to determine their efficacy and if legislation to address any gaps in regard to regulations for crowdfunding platforms should be enacted. 69

Recommendation 19

That the federal government amend section 4.2 of the *Department of Justice Act*, concerning the requirements for the Minister of Justice to table a “Charter statement” on government legislation, so as to require such statements to be tabled with respect to any declaration of emergency and each regulation or order adopted in respect of a national emergency. 70

Recommendation 20

That the federal government be required to keep a thorough written record of the process leading to a declaration of emergency to prevent revisionist testimony and that this written record should be provided to the parliamentary review committee once it is appointed. 82

Recommendation 21

That the federal government amend the *Emergencies Act* to better define the parliamentary review committee's role; and that a new definition include matters pertaining to the access of documents beyond access to those orders and regulations currently outlined within this Act..... 82



REVIEW OF THE EXERCISE OF POWERS AND THE PERFORMANCE OF DUTIES AND FUNCTIONS PURSUANT TO THE DECLARATION OF EMERGENCY THAT WAS IN EFFECT FROM FEBRUARY 14, 2022, TO FEBRUARY 23, 2022

CHAPTER 1: INTRODUCTION

On 28 January 2022, the first protest associated with the “Freedom Convoy” began in Ottawa, Ontario. Over the subsequent days and weeks, several additional protests and blockades would take place across Canada, including in Coutts, Alberta; Surrey, British Columbia; Emerson, Manitoba; Fort Erie, Ontario; Sarnia, Ontario; and Windsor, Ontario. Several smaller protests would also emerge in other locations across Canada. Figure 1 shows the locations of some of these protests and blockades.

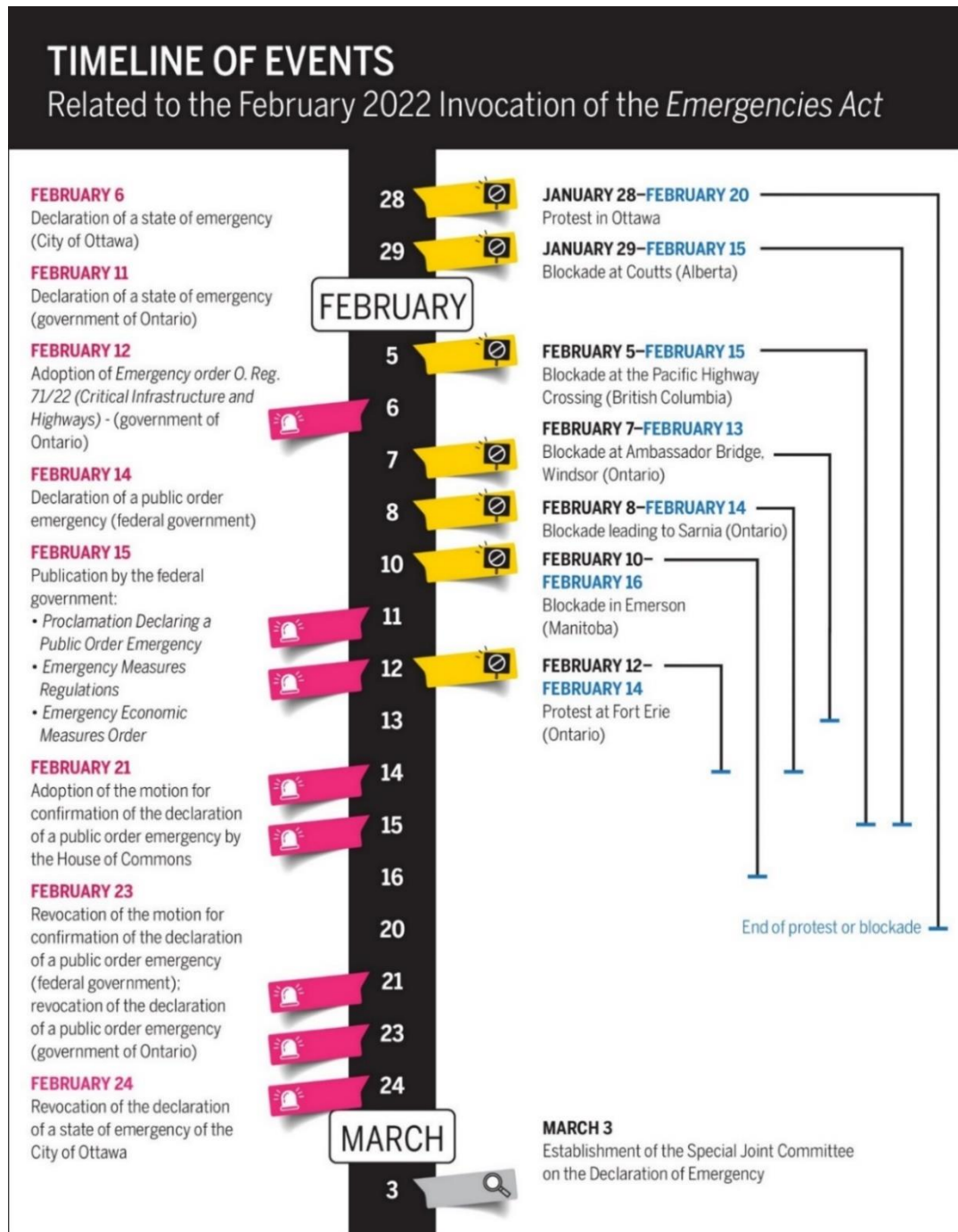
Figure 1—Selected Locations of “Freedom Convoy” Protests and Blockades, January to February 2022



Source: Figure created by the Special Joint Committee on the Declaration of Emergency based on various media reports.

In response to these events, several levels of government declared states of emergency. Figure 2 shows the timeline of these states of emergency in relation to the various protests and blockades that were taking place at the time.

Figure 2—Timeline of Events Related to the 2022 Invocation of the *Emergencies Act*



Source: Figure prepared by the Special Joint Committee on the Declaration of Emergency based on data obtained from various government and media sources.

On 6 February 2022, the City of Ottawa declared a state of emergency.¹ On 11 February, the Government of Ontario declared its own state of emergency “as a result of interference with transportation routes and critical infrastructure in locations across the province.”² On 12 February, the Government of Ontario made an emergency order under the *Emergency Management and Civil Protection Act*, which prohibited persons from blocking critical infrastructure, among other measures.³

On 14 February 2022, pursuant to section 17 of the federal [Emergencies Act](#) (the Act), the Governor in Council declared the existence of a public order emergency.⁴ The [Proclamation Declaring a Public Order Emergency](#) stated that the emergency consisted of:

(a) the continuing blockades by both persons and motor vehicles that is occurring at various locations throughout Canada and the continuing threats to oppose measures to remove the blockades, including by force, which blockades are being carried on in conjunction with activities that are directed toward or in support of the threat or use of acts of serious violence against persons or property, including critical infrastructure, for the purpose of achieving a political or ideological objective within Canada,

(b) the adverse effects on the Canadian economy—recovering from the impact of the pandemic known as the coronavirus disease 2019 (COVID-19)—and threats to its economic security resulting from the impacts of blockades of critical infrastructure, including trade corridors and international border crossings,

(c) the adverse effects resulting from the impacts of the blockades on Canada’s relationship with its trading partners, including the United States, that are detrimental to the interests of Canada,

(d) the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades and the

1 Christian Paas-Lang, “[Ottawa declares state of emergency as police boost enforcement, target protest’s fuel supply](#),” *CBC News*, 6 February 2022.

2 Government of Ontario, [Report on Ontario’s Declared Provincial Emergency from February 11, 2022 to February 23, 2022](#), 18 July 2022.

3 Government of Ontario, [Critical Infrastructure and Highways](#), O. Reg. 71/22.

4 [Emergencies Act](#), R.S.C. 1985, c. 22 (4th Supp.), s. 17.

risk that this breakdown will continue as blockades continue and increase in number, and

(e) the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians.⁵

On 15 February 2022, the Governor in Council made the [Emergency Measures Regulations](#) (Regulations) and the [Emergency Economic Measures Order](#) (Order).⁶ The Regulations put in place measures to regulate or prohibit public assembly and required that individuals comply with a request for essential goods or services made by certain officials “for the removal, towing and storage of any vehicle, equipment, structure or other object that is part of a blockade.”⁷

Among other measures, the Order provided a regime for certain financial institutions to cease certain dealings with individuals or entities “engaged, directly or indirectly, in an activity prohibited by sections 2 to 5 of the Regulations,” such as participating in a public assembly that may reasonably be expected to lead to a breach of the peace.⁸

Within a few days of the Regulations and the Order, all the protests and blockades concluded. Beginning on 18 February 2022, a police operation took place in Ottawa that successfully brought an end to the protest that had effectively turned into an occupation of downtown Ottawa. Protests and blockades in other locations across Canada also came to an end.

Section 62 of the *Emergencies Act* provides that a parliamentary review committee must review the exercise of powers and the performance of duties and functions pursuant to a declaration of emergency. As such, the Special Joint Committee on the Declaration of Emergency (the Committee) began its review on 24 March 2022.

During its review, the Committee heard from 79 witnesses over 16 meetings. Witnesses included federal ministers, departmental officials and representatives from policing services, municipal government, the financial sector and related industries. The Committee also received four written briefs and hundreds of pages of written

5 [Proclamation Declaring a Public Order Emergency](#), SOR/2022-20, 15 February 2022.

6 [Emergency Measures Regulations](#), SOR/2022-21, 15 February 2022; [Emergency Economic Measures Order](#), SOR/2022-22, 15 February 2022.

7 [Emergency Measures Regulations](#), subsection 7(1).

8 [Emergency Economic Measures Order](#), s. 1.

documentation from several federal departments and agencies.⁹ The Committee wishes to sincerely thank all those who participated in this review for their valuable contribution to an important parliamentary evaluation of the first ever use of the *Emergencies Act*.

Section 63 of the *Emergencies Act* requires that an inquiry related to the emergency be established within 60 days after the expiration or revocation of a declaration of emergency. As such, on 25 April 2022, an order in council was published creating the Public Order Emergency Commission (the Commission).¹⁰

This report summarizes the evidence considered by the Committee, particularly the testimony of the witnesses who appeared before the Committee, organized into the following chapters: Parliamentary Supervision, Impact of the “Freedom Convoy,” Political Response to the “Freedom Convoy,” Police Response to the “Freedom Convoy,” National Security and the “Freedom Convoy,” Invocation of the *Emergencies Act*, Special Temporary Measures, Charter Compliance, and Access to Information and Documents. The report also includes recommendations to the federal government.

In preparing this report, the Committee has considered the evidence of the Commission as it relates to the exercise of powers and the performance of duties and functions pursuant to the declaration of emergency. The Commission released its final report on 17 February 2023.¹¹ On 6 March 2024, the federal government released its response to the Commission’s report.¹²

CHAPTER 2: PARLIAMENTARY SUPERVISION

The *Emergencies Act* provides a regime for the parliamentary supervision of a declaration of emergency, including:

- the consideration of a motion for confirmation of a declaration of emergency by the Senate and House of Commons;

9 The briefs and documents are listed on the [Special Joint Committee on the Declaration of Emergency’s](#) website.

10 Privy Council Office, [Order in Council 2022-0392](#), 25 April 2022.

11 Public Order Emergency Commission, [Report of the Public Inquiry into the 2022 Public Order Emergency](#), Final report, 17 February 2023.

12 Public Safety Canada, [Government of Canada Response to the Public Order Emergency Commission Recommendations](#), 6 March 2024.

- parliamentary involvement in the revocation, continuation or amendment of a declaration of emergency;
- parliamentary involvement in the revocation or amendment of any order or regulation made pursuant to the Emergencies Act;
- the parliamentary review committee; and
- an inquiry “to be held into the circumstances that led to the declaration being issued and the measures taken for dealing with the emergency.”¹³

Pursuant to subsection 58(1) of the *Emergencies Act*, the motion for confirmation of a declaration of emergency was tabled in the House of Commons on 16 February.¹⁴ The House of Commons debated the motion from 17 to 21 February and agreed to it on a recorded division on 21 February.¹⁵

In the Senate, the motion for confirmation of a declaration of emergency was moved on 21 February.¹⁶ The Senate debated the motion from 22 to 23 February.¹⁷

The declaration of emergency was revoked on 23 February 2022, when the Governor in Council made the [Proclamation Revoking the Declaration of a Public Order Emergency](#).¹⁸ As a result, in the Senate, the motion for confirmation was withdrawn and did not come to a vote.

Subsection 62(1) of the *Emergencies Act* provides that a joint committee composed of both senators and members of Parliament shall review “[t]he exercise of powers and the performance of duties and functions pursuant to a declaration of emergency.”

On 2 March 2022, the House of Commons adopted a motion to establish a special joint committee “to review the exercise of powers and the performance of duties and

13 [Emergencies Act](#), ss. 58-63.

14 House of Commons, [Journals](#), 16 February 2022.

15 House of Commons, [Journals](#), 21 February 2022.

16 Senate, [Journals](#), 22 February 2022.

17 *Ibid.*; Senate, [Journals](#), 23 February 2022.

18 [Proclamation Revoking the Declaration of a Public Order Emergency](#), SOR/2022-26, 23 February 2022.

functions pursuant to the declaration of emergency that was in effect from Monday, February 14, 2022, to Wednesday, February 23, 2022.”¹⁹

On 3 March 2022, the Senate adopted a similar motion to establish a special joint committee, providing it with a mandate that has identical language to the motion adopted by the House of Commons.²⁰

On 5 April 2022, the Committee adopted a motion that, among other things:

[T]he committee begin its study, pursuant to s. 62(1) of the Emergencies Act, of the options that the Government of Canada utilized during the invocation of the *Emergencies Act* and enumerated in the Proclamation Declaring a Public Order Emergency.

That in this study of each option and for the committee’s final report, the committee consider the necessity, implementation, and impact of that option.²¹

The *Emergencies Act* requires the parliamentary review committee to report the results of its review to both houses of Parliament at least once every 60 days while a declaration of emergency is in effect and empowers the Committee to revoke or amend any order or regulation.²² As such, as the *Emergencies Act* was drafted, the parliamentary review committee was intended to provide ongoing oversight while a declaration of emergency was in effect, rather than post facto review like the Commission.

In this case, due to the short duration of the declaration of emergency, the Committee was established after the declaration of emergency had already been revoked. As such, there was no ability for the Committee to report back to both houses on an ongoing basis during the declaration of emergency, and the Committee did not have the opportunity to revoke or amend any orders or regulations.

Given that the Committee and the Commission undertook their work simultaneously, the Committee invited three witnesses to appear to explain the scope of the Committee’s mandate.

19 House of Commons, [Journals](#), 2 March 2022.

20 Senate, [Journals](#), 3 March 2022.

21 Parliament of Canada, Special Joint Committee on the Declaration of Emergency (DEDC), [Minutes of Proceedings](#), 5 April 2022.

22 [Emergencies Act](#), subsections 62(5)-62(6).

Philippe Hallée, Senate Law Clerk and Parliamentary Counsel, and Philippe Dufresne, House of Commons Law Clerk and Parliamentary Counsel, explained that, in accordance with the *Emergencies Act* and the motions adopted by both houses, the Committee had the authority to review the exercise of powers and the performance of duties and functions pursuant to the declaration of a public order emergency, while the question of whether any other topics were within the scope of its mandate was for the Committee to decide.²³

As the minister who sponsored the *Emergencies Act* in Parliament when it was enacted in 1988, the Honourable Perrin Beatty provided the Committee with insight about the intended role of the Committee:

We anticipated that the primary role of the committee was going to be to provide continuing parliamentary oversight, throughout the time of the crisis, of how the government was using its authority. What we certainly did not preclude was the ability of the committee to look at whether or not the authority that the government had given itself was appropriate.²⁴

The Honourable Perrin Beatty also argued that the Committee should study the circumstances that caused the declaration of emergency and seek information that sheds light on the rationale for the invocation of the *Emergencies Act*. Finally, he said that it would be appropriate for the Committee to examine whether the threshold for the invocation of the *Emergencies Act* was met.²⁵

In his brief to the Committee, Ryan Alford, Professor at Lakehead University, noted that the Committee could address whether there was an emergency as defined by the *Emergencies Act*. He explained that, as “an organ of parliamentary oversight and responsible government,” the Committee should hold the government accountable for its conduct both during the declaration of emergency and at the Commission.²⁶

Some witnesses also addressed the overlapping mandates of the Committee and the Commission.²⁷ The Honourable Perrin Beatty indicated that he was not offended by the

23 DEDC, [Evidence](#), 29 March 2022, 1840 (Philippe Hallée, Philippe Dufresne). Unless otherwise indicated, witnesses are listed with the titles they held at the time they appeared.

24 DEDC, [Evidence](#), 29 March 2022, 2050 (Hon. Perrin Beatty).

25 Ibid.

26 Ryan Alford, [Fulfilling Parliament’s Key Responsibility under the Emergencies Act](#), Brief submitted to DEDC, 3 February 2023.

27 See, for example, DEDC, [Evidence](#), 26 April 2022, 2050 (Hon. David Lametti).

overlap between the Committee and Commission, and he thought that it would be “healthy in a democracy” if the two bodies reached different conclusions.²⁸

However, in a brief submitted to the Committee, Nomi Claire Lazar, Professor at the University of Ottawa, explained that there was confusion among experts caused by the simultaneous reviews of the Committee and the Commission.²⁹ She elaborated that:

[O]verlapping investigations result in public confusion, exhaustion, expense, and the risk of divergent conclusions and recommendations. The current process risks generating a public perception of politicization of the fact-finding process. And these factors together may undermine public trust in the mechanisms of accountability, in turn undermining their effectiveness.³⁰

She invited the Committee to consider its role as a forum for robust public debate beginning after fact finding is completed “by a single body whose neutrality the public widely accepts.”³¹

The Commission’s final report recommended that the *Emergencies Act* be amended to clarify the mandate and timing of a parliamentary review committee.³² In its response to the Commission’s recommendations, the federal government agreed that it would be beneficial for the parliamentary review committee to be struck “as soon as possible to allow it to exercise its oversight function, and that the Committee’s review be conducted expeditiously.”³³ However, the federal government did not necessarily commit to amending the *Emergencies Act* to bring about those changes, but rather proposed further consultations on a range of potential amendments to this Act.

Given the Committee’s experience and evidence received from witnesses with respect to its timing and the timing of the Commission, the Committee agrees that, in the future, the parliamentary review committee’s work should begin sooner after an emergency is declared. As such, the Committee recommends:

28 DEDC, [Evidence](#), 29 March 2022, 2050 (Beatty).

29 Nomi Claire Lazar, [On Necessity and Accountability in the Emergencies Act](#), Brief submitted to DEDC, 13 February 2023.

30 Ibid., p. 5.

31 Ibid.

32 Public Order Emergency Commission, [Report of the Public Inquiry into the 2022 Public Order Emergency: Volume 3 – Analysis \(Part 2\) and Recommendations](#), Final report, 17 February 2023, p. 330 (Recommendation 51).

33 Public Safety Canada, [Government of Canada Response to the Public Order Emergency Commission Recommendations](#), 6 March 2024.

Recommendation 1

That the federal government amend the *Emergencies Act* to ensure that the parliamentary review committee:

- **is appointed within 48 hours after the proclamation of the emergency;**
- **sit only over the course of the emergency in an oversight capacity; and**
- **not sit simultaneously with the inquiry provided for in section 63 of the *Emergencies Act*.**

Recommendation 2

That the federal government amend the *Emergencies Act* to require that the motion considered in each house of Parliament to confirm a declaration of emergency also make provision for the designation or establishment of the parliamentary review committee, so as to ensure that the committee becomes active at the earliest possible opportunity.

The Committee recognizes that other aspects of its review might have to take place differently in the future. For instance, although the Committee found the legal assistance provided by the Senate and House of Commons law clerks to be very helpful, the Committee can foresee future scenarios in which it might need to engage external legal counsel to properly conduct its work.

In any case, with respect to how the Committee ought to operate in the future, the Committee recommends:

Recommendation 3

That the Senate and House of Commons administrations provide any future parliamentary review committee with an overriding priority to access the use of parliamentary resources available for committee meetings during a period of national emergency.

Finally, in relation to broader public accountability and the inquiry process, the Committee recommends:

Recommendation 4

That the federal government collaborate with Parliament to ensure that the *Emergencies Act* is amended to include an automatic review of the Act itself by way of a joint

parliamentary committee, either within the 12 months following the production of the final report on the mandated inquiry when the Act has been invoked, or every 10 years when the Act has not been invoked.

CHAPTER 3: IMPACT OF THE “FREEDOM CONVOY”

Impact on Residents and Communities

Many witnesses said that the “Freedom Convoy” protests and blockades had a significant effect on residents’ well-being, the livability of the neighbourhood and their safety.³⁴ Beyond the constant barrage of noise and diesel fumes, these residents experienced stress, psychological distress, sleep deprivation, hearing loss, and even suicidal thoughts, while dealing with protesters’ aggressive and intimidating behaviour. The constant honking was particularly traumatic for residents of downtown Ottawa.³⁵ Mayor of Ottawa Jim Watson said that the combined presence of 18 wheelers and vehicles in the downtown core felt like “an overpowering and threatening armada” for residents.³⁶ The Mayor of Coutts, Jim Willett, said that many elderly residents in his community were afraid to travel through the protest area because they felt intimidated by the protesters.³⁷

Ottawa city councillor Mathieu Fleury said that some residents were still traumatized by the experience months later.³⁸ Some witnesses highlighted that the emergency and distress call volume increased significantly in relation to events associated with the “Freedom Convoy.”³⁹ For example, the City of Ottawa had over 18,000 3-1-1 calls, which is significantly higher than the normal volume.⁴⁰

A number of witnesses also said that those involved in restoring order, including police officers, bylaw officers and snowplow operators, suffered mental anguish and

34 DEDC, [Evidence](#), 26 April 2022, 1830 (Hon. Marco Mendicino); DEDC, [Evidence](#), 27 October 2022, 1840, 1940, 2115 (Mathieu Fleury), 1930, 1935, 2115 (Jim Watson); DEDC, [Evidence](#), 24 November 2022, 1835, 1945 (Drew Dilkens); 1840-1845 (Jim Willett).

35 DEDC, [Evidence](#), 27 October 2022, 1840 (Fleury); 1935, 2115 (Watson).

36 *Ibid.*, 1930.

37 DEDC, [Evidence](#), 24 November 2022, 1840 (Willett).

38 DEDC, [Evidence](#), 27 October 2022, 1840 (Fleury).

39 DEDC, [Evidence](#), 26 April 2022, 1830 (Mendicino); DEDC, [Evidence](#), 27 October 2022, 1840 (Fleury); 1930 (Watson).

40 DEDC, [Evidence](#), 27 October 2022, 1940 (Steve Kanellakos).

exhaustion.⁴¹ Stephen Laskowski, President of the Canadian Trucking Alliance, spoke about the consequences for truckers stuck in the blockades, including the impact on their livelihoods.⁴²

Furthermore, some witnesses told the Committee that many residents and workers experienced travel disruptions.⁴³ Some services had to be relocated or interrupted.⁴⁴ For instance, in Ottawa, staff at the Montfort Hospital had to stay in nearby hotels because of major traffic delays, leading to a steep decline in activity in the emergency room.⁴⁵ As well, 13 families had to delay or reschedule cancer treatments at the Children’s Hospital of Eastern Ontario.⁴⁶ Jim Willett added that, in Coutts, school buses and courier services could not cross the protest area.⁴⁷

Lastly, in terms of lessons learned from the experience, witnesses from the City of Ottawa explained that proactively closing streets to traffic could have prevented the blockades from happening and trucks from being set up downtown.⁴⁸ Furthermore, mistakes – such as allowing trucks to use non-truck routes, allowing protesters to bring recreational equipment to the protest area, and failing to inform residents and businesses about the authorities’ plans – could have been avoided.⁴⁹

Economic Impact

Various witnesses stated that many businesses were affected by the “Freedom Convoy,” whether financially or by being forced to temporarily or fully suspend their activities, particularly because they were unable to receive deliveries.⁵⁰ Mathieu Fleury said that it was “chaos”⁵¹ for businesses and institutions in the area. Specifically, the Rideau Centre

41 Ibid., 2115 (Watson); 2110 (Kanellakos).

42 DEDC, [Evidence](#), 24 November 2022, 2005, 2025 (Stephen Laskowski).

43 DEDC, [Evidence](#), 27 October 2022, 1940 (Fleury); 2130 (Watson); 1905, 1945 (Dilkens); 1840-1845 (Willett).

44 Ibid., 1920 (Kim Ayotte); 2130 (Watson); DEDC, [Evidence](#), 24 November 2022, 1905 (Dilkens); 1845 (Willett).

45 DEDC, [Evidence](#), 27 October 2022, 1935 (Watson).

46 Ibid., 2130.

47 DEDC, [Evidence](#), 24 November 2022, 1845 (Willett).

48 DEDC, [Evidence](#), 27 October 2022, 2025 (Watson); 2030 (Fleury); 2055 (Kanellakos).

49 Ibid., 2025 (Watson); 2030 (Fleury); 1930 (Dilkens).

50 DEDC, [Evidence](#), 26 April 2022, 1830 (Mendicino); DEDC, [Evidence](#), 7 June 2022, 2005 (Rob Stewart); DEDC, [Evidence](#), 14 June 2022, 1855, 1900, 1915 (Hon. Chrystia Freeland); DEDC, [Evidence](#), 27 October 2022, 1840 (Fleury); 1930 (Watson); 1835, 1850 (Dilkens); 1845 (Willett).

51 DEDC, [Evidence](#), 27 October 2022, 1840 (Fleury).

was closed for 24 consecutive days, representing a loss of revenue of \$2 million per day for those businesses.⁵²

Mathieu Fleury also said that small and independent businesses were particularly hard hit. Some restaurant owners faced stark choices: they could either serve protesters in violation of public health regulations or close entirely.⁵³ Jim Watson added that the tourism industry was also affected.⁵⁴

Various witnesses told the Committee about the significant economic impacts associated with the illegal border blockades.⁵⁵ For example, the City of Windsor spent \$5.7 million to end the blockade, and it has been calling for the governments of Ontario and Canada to reimburse the municipality.⁵⁶

On the other hand, in its brief to the Committee, the Canadian Civil Liberties Association remarked:

There were concerns about the economic impacts of the border blockades that may, over a long period, have posed a serious threat to health and safety. However, when the emergency was declared, there was no compelling evidence that Canadians were at risk of going without necessities. The economic harms did not amount to circumstances that seriously endangered Canadians' lives, health or safety.⁵⁷

Many witnesses highlighted the economic impact at the national level of the blockade of the Ambassador Bridge in Windsor, particularly for the automotive industry.⁵⁸ The top concern for many witnesses was supply chain disruptions with American trade

52 Ibid., 1840 and 2045.

53 Ibid.

54 Ibid., 2115 (Watson).

55 DEDC, [Evidence](#), 26 April 2022, 1830 (Mendicino); DEDC, [Evidence](#), 14 June 2022, 1835 (Freeland); DEDC, [Evidence](#), 24 November 2022, 1835, 1855 (Dilkens); 1845 (Willett); 2005, 2035 (Laskowski).

56 DEDC, [Evidence](#), 24 November 2022, 1835, 1905, 1940 (Dilkens). On 29 December 2022, former Minister Mendicino announced that the federal government would provide up to \$6.9 million to the City of Windsor to cover costs stemming from the Ambassador Bridge blockade: Public Safety Canada, [Government of Canada to support City of Windsor in covering extraordinary costs related to Ambassador Bridge blockade](#), News release, 29 December 2022.

57 Canadian Civil Liberties Association, [Submissions of the Canadian Civil Liberties Association to the Special Joint Committee on the Declaration of Emergency](#), Brief submitted to DEDC, 3 February 2023, p. 2.

58 DEDC, [Evidence](#), 26 April 2022, 1830 (Mendicino); DEDC, [Evidence](#), 14 June 2022, 1835, 1840 (Freeland); DEDC, [Evidence](#), 24 November 2022, 1850, 1910 (Dilkens); 2010 (Brian Kingston); 2005 (Laskowski).

partners.⁵⁹ Some witnesses said that diverting goods to other border crossings was not an adequate solution, because none of the other crossings have the same capacity as the Ambassador Bridge.⁶⁰

In addition, some witnesses were concerned about Canada's reputation in international trade and how border infrastructure blockades could affect foreign investment in Canada.⁶¹ In February 2024, the Honourable Dominic LeBlanc, Minister of Public Safety, Democratic Institutions and Intergovernmental Affairs, reiterated that the blockade of the Ambassador Bridge affected \$390 million in trade between Canada and the United States every day, given that 30% of all trade by road between the two countries uses that crossing.⁶²

The Committee acknowledges the impact of the "Freedom Convoy" on many individuals and entities in a variety of sectors. Therefore, the Committee believes that, following an emergency as defined in the *Emergencies Act*, it could prove useful to hold consultations with people representing the affected regions to determine the extent of the damage and the mitigation measures that could be taken to prevent similar future occurrences.

CHAPTER 4: POLITICAL RESPONSE TO THE "FREEDOM CONVOY"

As a multijurisdictional event that took place in multiple municipalities within several provinces, all three levels of governments were implicated to some extent in the response to the "Freedom Convoy." Other than the federal government, several other governments declared states of emergency in response to the events of January and February 2022. These included the Government of Ontario, the City of Ottawa and the City of Windsor.

Pursuant to the *Emergency Management and Civil Protection Act*, the Government of Ontario declared a state of emergency on 11 February 2022. The state of emergency allowed the provincial government to enact *Ontario Regulation 71/22: Critical Infrastructure and Highways*, which prohibited the blocking of critical infrastructure, among other measures.⁶³ According to the province, the emergency order was

59 DEDC, [Evidence](#), 26 April 2022, 1830 (Mendicino); DEDC, [Evidence](#), 14 June 2022, 1845 (Freeland); DEDC, [Evidence](#), 24 November 2022, 1835, 1910 (Dilkens).

60 DEDC, [Evidence](#), 24 November 2022, 1850, 1910 (Dilkens); 2010, 2045 (Kingston); 2045 (Laskowski).

61 DEDC, [Evidence](#), 14 June 2022, 1835, 1840, 1845, 1855, 1900, 1915 (Freeland); DEDC, [Evidence](#), 24 November 2022, 1835, 1910, 1920 (Dilkens); 2010, 2055 (Kingston).

62 DEDC, [Evidence](#), 27 February 2024, 2015 (Hon. Dominic LeBlanc).

63 Government of Ontario, [Ontario Regulation 71/22: Critical Infrastructure and Highways](#).

necessary because existing regulation-making powers were not successful in alleviating the harm caused by the blockades in Ottawa and at the Ambassador Bridge.⁶⁴

In relation to the federal government’s decision to invoke the *Emergencies Act*, section 25 of the Act requires that the “lieutenant governor in council of each province in which the effects of the emergency occur shall be consulted with respect to the proposed action.” That section also provides that if a province cannot be adequately consulted before the issue or amendment of a declaration of public order emergency, the consultation may take place after the fact.

On 16 February 2022, the Honourable Marco Mendicino, former Minister of Public Safety, tabled his [Report to the Houses of Parliament: Emergencies Act Consultations](#) in the House of Commons.⁶⁵ The same report was tabled in the Senate by the Honourable Senator Marc Gold, Government Representative in the Senate, on 21 February.⁶⁶

The report detailed the consultations that had taken place since late January 2022 between the federal government and provincial, municipal and international partners. It described a First Ministers’ meeting that was held on 14 February 2022, to consult premiers on whether to declare a public order emergency, and included an annexed letter from the prime minister to the premiers indicating that their views had been taken into account in determining what the special temporary measures would consist of in response to the “Freedom Convoy.”⁶⁷

Although the *Report to the Houses of Parliament: Emergencies Act Consultations* mentions that the federal government consulted Indigenous leaders regarding the blockades, the Committee agrees that there is a duty to consult before the invocation of the *Emergencies Act*. As such, the Committee recommends:

Recommendation 5

That the federal government amend the *Emergencies Act* to provide that it be required to undertake and set the parameters for consultations with Indigenous peoples prior to the invocation of the *Emergencies Act*, with due regard to the principles of the *United*

64 Government of Ontario, [Report on Ontario’s Declared Provincial Emergency from February 11, 2022 to February 23, 2022](#), 31 March 2022.

65 House of Commons, [Journals](#), 16 February 2022; Public Safety Canada, [Report to the Houses of Parliament: Emergencies Act Consultations](#), 16 February 2022.

66 Senate, [Journals](#), 21 February 2022.

67 Public Safety Canada, [Report to the Houses of Parliament: Emergencies Act Consultations](#), 16 February 2022, p. 5.

Nations Declaration on the Rights of Indigenous Peoples, including justice, democracy, respect for human rights, non-discrimination and good faith.

The Committee agrees that the *Emergencies Act* should be amended to take greater consideration of provincial governments and require the federal government to provide more information on the national nature of the emergency. Evidence received by the Committee and the Commission supports this position. For instance, Leah West testified at the Committee:

At the same time, I would say that we also need to amend what consultation is from the federal government to the provinces, and make something of required meaningful consultation on that end as well. We shouldn't be looking at one without the other.⁶⁸

At the Commission, the provincial governments of Saskatchewan and Alberta decried the fact that the provinces were not adequately consulted by the federal government before the invocation of the *Emergencies Act*.⁶⁹

The Commission's report states that the 14 February First Ministers' Meeting "was the only time the premiers were asked for their views on the invocation of the *Emergencies Act*."⁷⁰ The report goes on to explain:

I certainly agree that the premiers had little time to prepare and that the notice they received was not explicit regarding the topic to be discussed at the First Ministers' Meeting. That said, in the context of the events, the topic of discussion probably did not come as a surprise to many of the participants.

The Federal Government indicated to the Commission that one of the reasons it did not inform the provinces of the purpose of the meeting was the concern that news could leak, and the potential for the declaration of an emergency could anger protesters and increase the risk of violence. I accept this point as valid, though I would characterize it as one taken out of an abundance of caution.⁷¹

During his testimony before the Commission, Prime Minister Justin Trudeau also described how it was decided at the Cabinet meeting of 13 February that provincial premiers would be consulted the next day and a telephone meeting took place with the

68 DEDC, [Evidence](#), 8 December 2022, 2020 (Leah West).

69 Public Order Emergency Commission, "[Government of Saskatchewan Closing Submissions](#)," *Closing Submissions*, pp. 11–17, 23–24; Public Order Emergency Commission, "[Government of Alberta Closing Submissions](#)," *Closing Submissions*, 9 December 2022, pp. 9–12, 23.

70 Public Order Emergency Commission, [Report of the Public Inquiry into the 2022 Public Order Emergency: Volume 3 – Analysis \(Part 2\) and Recommendations](#), Final report, 17 February 2023, p. 238.

71 *Ibid.*, p. 240.

Liberal caucus before that meeting was held.⁷² The prime minister also explained that the First Ministers' Meeting took place by conference call, and it lasted approximately one hour.⁷³ During that meeting, the premier of Saskatchewan remained against the invocation of the *Emergencies Act*, and the premier of Alberta said that it did not need to be used in Alberta.⁷⁴

The *Report to the Houses of Parliament: Emergencies Act Consultations* further specifies that the provinces of Quebec, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia and Prince Edward Island commented that the *Emergencies Act* was not necessary in their respective provinces.⁷⁵

Witnesses at the Committee also discussed the national nature of public order emergencies under the *Emergencies Act*. Perrin Beatty testified that

[i]t has to meet the standards of the national emergency. The consequences have to be so severe that the welfare of the country as a whole is affected. However, that does not mean that an emergency has to take place in all regions of the country.

[...]

We wanted to have legislation that would allow the government to say, “[t]here’s a grave crisis here. It meets the definition of a national emergency, but we aren’t going to suspend everybody’s rights; we’re going to target it.”⁷⁶

Finally, Ryan Teschner, Executive Director and Chief of Staff for the Toronto Police Service Board, told the Commission that

[If] the government doesn’t put on the table what invoking means, what are the specific regulations that they may put in place as a result of invoking the Act? What are the impacts of those regulations on some of the actors who are going to be impacted? I don’t know how you can have meaningful consultation in the absence of exploring those dimensions.⁷⁷

72 Public Order Emergency Commission, [Public Hearings](#), 25 November 2022, pp. 58–60.

73 *Ibid.*, pp. 189–190.

74 *Ibid.*, pp. 64–65.

75 Public Safety Canada, [Report to the Houses of Parliament: Emergencies Act Consultations](#), 16 February 2022, pp. 6–7.

76 DEDC, [Evidence](#), 29 March 2022, 2100 (Beatty).

77 Public Order Emergency Commission, [Public Hearings](#), 1 December 2022, p. 175.

Many witnesses commented on the political response to the “Freedom Convoy” at the federal level of government, including the consultations and meetings that took place before and after the invocation of the *Emergencies Act*.⁷⁸ More specifically, former Minister Mendicino and the Honourable Bill Blair, former Minister of Emergency Preparedness, discussed the role played by the federal government in working with police and participating in consultations with other levels of government. Former Minister Mendicino told the Committee that the federal government “remained engaged with law enforcement throughout to ensure that they had the support and the resources they needed.”⁷⁹ He also discussed the ongoing consultations that took place with the provinces and territories, which took place through the implementation of the special temporary measures enacted during the declaration of emergency.⁸⁰ For his part, former Minister Blair testified about his communications with the Royal Canadian Mounted Police (RCMP) and other police leadership in relation to the blockades in Coutts, as well as possible options to secure tow trucks.⁸¹

Some mayors of affected municipalities testified that they felt supported by the federal government overall. Jim Watson testified that he participated in several meetings with federal representatives and that he spoke directly with Prime Minister Justin Trudeau as early as 3 January.⁸² Drew Dilkens, Mayor of the City of Windsor, explained:

I felt that as Mayor of Windsor I had the ear of both federal and provincial government representatives at the highest levels, including [former] Minister Mendicino, [former] Minister Blair, Ontario Solicitor General Jones, Premier Ford and Prime Minister Trudeau. My staff was in contact with and coordinated with political staff across federal and provincial ministers’ offices and the security establishment.⁸³

In a similar vein, Steve Kanellakos, City Manager of the City of Ottawa, said that Deputy Minister Rob Stewart of Public Safety Canada proactively reached out to him after the

78 See for example DEDC, [Evidence](#), 26 April 2022, 1830 (Mendicino); DEDC, [Evidence](#), 14 June 2022, 2005 (Hon. Bill Blair); DEDC, [Evidence](#), 27 October 2022, 1925-1930, 2120 (Watson, Kanellakos); DEDC, [Evidence](#), 24 November 2022, 1835, 1900 (Dilkens, Willett); DEDC, [Evidence](#), 27 February 2024, 2045, 2100, 2115 (LeBlanc).

79 DEDC, [Evidence](#), 26 April 2022, 1830 (Mendicino).

80 *Ibid.*, 1855.

81 DEDC, [Evidence](#), 14 June 2022, 2005 (Blair).

82 DEDC, [Evidence](#), 27 October 2022, 1925-1930 (Watson).

83 DEDC, [Evidence](#), 24 November 2022, 1835 (Dilkens).

first weekend of the protests to talk, and he became a key contact between the City of Ottawa and the federal government.⁸⁴

However, some witnesses from impacted municipalities highlighted areas for improvement regarding their relationships with the federal government in responding to emergencies such as the one experienced in January and February 2022. Steve Kanellakos testified about the need for a memorandum of understanding between the federal government and the City of Ottawa for dealing with large-scale emergencies such as the one experienced during the “Freedom Convoy.”⁸⁵

Drew Dilkens also commented that the federal and provincial governments should indemnify the City of Windsor for the significant unforeseen costs that were incurred as a result of the blockade of the Ambassador Bridge in Windsor.⁸⁶ Therefore, the Committee recommends:

Recommendation 6

That the municipalities that bear costs reasonably incurred as a result of an emergency (such as, jersey barriers) be indemnified in the event of such expenses; and that a tripartite roundtable composed of federal, provincial and municipal appointees be convened to discuss these costs in the aftermath of an emergency.

At the provincial level, some witnesses were critical of the level of involvement of the Government of Ontario and Premier Doug Ford in meetings related to the response to the “Freedom Convoy” and the lack of responsibility taken by the province for certain elements surrounding the “Freedom Convoy.”

For example, Jim Watson shared with the Committee that the Government of Ontario declined to take part in the tripartite committee dialogue involving the City of Ottawa, the federal government and the Government of Ontario.⁸⁷ He also highlighted that Premier Ford did not visit Ottawa during the protests.⁸⁸ The brief submitted by the Canadian Civil Liberties Association also took the position that the Government of

84 DEDC, [Evidence](#), 27 October 2022, 2120 (Kanellakos).

85 Ibid.

86 DEDC, [Evidence](#), 24 November 2022, 1835 (Dilkens). See also footnote 56.

87 DEDC, [Evidence](#), 27 October 2022, 1930 (Watson).

88 Ibid., 2020.

Ontario “did not meaningfully respond to the protests until around February 9.”⁸⁹ Jody Thomas, National Security and Intelligence Advisor, Privy Council Office, attempted to explain the absence of the Government of Ontario in testifying that:

Ontario determined that this was a protest in the federal capital because of the federal mandate, and was therefore a federal problem. It was a much more complex issue than that. They did not come to the table, to the extent that we would have appreciated, because of that.⁹⁰

Drew Dilkens explained that greater collaboration and support from both the federal and provincial levels were needed to improve safety and security at the Canadian borders.⁹¹

Both Ontario Premier Doug Ford and Deputy Premier Sylvia Jones, who was Solicitor General of Ontario during the “Freedom Convoy,” declined invitations to appear as witnesses before both the Committee and the Commission. The Commission challenged the refusal to testify in the Federal Court, and the Federal Court ruled that the premier and deputy premier could not be compelled to testify before the Commission due to the immunity provided to them as part of their parliamentary privilege.⁹²

The Committee recommends therefore:

Recommendation 7

That the federal government amend the *Emergencies Act* to provide a clear and delineated role for the provinces in the event of future disruptions, and that, as part of this exercise: (a) there should be a review of policing roles, including jurisdictional responsibilities; (b) the three levels of government should enter into an agreement that clearly delineates those roles and responsibilities in the event of an emergency in the National Capital Region and at border crossings; and (c) other crucial areas and infrastructure should also be considered within this review.

CHAPTER 5: POLICE RESPONSE TO THE “FREEDOM CONVOY”

Police from all levels of government were involved in the response to the “Freedom Convoy” protests and blockades before and during the declaration of emergency.

89 Canadian Civil Liberties Association, [Submissions of the Canadian Civil Liberties Association to the Special Joint Committee on the Declaration of Emergency](#), Brief submitted to DEDC, 3 February 2023, p. 2.

90 DEDC, [Evidence](#), 1 December 2022, 2015 (Jody Thomas).

91 DEDC, [Evidence](#), 24 November 2022, 1835 (Dilkens).

92 [Ontario \(Premier\) v. Canada \(Commissioner of the Public Order Emergency Commission\)](#), 2022 FC 1513.

Specifically, the RCMP, the Ontario Provincial Police (OPP), and the Ottawa Police Service (OPS) were the main policing agencies implicated at the time.⁹³

Other provincial and municipal policing agencies involved in policing the events that led to the declaration of emergency included the Toronto Police Services, the Windsor Police Services, York Regional Police, Sûreté du Québec, Gatineau Police and Peel Regional Police.⁹⁴ Smaller municipalities, such as Coutts, Alberta, are policed by the RCMP through Police Services Agreements.⁹⁵

The federal government has a role to play in the direction of the RCMP. The *Royal Canadian Mounted Police Act* provides that the Commissioner of the RCMP holds office “under the direction of the Minister” of Public Safety and Emergency Preparedness.⁹⁶ However, the Commissioner “has the control and management of the Force and all matters connected with the Force.”⁹⁷

The *Police Services Act* provides that the Solicitor General of Ontario may arrange to provide police services in an emergency.⁹⁸ Indeed, the OPP was involved early on in supporting the policing response to the “Freedom Convoy,”

[In] providing intelligence reports to law enforcement partners, dialoguing with convoy organizers, and working with municipal police services to provide resources.⁹⁹

93 All three of these policing agencies provided institutional reports to the Public Order Emergency Commission. See Public Order Emergency Commission, “[Royal Canadian Mounted Police Institutional Report](#),” *Exhibits, Presentations and Reports*; Public Order Emergency Commission, “[Ontario Provincial Police Institutional Report](#),” *Exhibits, Presentations and Reports*; and Public Order Emergency Commission, “[Ottawa Police Services Institutional Report](#),” *Exhibits, Presentations and Reports*.

94 Public Order Emergency Commission, “[Royal Canadian Mounted Police Institutional Report](#),” *Exhibits, Presentations and Reports*, p. 22.

95 Royal Canadian Mounted Police, [Contract Policing](#).

96 [Royal Canadian Mounted Police Act](#), R.S.C. 1985, c. R-10, subsection 5(1). Although the Act specifies that the Minister of Public Safety and Emergency Preparedness is the responsible minister, the federal government split up the public safety and emergency preparedness portfolios in 2021, and these functions are now carried out by two separate ministers.

97 Ibid.

98 Ontario, [Police Services Act](#), R.S.O. 1990, c. P.15, subsection 55(1).

99 Canadian Civil Liberties Association, [Submissions of the Canadian Civil Liberties Association to the Special Joint Committee on the Declaration of Emergency](#), Brief submitted to DEDC, 3 February 2023, p. 2.

The OPS experienced changing leadership during the protests in Ottawa. Peter Sloly served as Chief of the OPS from 28 October 2019 to 15 February 2022, when he resigned. Subsequently, Steve Bell was appointed Interim Chief of the OPS.

To ensure the security of the Parliamentary Precinct, several organizations were involved in monitoring or responding to the events that took place on Parliament Hill, including the OPS, the Parliamentary Protective Service (PPS), the Senate’s Corporate Security Directorate, and the Office of the Sergeant-at-Arms and Corporate Security of the House of Commons.

The PPS was created following a memorandum of understanding (MOU) signed in June 2015 between the speakers of the Senate and House of Commons, the Minister of Public Safety and Emergency Preparedness and the Commissioner of the RCMP.¹⁰⁰ That MOU provided that the PPS “is established to provide integrated physical security throughout the Parliamentary Precinct and the grounds of Parliament Hill.”¹⁰¹ It also set out the role of the Director of the PPS:

The Director will be responsible for planning, directing, managing and controlling operational parliamentary security [...] taking into account the objectives, priorities and goals as set by the Speaker of the Senate and the Speaker of the House of Commons.¹⁰²

In another MOU between the RCMP and the House of Commons concerning the sharing of information for the purpose of enhancing the safety and security of the House, the responsibilities of each organization were further specified. This MOU provided that the House, through the Sergeant-at-Arms, “has the right and mandate to ensure the safety and security of the House” and “complete and sole authority to regulate and administer its precinct.”¹⁰³ An equivalent MOU between the RCMP and the Senate, if it exists, was not shared with the Committee.

100 Parliamentary Protective Service, [Follow up questions to the DEDC witnesses of Thursday, September 29, 2022 \(Meeting 13\)](#), Written submission to DEDC, 28 October 2022, p. 1.

101 Ibid., p. 4.

102 Ibid.

103 Office of the Sergeant-at-Arms and Corporate Security, [Memorandum of Understanding Between the Royal Canadian Mounted Police and the House of Commons](#), Written submission to DEDC, p. 1.

Challenges Faced by Police

Many witnesses commented that the protests and blockades stemming from the “Freedom Convoy” were unprecedented.¹⁰⁴

Several witnesses explained that the size of the demonstrations, especially in Ottawa, presented unique challenges for police, including a lack of resources to manage the protests safely.¹⁰⁵ Brenda Lucki, Commissioner of the RCMP, discussed how the size and entrenched nature of the protest in Ottawa made it difficult to ensure public safety:

This was completely a different type of protest, where people were not leaving. Our police liaison teams were trying to motivate people to leave, because when we’re dealing with a mass protest, it’s all about reducing that footprint so that we can be as safe as we can with enforcement action. When the weekend was full of protesters, it was not the time to do any type of enforcement, because it was too dangerous for the public and the police.¹⁰⁶

According to the OPS, the size of the protest in Ottawa also made it difficult to staff the protest with an adequate number of police officers, with 2,200 officers required in the end to bring the protest to an end.¹⁰⁷ Referring to his 7 February formal request for 1,800 additional officers, Peter Sloly, retired Chief of Police of the OPS, explained:

The primary requests that I made on a continual basis were for resources, particularly more police officers and police-trained personnel, and secondarily, access to tow trucks. It was predictable access to a large number of officers—1,800—and access to predictable, sustainable levels of heavy tow trucks.¹⁰⁸

Some witnesses suggested that a lack of leadership among the protesters made it more difficult to negotiate a conclusion to the protests or the removal of trucks from residential areas of Ottawa.¹⁰⁹ In this vein, Peter Sloly explained:

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- 104 See for example DEDC, [Evidence](#), 10 May 2022, 1940 (Brenda Lucki); DEDC, [Evidence](#), 29 September 2022, 1850 (Patrick McDonnell, Larry Brookson, Julie Lacroix); DEDC, [Evidence](#), 27 October 2022, 1955 and 2100 (Watson, Kanellakos); DEDC, [Evidence](#), 3 November 2022, 1835 and 2005 (Steve Bell, Thomas Carrique).
- 105 See for example DEDC, [Evidence](#), 10 May 2022, 2045 (Michael Duheme); DEDC, [Evidence](#), 6 October 2022, 1840 (Peter Sloly); DEDC, [Evidence](#), 3 November 2022, 1925, 1935 (Patricia Ferguson, Bell).
- 106 DEDC, [Evidence](#), 10 May 2022, 1915 (Lucki).
- 107 DEDC, [Evidence](#), 3 November 2022, 1925 (Ferguson).
- 108 DEDC, [Evidence](#), 6 October 2022, 1840 (Sloly).
- 109 See for example DEDC, [Evidence](#), 10 May 2022, 2035 (Lucki); DEDC, [Evidence](#), 6 October 2022, 1900 (Sloly); DEDC, [Evidence](#), 27 October 2022, 1940, 2020 (Kanellakos, Watson);

In many occasions, there is a singular organizing body or a significant influencer within a protest group. This was not the case. There were significant efforts by multiple jurisdictions and multiple agencies at all three levels of policing to seek negotiated agreements, reasonable understandings and commitments, but there was never a unified “other” with which any police agency could come to any substantive understanding as to whether what was agreed to would actually happen on the day of.¹¹⁰

However, there was some success in relocating some of the heavy trucks used as part of the protest in Ottawa. According to Steve Kanellakos, the municipality was advised that the protesters wished to meet with a senior city official, and those talks culminated in the relocation of approximately 40 heavy trucks.¹¹¹

Many witnesses noted that the use of vehicles, including heavy trucks, to protest presented difficulties in the policing response to the protests and blockades, both within and outside of Ottawa.¹¹² Jim Watson identified the inability to move the trucks as the biggest challenge faced in Ottawa.¹¹³

Some witnesses explained that it was not possible to identify available tow truck drivers to assist in any efforts to relocate or remove the heavy trucks.¹¹⁴ Brenda Lucki explained some of the reasons why tow truck companies refused to cooperate:

There were tow truck companies that were receiving funds through the protest not to assist us. Some of the individuals in the companies were very worried about their safety and their livelihood, and they were experiencing a lot of harassment.¹¹⁵

Other aspects of the heavy trucks proved also to be a source of concern for some witnesses. Larry Brookson, Acting Director of the PPS, expressed apprehension about the content of the trucks, which was unknown at the time, stating:

110 DEDC, [Evidence](#), 6 October 2022, 1900 (Sloly).

111 DEDC, [Evidence](#), 27 October 2022, 1845 (Kanellakos).

112 See for example DEDC, [Evidence](#), 10 May 2022, 1920 (Lucki); DEDC, [Evidence](#), 29 September 2022, 1855 (Brookson); DEDC, [Evidence](#), 6 October 2022, 1930 (Sloly); DEDC, [Evidence](#), 27 October 2022, 1840, 2055, 1950 (Fleury; Kanellakos; Watson); DEDC, [Evidence](#), 3 November 2022, 1850 (Bell).

113 DEDC, [Evidence](#), 27 October 2022, 1930 (Watson).

114 DEDC, [Evidence](#), 10 May 2022, 1955 (Lucki); DEDC, [Evidence](#), 6 October 2022, 1955 (Sloly); DEDC, [Evidence](#), 27 October 2022, 1950 (Watson); DEDC, [Evidence](#), 3 November 2022, 1905 (Bell).

115 DEDC, [Evidence](#), 10 May 2022, 1955 (Lucki).

The reality for me is I didn't know what was in those vehicles, and I had no means to verify what was in those vehicles, so that was a constant security concern for me throughout the days of the occupation.¹¹⁶

The Committee heard further testimony about the impact of the declining public trust and confidence in police leadership, especially in Ottawa.¹¹⁷ In justifying his decision to resign as chief of the OPS during the protests in Ottawa, Peter Sloly explained that any decline in public trust creates a public safety risk, and in Ottawa, this contributed to a slowing down of resources:

Declining public trust creates a public safety risk in any policing organization, any policing environment. The focus of that was increasingly on the Ottawa Police Service for a national security crisis, and increasingly on the officer who held that position, chief of police, which was me. My interpretation—others will have their own opinions—was that a declining level of trust in my officers and in my office was potentially slowing down resources and supports necessary for our officers to be able to safely and successfully end this. I took myself out of the equation because I wasn't going to take 1,400 people out of the equation.¹¹⁸

In response to criticism among members of the public that the OPS did not do enough during the demonstrations to enforce existing statutory authorities, Peter Sloly commented that bylaws, provincial statutes and criminal offences were enforced “when [police] could do so safely and without further escalating an already highly volatile situation.”¹¹⁹

However, Steve Bell, Interim Chief of the OPS, expressed his hope that trust could be rebuilt among residents of the City of Ottawa. He noted that the OPS was in the process of “working to rebuild public trust with our community members [...] that period of time [during the protests] left them with a lack of a feeling of safety and security.”¹²⁰

Finally, several witnesses discussed challenges stemming from a lack of accurate intelligence about the nature and intent of the “Freedom Convoy.”¹²¹ Steve Kanellakos explained to the Committee how initially, based on the intelligence that was received,

116 DEDC, [Evidence](#), 29 September 2022, 1855 (Brookson).

117 See for example DEDC, [Evidence](#), 6 October 2022, 1955 (Sloly); DEDC, [Evidence](#), 27 October 2022, 2135 (Watson); DEDC, [Evidence](#), 3 November 2022, 1845 (Bell).

118 DEDC, [Evidence](#), 6 October 2022, 1935 (Sloly).

119 *Ibid.*, 1830.

120 DEDC, [Evidence](#), 3 November 2022, 1845 (Bell).

121 See for example DEDC, [Evidence](#), 27 October 2022, 1950, 2105 (Watson; Kanellakos); DEDC, [Evidence](#), 3 November 2022, 1855 (Bell); DEDC, [Evidence](#), 8 December 2022, 1905 (Kent Roach).

police and city officials expected the protests to be similar to others previously experienced in the nation’s capital:

I think that the assumptions that were made leading into the first weekend were that it was within the usual paradigm of the hundreds of protests we have every year in the city of Ottawa and that the advanced planning that would have been required—to some of the other questions we’ve been asked—to effectively deal with that weekend were not in place, so we got behind as a city and as a police service. We got behind the event and could not get ahead of it then because the resources were not adequate to meet it.

The biggest lesson, in my mind—and there’s been a lot of discussion at the public inquiry—is that the intelligence translating into strategy was a big gap.¹²²

Kent Roach, Professor at the University of Toronto’s Faculty of Law, suggested that the police do not have necessary intelligence expertise, particularly when a determination regarding violent extremism is needed.¹²³ He further explained:

Although the RCMP and [the Canadian Security Intelligence Service] are subject to fairly rigorous scrutiny by [the National Security and Intelligence Review Agency], the OPP and municipal forces, when they collect intelligence, are subject to very limited scrutiny, only by the Ontario independent police review director, if that person has enough resources to do systemic reviews. My understanding is that they don’t.¹²⁴

Given the evidence received about intelligence and policing, the Committee therefore recommends:

Recommendation 8

That the federal government, in conjunction with Indigenous, provincial, and territorial governments; police and intelligence agencies; the Parliamentary Protective Service; the Canadian Association of Chiefs of Police; and other stakeholders, develop or enhance protocols on information sharing, intelligence gathering, and distribution that:

- **identify how and by whom information and intelligence should be collected, analyzed and distributed for major events, such as protests, that have multijurisdictional or national significance;**

122 DEDC, [Evidence](#), 27 October 2022, 2105 (Kanellakos).

123 DEDC, [Evidence](#), 8 December 2022, 1925 (Roach).

124 *Ibid.*, 1905.

- **enhance the ability to collaboratively evaluate information collected for reliability;**
- **adhere to the *Canadian Charter of Rights and Freedoms* and the reasonable expectations of privacy of those affected;**
- **enhance record-keeping regarding the collection, analysis and distribution of information and intelligence;**
- **ensure compliance with legislative mandates, for example, statutory limits on surveillance of lawful protests by the Canadian Security Intelligence Service;**
- **promote appropriate access to and interpretation of social media and open-source materials;**
- **ensure that, where appropriate, comprehensive, timely and reliable intelligence is communicated to police and government within their appropriate spheres of decision making; and**
- **promote objective, evidence-based risk assessments that are written to both acknowledge information deficits and avoid misinterpretation.**

Recommendation 9

That the federal government, in conjunction with Indigenous, provincial, and territorial governments; police and intelligence agencies; the Parliamentary Protective Service; the Canadian Association of Chiefs of Police; and other stakeholders, consider the creation of a single national intelligence coordinator for major events of a national, interprovincial or interterritorial dimension.

Cooperation Among Different Levels of Policing

Several witnesses testified about the different groups that were established to facilitate policing of the “Freedom Convoy,” and how these groups promoted teamwork and information-sharing among the OPS, OPP and RCMP, in concert with other partners.¹²⁵ These groups included the National Capital Region Command Centre (NCRCC), the

125 See for example DEDC, [Evidence](#), 10 May 2022, 1935, 2050 (Duheme, David Vigneault); DEDC, [Evidence](#), 27 October 2022, 1920, 2140 (Ayotte, Kanellakos).

Integrated Command Centre (ICC), the joint intelligence group, the joint planning cell, and Intersect.

The NCRCC included representatives from the RCMP, OPP, OPS, PPS, and the City of Ottawa, as well as “other law enforcement from the Quebec side, transport, ambulance technicians and firemen.”¹²⁶ Then Deputy Commissioner of Federal Policing, Michael Duheme of the RCMP, provided testimony to the Committee regarding the role of the NCRCC:

It’s just a coordination hub to make sure that everybody’s in tune with what’s going on [...] [i]t’s more a coordination centre for information that comes in before we go into the operational mode [...] That’s also used as a hub for intelligence that’s going on for the event.¹²⁷

Created on 12 February 2022, the ICC was led by the OPS, and it included the OPP and the RCMP.¹²⁸ Its role was to review the plan in response to the “Freedom Convoy.”¹²⁹ Michael Duheme told the Committee how the ICC worked:

In the integrated command centre that we had, there were multiple law enforcement agencies there. At gold level, as it were, there was me, Deputy Commissioner Harkins from the OPP, as well as the interim chief of police, Mr. Bell.

Discussions were ongoing on the way forward. For every plan that was set forward, we were in agreement with the plan. It wasn’t necessarily a consensus, but everybody was in agreement as to how we were going to tackle this and the sequence of events as we moved forward.

The OPS is the one thing I want to make clear. OPS maintained the lead throughout this. Both the RCMP and the OPP were supportive throughout, but the joint command.... There were conversations as to the best way to proceed forward to address the situation.¹³⁰

126 DEDC, [Evidence](#), 10 May 2022, 1935 (Duheme); DEDC, [Evidence](#), 27 October 2022, 1920 (Ayotte).

127 DEDC, [Evidence](#), 10 May 2022, 1935 (Duheme).

128 *Ibid.*, 2125.

129 *Ibid.*, 2135 (Lucki).

130 *Ibid.*, 2040 (Duheme).

According to Brenda Lucki, the joint planning cell was created “specifically for the enforcement.”¹³¹ Finally, Intersect was described by Steve Kanellakos as an intelligence group that was led by the OPS.¹³²

Some witnesses reflected positively on the level of cooperation among the various police services involved.¹³³ Specifically, Peter Sloly credited the work of Commissioner Thomas Carrique of the OPP and his senior staff as “fundamental to the ultimate success of what took place in January and February.”¹³⁴ The sharing of resources by the OPP and RCMP with the OPS, and specifically the number of officers sent to assist in Ottawa, was also discussed by several witnesses.¹³⁵

Other witnesses reflected less favourably on the cooperation between different levels of policing.¹³⁶ Jim Watson remarked that there was greater cooperation from the OPP and RCMP after the resignation of Peter Sloly.¹³⁷ Kent Roach described the various levels of policing were described as “fragmented and dysfunctional governance silos.”¹³⁸

In a brief submitted to the Committee, the Canadian Civil Liberties Association summarized some of the findings of the Commission in relation to policing challenges, including that several witnesses testified that “the issue was not legal authority, but coordination, planning, and resource issues within and between police services.”¹³⁹

In his appearance before the Committee in February 2024, Michael Duheme, now Commissioner of the RCMP, said that the use of additional police resources has evolved in the last two years following the declaration of a public order emergency, in that a call for assistance on Parliament Hill now goes first to the OPP, not the RCMP. The RCMP may

131 DEDC, [Evidence](#), 26 April 2022, 1915 (Lucki).

132 DEDC, [Evidence](#), 27 October 2022, 2140 (Kanellakos).

133 DEDC, [Evidence](#), 6 October 2022, 2020 (Sloly); DEDC, [Evidence](#), 3 November 2022, 1910, 2005 (Bell, Carrique).

134 DEDC, [Evidence](#), 6 October 2022, 2020 (Sloly).

135 See for example DEDC, [Evidence](#), 10 May 2022, 2120 (Duheme); DEDC, [Evidence](#), 6 October 2022, 1835 (Sloly); DEDC, [Evidence](#), 3 November 2022, 2005 (Carrique).

136 DEDC, [Evidence](#), 6 October 2022, 1915 (Sloly); DEDC, [Evidence](#), 27 October 2022, 2005 (Watson); DEDC, [Evidence](#), 8 December 2022, 1845 (Roach).

137 DEDC, [Evidence](#), 27 October 2022, 2110 (Watson).

138 DEDC, [Evidence](#), 8 December 2022, 1845 (Roach).

139 Canadian Civil Liberties Association, [Submissions of the Canadian Civil Liberties Association to the Special Joint Committee on the Declaration of Emergency](#), Brief submitted to DEDC, 3 February 2023, p. 2.

later intervene to establish order on the Hill, at the request of the OPP, if necessary.¹⁴⁰ Michael Duheme added that, “[f]rom a law enforcement perspective, we are in a different place than we were when the convoy happened.”¹⁴¹

Before the invocation of the *Emergencies Act*, the Committee agrees that relevant police services should be meaningfully consulted by the federal government. This recommendation stems from evidence received by both the Commission and the Committee.

There is evidence to suggest that police leadership had not exhausted all available tools to bring the protests and blockades to their conclusion when the federal government decided to invoke the *Emergencies Act*. At the Commission, a 14 February 2022 email from Brenda Lucki to the chief of staff to former Minister Mendicino states that:

This said, I am of the view that we have not yet exhausted all available tools that are already available through the existing legislation. There are instances where charges could be laid under existing authorities for various *Criminal Code* offences occurring right now in the context of the protest. The Ontario *Provincial Emergencies Act* just enacted will also help in providing additional deterrent tools to our existing toolbox.

These existing tools are considered in our existing plans and will be used in due course as necessary.¹⁴²

Brenda Lucki discussed this email during her testimony at the Commission on 15 November 2022.¹⁴³ Furthermore, according to an exhibit received by the Commission, Brenda Lucki was present at a 13 February Cabinet meeting but nothing in the minutes for that meeting indicates that she spoke at that meeting.¹⁴⁴

Jody Thomas also discussed her consultations with Brenda Lucki at both the Commission and the Committee. Jody Thomas testified at the Commission that, at the Incident Response Group (IRG), individuals who attend IRG meeting “are expected to provide information that is of use to decision-makers, being the Prime Minister and his

140 DEDC, [Evidence](#), 27 February 2024, 2040 (Duheme).

141 Ibid., 2045.

142 Public Order Emergency Commission, “[PB.NSC.CAN.00003256_REL.0001_RE: Follow ups](#),” *Exhibits, Presentations and Reports*, 14 February 2022.

143 Public Order Emergency Commission, [Public Hearings](#), 15 November 2022, pp. 70–72.

144 Public Order Emergency Commission, “[SSM.NSC.CAN.00000216_REL.0001 Cabinet Minutes 2022-02-13](#),” *Exhibits, Presentations and Reports*, 13 February 2022.

Cabinet.”¹⁴⁵ She also told the Commission that Brenda Lucki did not say anything specific as to whether law enforcement had exhausted all its tools.¹⁴⁶

Jody Thomas told the Committee that she spoke to Brenda Lucki several times before 14 February 2022, and that she did not ask Brenda Lucki whether there were other means that could have been used other than invocation of the *Emergencies Act*.¹⁴⁷ She also commented that she did not read the operational plan prepared by the police services during the declaration of emergency.¹⁴⁸

Furthermore, Peter Sloly told the Committee that the OPS had a plan ready to clear downtown Ottawa, and the OPS maintained control of the plan during his tenure as chief of police.¹⁴⁹

Policing of the Parliamentary Precinct

Some witnesses testified regarding the special measures that were put in place to ensure safety on Parliament Hill during the “Freedom Convoy,” as part of the RCMP’s mandate to protect Parliament and parliamentarians.¹⁵⁰ Brenda Lucki described how both vehicular and protester access to Parliament Hill was restricted, and a staging area was provided by the RCMP where parliamentarians could meet and get driven to Parliament if they so wished.¹⁵¹

Several witnesses described challenges specific to maintaining safety within the Parliamentary Precinct during the protests in Ottawa. For example, Larry Brookson commented that, during the protests in Ottawa, he had concerns regarding the safety of parliamentarians crossing Wellington Street in Ottawa to enter the West Block.¹⁵² Julie Lacroix, Director of Corporate Security at the Senate, alluded to challenges with technology and infrastructure, stating that, in the future, “I think my recommendation would be to ensure we have the necessary technology and infrastructure to allow us to

145 Public Order Emergency Commission, [Public Hearings](#), 17 November 2022, p. 204.

146 Ibid.

147 DEDC, [Evidence](#), 1 December 2022, 1935 (Thomas).

148 Ibid., 2020.

149 DEDC, [Evidence](#), 6 October 2022, 1905 (Sloly).

150 DEDC, [Evidence](#), 26 April 2022, 1915 (Lucki); DEDC, [Evidence](#), 10 May 2022, 2100 (Duheme).

151 Ibid.

152 DEDC, [Evidence](#), 29 September 2022, 1850 (Brookson).

close and secure the precinct when necessary.”¹⁵³ Larry Brookson and Patrick McDonell, Sergeant-at-Arms and Corporate Security Officer at the House of Commons, further underlined a lack of situational awareness as a critical concern throughout the protests in downtown Ottawa.¹⁵⁴

Patrick McDonell also described the harassment experienced by parliamentary staff during the “Freedom Convoy” protests in Ottawa:

What was happening every day was that our employees were being harassed. [...] We had employees pulling in and out of there every day. There was banging on the cars and there was a police cruiser within sight, a police cruiser witnessing it, and nobody exiting the police cruiser.¹⁵⁵

Patrick McDonell explained that incidents of harassment of parliamentary staff were not policed by the OPS and had to be addressed by the PPS.¹⁵⁶

Larry Brookson testified to the Committee that, approximately one week before the arrival of the “Freedom Convoy,” the PPS had recommended that vehicles not be permitted to park on Wellington Street, but the OPS permitted protesters to park their vehicles anyway, and that this decision compromised safety in the Parliamentary Precinct.¹⁵⁷ Jim Watson suggested that allowing protesters to use Parliament Hill as a backdrop may have contributed to the entrenched nature of the protests, describing how “[t]here’s nothing spectacular about the scenery on Slater and Albert [streets], and they probably wouldn’t stay that long [if Wellington had been closed].”¹⁵⁸

Both Larry Brookson and Patrick McDonell recommended that the Parliamentary Precinct be extended to include parts of Wellington Street.¹⁵⁹ The Committee agrees, and therefore recommends:

Recommendation 10

That the Parliamentary Precinct be expanded to include Wellington Street; and that additional expansions to the Parliamentary Precinct be considered in consultation with

153 Ibid., 1920 (Lacroix).

154 Ibid., 2020 (Brookson, McDonell).

155 Ibid., 1925 (McDonell).

156 Ibid., 1945.

157 Ibid., 1920 (Brookson).

158 DEDC, [Evidence](#), 27 October 2022, 2025 (Watson).

159 DEDC, [Evidence](#), 29 September 2022, 1900, 2000 (Brookson, McDonell).

the Parliamentary Protective Service, Ottawa Police Service, Ontario Provincial Police, and the federal, provincial and municipal governments.

Recommendation 11

That, in view of the above recommendation, the federal government give consideration to resource allocation for the Parliamentary Protective Service to secure an enlarged Parliamentary Precinct; and that Wellington Street be closed to vehicular traffic in order to further secure Parliament Hill for parliamentarians, visitors and residents of the area.

In relation to policing in the Parliamentary Precinct, the Committee recommends:

Recommendation 12

That decisions concerning parliamentary security operations, and particularly in striking the right balance in ensuring the Parliament of Canada is safe and secure while remaining open and accessible to all, including those peacefully protesting, be the responsibility of security and policing professionals, and be subject to parliamentary oversight.

On the second anniversary of the declaration of a state of emergency, Shawn Tupper, Deputy Minister of Public Safety Canada, testified before the Committee that conversations were still ongoing concerning the Parliamentary Precinct regarding, one, how the Parliamentary Precinct and its boundaries are defined and, two, how the precinct is policed and maintained.¹⁶⁰

Committee takes note that, in its response to the recommendations of the Commission's report, the federal government stated that:

[It] reaffirms its commitment to continue discussions with the City of Ottawa to transfer a portion of Wellington Street to the federal government, with the goal of marking the legal and geographic boundaries of the Parliamentary Precinct, and clearly defining security and policing roles and responsibilities in the area.¹⁶¹

160 DEDC, [Evidence](#), 27 February 2024, 2055 (Shawn Tupper).

161 Public Safety Canada, [Government of Canada Response to the Public Order Emergency Commission Recommendations](#), 6 March 2024; See also the commitments previously made by the federal government in Bill Blair, former President of the King's Privy Council for Canada and Minister of Emergency Preparedness, [Government Response to the Nineteenth Report of the Standing Committee on Procedure and House Affairs entitled *Protecting the Parliamentary Precinct: Responding to Evolving Risks*, presented on 14 December 2022](#).

CHAPTER 6: NATIONAL SECURITY AND THE “FREEDOM CONVOY”

There are several federal departments and agencies involved in national security and the collection and assessment of intelligence related to national security. Eight core federal organizations within Canada’s security and intelligence community have mandates related to national security, intelligence or both: the National Security and Intelligence Advisor, the Canadian Security Intelligence Service (CSIS), the Department of National Defence/Canadian Armed Forces, the Canada Border Services Agency (CBSA), the Communications Security Establishment, the RCMP, Global Affairs Canada, and the Integrated Terrorism Assessment Centre (ITAC).¹⁶² There are nine other federal departments and agencies that are also involved in national security and intelligence, including the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Public Safety Canada and Justice Canada.¹⁶³ Most of these departments and agencies submitted institutional reports to the Commission in relation to their activities during the “Freedom Convoy.”¹⁶⁴

Two types of national security threats came up during the Committee’s review of the exercise of powers and the performance of duties and functions pursuant to the declaration of emergency of February 2022: ideologically motivated violent extremism (IMVE) and threats to critical infrastructure.

IMVE, which can be distinguished from religiously motivated violent extremism and politically motivated violent extremism, “is often driven by a range of grievances and ideas from across the traditional ideological spectrum” and draws on “a personalized narrative which centres on an extremist’s willingness to incite, enable and or mobilize to violence.”¹⁶⁵ CSIS has identified four categories of IMVE, which are xenophobic violence,

162 National Security and Intelligence Committee of Parliamentarians, [Annual Report 2018](#), April 2019, p. 20.

163 *Ibid.*, p. 21.

164 See Public Order Emergency Commission, “[Canadian Security Intelligence Service and Integrated Terrorism Assessment Centre Institutional Report Prepared for the Public Order Emergency Commission](#),” *Exhibits, Presentations and Reports*; Public Order Emergency Commission, “[Institutional Report – Global Affairs Canada](#),” *Exhibits, Presentations and Reports*; Public Order Emergency Commission, “[Canada Border Services Agency Institutional Report](#),” *Exhibits, Presentations and Reports*; Public Order Emergency Commission, “[Public Safety Canada Institutional Report](#),” *Exhibits, Presentations and Reports*; Public Order Emergency Commission, “[Institutional Report – Department of Justice](#),” *Exhibits, Presentations and Reports*; Public Order Emergency Commission, “[Institutional Report – Financial Transactions and Reports Analysis Centre of Canada \(FINTRAC\)](#),” *Exhibits, Presentations and Reports*; Public Order Emergency Commission, “[Institutional Report – Royal Canadian Mounted Police](#),” *Exhibits, Presentations and Reports*; Public Order Emergency Commission, “[Institutional Report – Department of National Defence](#),” *Exhibits, Presentations and Reports*.

165 Canadian Security Intelligence Service, “[Threats to the security of Canada and Canadian Interests](#),” *CSIS Public Report 2019*, April 2020.

anti-authority violence, gender-driven violence and other grievance-driven and ideologically motivated violence.¹⁶⁶

Critical infrastructure is defined by Public Safety Canada as:

[P]rocesses, systems, facilities, technologies, networks, assets and services essential to the health, safety, security or economic well-being of Canadians and the effective functioning of government. Critical infrastructure can be stand-alone or interconnected and interdependent within and across provinces, territories and national borders. Disruptions of critical infrastructure could result in catastrophic loss of life, adverse economic effects, and significant harm to public confidence.¹⁶⁷

The *National Strategy for Critical Infrastructure* identifies 10 critical infrastructure sectors in Canada: energy and utilities; finance; food; transportation; government; information and communication technology; health; water; safety; and manufacturing.¹⁶⁸

It should be noted here that the discussion with respect to “threats to national security” as it relates to the invocation of the *Emergencies Act* can be found in Chapter 7: Invocation of the *Emergencies Act* of this report.

On the subject of the federal government’s response to the national security threats during the “Freedom Convoy,” several witnesses described the role of the various federal departments and agencies that were involved in monitoring and assessing the situation. According to Jody Thomas, some of these organizations involved included CSIS, the RCMP, the Canadian Forces Intelligence Command, the foreign intelligence group of Global Affairs Canada, the CBSA, and Immigration, Refugees and Citizenship Canada.¹⁶⁹

David Vigneault, Director of CSIS, testified that, during the “Freedom Convoy,” CSIS used its investigative resources to monitor known threats and inform law enforcement partners and the government about the nature of developing national security threats.¹⁷⁰ In a second appearance before the Committee in February 2024, David Vigneault added that, in addition to sharing intelligence with law enforcement, CSIS worked closely with partners

166 Ibid.

167 Public Safety Canada, [An Emergency Management Framework for Canada](#), 3rd ed., May 2017, p. 21.

168 Public Safety Canada, [National Strategy for Critical Infrastructure](#), 2009, p. 2.

169 DEDC, [Evidence](#), 1 December 2022, 1905 (Thomas).

170 DEDC, [Evidence](#), 10 May 2022, 1905 (Vigneault).

in the RCMP and CBSA, and that, depending on the situation, all three agencies took “specific operational measures” to respond to the situation.¹⁷¹

Marie-Hélène Chayer, Executive Director of ITAC, described her agency’s role in assessing the likelihood of a terrorism attack happening in Canada and overseas.¹⁷² Finally, Jody Thomas testified that her role as National Security and Intelligence Advisor comprised providing coordinated, non-partisan advice to the Prime Minister, “coordinating the national security and intelligence community and providing a challenge function.”¹⁷³

Barry MacKillop, Deputy Director of Intelligence at FINTRAC, explained that his agency was responsible for generating “actionable financial intelligence for Canada’s police, law enforcement and national security agencies.”¹⁷⁴ Barry MacKillop added that the Regulations and the Order did not change FINTRAC’s role with respect to its usual mandate and that they did not grant FINTRAC “any extended powers or enhanced authorities from a financial intelligence perspective.”¹⁷⁵

With respect to the role of FINTRAC, in addition to the added utility applicable across all law enforcement, including beyond the application of the *Emergencies Act*, the Committee recommends:

Recommendation 13

That the federal government review the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* to determine if the Financial Transactions and Reports Analysis Centre of Canada should be given any additional powers when there are “threats to the security of Canada” as defined by the *Canadian Security Intelligence Service Act*.

Some witnesses also referred to the joint intelligence group, which was established to share intelligence information throughout the “Freedom Convoy.” David Vigneault described how the joint intelligence group provided a forum for intelligence-sharing with law enforcement partners and to provide advice to the government on national security

¹⁷¹ DEDC, [Evidence](#), 27 February 2024, 2105 (Vigneault).

¹⁷² DEDC, [Evidence](#), 1 December 2022, 1855 (Marie-Hélène Chayer).

¹⁷³ *Ibid.*, 1830 (Thomas).

¹⁷⁴ DEDC, [Evidence](#), 3 May 2022, 1835 (Barry MacKillop).

¹⁷⁵ *Ibid.*, 1900.

threats, while Brenda Lucki also referred to the joint intelligence group, stating that information was funnelled through it during the “Freedom Convoy.”¹⁷⁶

One of the national security threats that was most often invoked by witnesses was IMVE. As Peter Sloy explained, the “Freedom Convoy” began as an anti-vaccine demonstration “and was co-opted by different ideologically radicalized individuals and insurgency movements.”¹⁷⁷ However, as Rob Stewart told the Committee, CSIS did not actually identify any specific IMVE threats, but the federal government was aware of the presence of extremists who were attempting to link their cause to the “Freedom Convoy.”¹⁷⁸ Brenda Lucki further confirmed that ideologically motivated extremists were likely present at the protests in Ottawa and were attempting to use the protest to promote their own ideological goals.¹⁷⁹

Some witnesses discussed the role of social media and the Internet in disseminating IMVE and motivating individuals to act. Marie-Hélène Chayer explained that since the beginning of the COVID-19 pandemic, there has been an increase in the amount of IMVE rhetoric online and on social media.¹⁸⁰ David Vigneault further explained that violent extremists have used protests and demonstrations in the past to engage in violence, recruit members and spread their ideology.¹⁸¹ Jody Thomas also described the unprecedented number of serious and credible online threats against politicians and public officials of all three levels of government since the 2021 federal election.¹⁸²

In a second appearance before the Committee in February 2024, David Vigneault added that the events of February 2022 are one example of how the threat facing Canada has become “more complex and more pervasive”¹⁸³ and that “violent extremism in our country, motivated both by ideology and by religious motives,”¹⁸⁴ has increased in the last two years following the declaration of a public order emergency.

176 DEDC, [Evidence](#), 10 May 2022, 1920 (Vigneault); 1950 (Lucki).

177 DEDC, [Evidence](#), 6 October 2022, 1830 (Sloy).

178 DEDC, [Evidence](#), 7 June 2022, 2005 (Stewart).

179 DEDC, [Evidence](#), 10 May 2022, 1925 (Lucki).

180 DEDC, [Evidence](#), 1 December 2022, 1855 (Chayer).

181 DEDC, [Evidence](#), 10 May 2022, 1905 (Vigneault).

182 DEDC, [Evidence](#), 1 December 2022, 1910 (Thomas).

183 DEDC, [Evidence](#), 27 February 2024, 2055 (Vigneault).

184 *Ibid.*, 2120.

Former Minister Blair described another type of threat to national security – threats against critical infrastructure – in terms of the disruption to manufacturing and transportation caused by the “Freedom Convoy,” and he explained how the disruptions to the points of entry constituted a “very significant threat to national security” because of the impact to critical infrastructure.¹⁸⁵ However, Leah West, Assistant Professor at the Norman Paterson School of International Affairs at Carleton University, added that the current definition of a “public order emergency” in the *Emergencies Act* does not contemplate emergencies as a result of threats to critical infrastructure.¹⁸⁶

CHAPTER 7: INVOCATION OF THE *EMERGENCIES ACT*

Section 16 of the *Emergencies Act*, which defines a “public order emergency,” provides for two main branches for determining whether the applicable legal threshold has been met for the invocation of a public order emergency. A “public order emergency” is defined as “an emergency that arises from *threats to the security of Canada* and that is so serious as to be a *national emergency*.” [Emphasis added]¹⁸⁷ The first branch is that the public order emergency must arise from “threats to the security of Canada” as defined in section 2 of the *Canadian Security Intelligence Service Act* (CSIS Act).¹⁸⁸ The second branch is that there must be a “national emergency” within the meaning of section 3 of the *Emergencies Act*.

Section 2 of the CSIS Act defines a “threat to the security of Canada” as follows:

- (a) espionage or sabotage that is against Canada or is detrimental to the interests of Canada or activities directed toward or in support of such espionage or sabotage,
- (b) foreign influenced activities within or relating to Canada that are detrimental to the interests of Canada and are clandestine or deceptive or involve a threat to any person,
- (c) activities within or relating to Canada directed toward or in support of the threat or use of acts of serious violence against persons or property

185 DEDC, [Evidence](#), 14 June 2022, 2015, 2020 (Blair).

186 DEDC, [Evidence](#), 8 December 2022, 1950 (West).

187 [Emergencies Act](#), s. 16.

188 [Canadian Security Intelligence Service Act](#), R.S.C. 1985, c. C-23.

for the purpose of achieving a political, religious or ideological objective within Canada or a foreign state, and

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

but does not include lawful advocacy, protest or dissent, unless carried on in conjunction with any of the activities referred to in paragraphs (a) to (d).

A “national emergency” is defined in section 3 of the *Emergencies Act* as:

an urgent and critical situation of a temporary nature that

(a) seriously endangers the lives, health or safety of Canadians and is of such proportions or nature as to exceed the capacity or authority of a province to deal with it, or

(b) seriously threatens the ability of the Government of Canada to preserve the sovereignty, security and territorial integrity of Canada

and that cannot be effectively dealt with under any other law of Canada.

It is important to note that the *Emergencies Act* specifies that the Governor in Council must believe “on reasonable grounds, that a public order emergency exists and necessitates the taking of special temporary measures for dealing with the emergency.”¹⁸⁹

As such, certainty that a public order emergency exists is not necessary under the *Emergencies Act*.

Volume 3 of the Commission’s report describes the “reasonable grounds to believe” standard and explains that:

Provided that the necessary factual basis exists, the “reasonable grounds to believe” standard builds in the concept of a margin of appreciation. Reasonable minds may differ

189 [Emergencies Act](#), subsection 17(1).

on the same question, and a decision is not wrong or unreasonable because an outcome thought likely to happen does not materialize.¹⁹⁰

The Commission's report further elaborates that:

To return once again to the theoretical principles underlying emergency powers, the threshold for invocation is the point at which order breaks down and freedom cannot be secured or is seriously threatened. In my view, that threshold was reached here.

I do not come to this conclusion easily, as I do not consider the factual basis for it to be overwhelming and I acknowledge that there is significant strength to the arguments against reaching it. It may well be that serious violence might have been avoided, even without the declaration of emergency. That it might have been avoided does not, however, make the decision wrong. *There was an objective basis for Cabinet's belief, based on compelling and credible information. That was what was required. The standard of reasonable grounds to believe does not require certainty.* [AUTHOR'S EMPHASIS]¹⁹¹

The public statement (delivered orally) on 17 February 2023 by Commissioner Paul S. Rouleau also addresses the importance of the standard of reasonable grounds in his findings:

After careful reflection, I have concluded that the very high threshold required for the invocation of the Act was met.

Specifically, for reasons that I present in detail in the report, I found that when the decision was made to invoke the Act on 14 February 2022, Cabinet had *reasonable grounds to believe* that there existed a national emergency arising from threats to the security of Canada that necessitated the taking of special temporary measures.

I did not come easily to this conclusion, because to me the underlying facts are not obvious. Thus, reasonable and informed people might come to a different conclusion from mine. I therefore reluctantly come to this conclusion. The government should normally be able to respond to emergencies without resorting to exceptional powers. [AUTHOR'S EMPHASIS]¹⁹²

According to Ryan Alford's brief to the Committee:

The evidence that demonstrated that the crisis did not satisfy either of these statutory and constitutional thresholds is extensive. That said, owing to the deferential standard

190 Public Order Emergency Commission, [Report of the Public Inquiry into the 2022 Public Order Emergency: Volume 3 – Analysis \(Part 2\) and Recommendations](#), Final report, 17 February 2023, p. 221.

191 Ibid., p. 234.

192 Public Order Emergency Commission, [Webcast of Commissioner's Public Statement](#), 15:40-16:53 [SIMULTANEOUS INTERPRETATION].

the inquiry must apply, *it is possible that the Final Report of the Rouleau Commission may conclude that it is impossible to determine with the requisite certainty whether the Government had a reasonable basis to conclude that a public order emergency existed.* [AUTHOR'S EMPHASIS]¹⁹³

Leah West also testified that:

I think the Emergencies Act has incredible amounts of discretion for the executive, and that would be how anyone would interpret it: whether or not they had reasonable grounds to believe a threat to the security of Canada existed and then whether it was necessary. They have incredible amounts of discretion there, but when Parliament has chosen to be very narrow—in this case, in its use and the definition of threats to the security of Canada—it's important that be respected because it was a deliberate choice, and the rule of law is the backbone of what makes us a liberal democracy that thrives on the rule of law. [AUTHOR'S EMPHASIS]¹⁹⁴

In response to Leah West, Kent Roach added that:

I agree with Professor West that you need to have paragraph 2(c), plus section 3, but then *subsection 17(1) says, "When the Governor in Council believes, on reasonable grounds, that a public order emergency exists and necessitates the taking of special temporary measures". It seems to me that the issue for cabinet, and the issue that may be explored in that legal opinion, is whether they have reasonable grounds to believe that a public order emergency exists.* [AUTHOR'S EMPHASIS]¹⁹⁵

This was also discussed before the Commission by Professor Robert Diab of the Thompson Rivers University Faculty of Law and Morris Rosenberg, former Deputy Minister of Justice and Deputy Attorney General of Canada, as well as former Deputy Minister of Health and Foreign Affairs. Robert Diab told the Commission:

So the way it works right now in the Emergencies Act is that the decision maker is the federal government. It must decide whether it thinks the standard is met, and then the Commission is the after-the-fact referee.

But I think if we had ordinary legislation, maybe the model would be something like a warrant, where you have an independent decision maker. [AUTHOR'S EMPHASIS]¹⁹⁶

Morris Rosenberg also told the Commission:

193 Ryan Alford, [Fulfilling Parliament's Key Responsibility under the Emergencies Act](#), Brief submitted to DEDC, 3 February 2023, p. 2.

194 DEDC, [Evidence](#), 8 December 2022, 1855 (West).

195 *Ibid.*, 1955 (Roach).

196 Public Order Emergency Commission, [Public Hearings](#), 30 November 2022, p. 140.

The government's required to believe on reasonable grounds that a public order emergency exists and necessitates the taking of special temporary measures for dealing with it. That judgment is subject to judicial review by the courts and subject to review by Parliament and by the inquiry that's established after the emergency is over. All three of those accountability mechanisms should require the government to clearly explain whether were other laws that, on their face, could have been used and why they were rejected. [AUTHOR'S EMPHASIS]¹⁹⁷

The question of whether the legal threshold for invoking the *Emergencies Act* was met was discussed at length not only at the Committee, but also at the Commission. At the Commission, David Vigneault testified that CSIS did not consider the protests against the public health measures and the activities undertaken by protesters as a threat to the security of Canada, and they were not investigated by CSIS as such.¹⁹⁸ However, the protests were considered to be an activity with the potential to become a threat.¹⁹⁹

In response, Prime Minister Justin Trudeau explained to the Commission that, for the purposes of the *Emergencies Act*, Cabinet, not CSIS, was responsible for determining whether there was a threat to the security of Canada as defined by the CSIS Act.²⁰⁰ In making that determination, the prime minister told the Commission that Cabinet considered more than just the “inputs” provided by CSIS. Rather, inputs from the RCMP; Transport Canada; Immigration, Refugees and Citizenship Canada; the Clerk of the Privy Council; the National Security and Intelligence Advisor and the “whole of government” were considered when the federal government invoked the *Emergencies Act* in February 2022.²⁰¹

Along the same vein, Jody Thomas told the Commission that, in her view, the *Emergencies Act* allowed for Cabinet to consider more than just the intelligence collected by CSIS in making its decision to invoke the *Emergencies Act*.²⁰²

Justification

Some witnesses before the Committee cited the public safety concerns as justification for Cabinet’s decision to invoke the *Emergencies Act*. For instance, former Minister Mendicino

197 Public Order Emergency Commission, [Public Hearings](#), 2 December 2022, pp. 12-3.

198 Public Order Emergency Commission, [Public Hearings](#), 21 November 2022, pp. 37, 47.

199 *Ibid.*, pp. 38, 47.

200 Public Order Emergency Commission, [Public Hearings](#), 25 November 2022, p. 49.

201 *Ibid.*, pp. 49-50.

202 Public Order Emergency Commission, [Public Hearings](#), 17 November 2022, pp. 238-9.

told the Committee that the federal government received advice “that law enforcement needed the *Emergencies Act* to be sure that they could resolve, for example, ambiguities around those who were staying close to ports of entry.”²⁰³ He reiterated that “we invoked the Act because it was the advice of non-partisan professional law enforcement that existing authorities were ineffective at the time to restore public safety.”²⁰⁴ Former Minister Blair similarly testified that law enforcement required additional authorities.²⁰⁵ Jody Thomas specifically cited concerns about weapons and IMVE as justification for Cabinet’s decision to invoke the *Emergencies Act*.²⁰⁶

Economic concerns were also cited by some witnesses as justification.²⁰⁷ Jody Thomas shared that she recommended that Cabinet invoke the *Emergencies Act* because of the “totality of the events across the country,” including the economic impact and “the inability of Canadians to live their lives.”²⁰⁸ The Honourable Chrystia Freeland, Minister of Finance, stressed the need to address the reputational harm that Canada was suffering in its trade relationships with other countries, particularly the United States.²⁰⁹

Finally, some witnesses cited the national nature of the situation as justification for the invocation of the *Emergencies Act*. The Honourable David Lametti, former Minister of Justice and Attorney General of Canada, for his part, told the Committee that “[w]e invoked the *Emergencies Act* when it became clear to us that, first of all, the situation was national in scope.”²¹⁰ Jody Thomas also cited the “national nature” of the blockades and protests.²¹¹ Appearing before the Committee in February 2024, Minister LeBlanc said that, at the time of the events, there was an “increased risk of a contagion or a spread” of blockages with economic impacts.²¹²

Two years after the declaration of emergency, the federal government reiterated its position on the exceptional and unprecedented nature of the circumstances that led to

203 DEDC, [Evidence](#), 26 April 2022, 1845 (Mendicino).

204 Ibid., 1850.

205 DEDC, [Evidence](#), 14 June 2022, 2035 (Blair).

206 DEDC, [Evidence](#), 1 December 2022, 1845 (Thomas).

207 DEDC, [Evidence](#), 27 February 2024, 2015 (Hon. Arif Virani); 2100 (LeBlanc).

208 DEDC, [Evidence](#), 1 December 2022, 1840 (Thomas).

209 DEDC, [Evidence](#), 14 June 2022, 1845 (Freeland).

210 DEDC, [Evidence](#), 26 April 2022, 2045 (Lametti).

211 DEDC, [Evidence](#), 1 December 2022, 1840 (Thomas).

212 DEDC, [Evidence](#), 27 February 2024, 2100 (LeBlanc).

invoking the *Emergencies Act*, arguing that the government’s action was reasonable, necessary and based on the information it had at the time of the events.²¹³

In the Commission’s final report, Commissioner Paul S. Rouleau reluctantly concluded that the very high threshold for invoking the *Emergencies Act* had been met:

I have concluded that in this case, the very high threshold for invocation was met. I have done so with reluctance. The state should generally be able to respond to circumstances of urgency without the use of emergency powers. It is only in rare instances, when the state cannot otherwise fulfill its fundamental obligation to ensure the safety and security of people and property, that resort to emergency measures will be found to be appropriate. As for the measures Cabinet put in place in response to the emergency, I conclude that while most of the measures were appropriate and effective, others fell short.²¹⁴

However, in a Federal Court [decision](#) of 23 January 2024, Justice Richard G. Mosley concluded that “there was no national emergency justifying the invocation of the *Emergencies Act* and the decision to do so was therefore unreasonable and ultra vires.”²¹⁵ His reasons included that the crisis did not extend to the whole of Canada²¹⁶ and that other laws of Canada could have dealt with the situation.²¹⁷

In this case, the Canadian Civil Liberties Association and the Canadian Constitution Foundation, along with a group of plaintiffs who participated in the protests, filed an application for judicial review in the Federal Court of the federal government’s decision to declare a public order emergency under the *Emergencies Act* in February 2022.

On 22 February 2024, the case was appealed by the federal government to the Federal Court of Appeal. The litigation is ongoing.²¹⁸

213 Ibid., 2015 (Virani, LeBlanc); 2030, 2050, 2100 (LeBlanc).

214 Public Order Emergency Commission, [Report of the Public Inquiry into the 2022 Public Order Emergency: Volume 1 – Overview](#), Final report, 17 February 2023, p. 247.

215 [Canadian Frontline Nurses v. Canada \(Attorney General\)](#), 2024 FC 42, para. 255; See also the summary of cases and reasons for decision in: Federal Court, [Files T-306-22, T-316-22, T-347-22 and T-382-22](#), News Bulletins, 23 January 2024.

216 [Canadian Frontline Nurses v. Canada \(Attorney General\)](#), 2024 FC 42, para. 248.

217 Ibid., para. 254.

218 Federal Court of Appeal, [Canadian Frontline Nurses et al. v. Attorney General of Canada](#), Files A-73-24, A-74-24, A-75-24, A-76-24; details available in the [Court file database](#), consulted on 31 October 2024. A copy of the federal government’s appeal brief is available online at: [“Ottawa appeals court decision calling use of Emergencies Act on convoy protests unreasonable,” CBC News](#), 23 February 2024.

Legal Threshold

On the “threats to the security of Canada” branch of the section 16 definition of a public order emergency, the federal government identified that paragraph 2(c) of the definition in the CSIS Act (threats of violence to persons or property) was engaged when the declaration of emergency was made in February 2022.²¹⁹ The meaning and application of that definition was discussed at Committee, with former Minister Lametti testifying that the economic damage experienced as a result of the “Freedom Convoy” was considered “threats of violence to property.”²²⁰ François Daigle, Deputy Minister of Justice and Deputy Attorney General of Canada, further specified that, under section 2 of the CSIS Act, only one of the paragraphs of the section 2 definition had to be met by the federal government, not all of them.²²¹

Regarding paragraph 2(c) of the CSIS Act, Leah West emphasized the necessity of a causal connection between the threat to the security of Canada and the emergency, meaning that the threat must drive the emergency, rather than simply co-exist alongside it.²²²

She also mentioned that the definition of a “public order emergency” in the *Emergencies Act* could be amended to include threats to critical infrastructure to more accurately reflect the nature of the emergency that took place in February 2022.²²³

Despite David Vigneault’s testimony at the Commission that CSIS did not consider there to be a threat to national security under the CSIS Act, many witnesses at the Committee characterized elements of the “Freedom Convoy” or the “Freedom Convoy” itself as a threat to national security. Former Minister Lametti described the protests and blockades as “a threat to Canada’s security,”²²⁴ while former Minister Blair said that the blockades at several points of entry “elevated this to a very significant threat to national security.”²²⁵ Jody Thomas also told the Committee that the “Freedom Convoy” posed a

219 DEDC, [Evidence](#), 7 June 2022, 1935 (François Daigle); [Evidence](#), 1 December 2022, 1835 (Thomas).

220 DEDC, [Evidence](#), 26 April 2022, 2025 (Lametti).

221 DEDC, [Evidence](#), 7 June 2022, 1935 (Daigle).

222 DEDC, [Evidence](#), 8 December 2022, 1855 (West).

223 *Ibid.*, 1950.

224 DEDC, [Evidence](#), 26 April 2022, 2010 (Lametti).

225 DEDC, [Evidence](#), 14 June 2022, 2020 (Blair).

national security threat, and the federal government took “a broad look” in assessing whether there was a national security threat.²²⁶

Furthermore, both Brenda Lucki and Thomas Carrique agreed that certain individuals within the “Freedom Convoy” posed potential threats to national security.²²⁷

Some witnesses responded to the reasoning given at the Commission as to whether there was a threat to national security under the CSIS Act. Leah West discussed the prime minister’s statements on paragraph 2(c) at the Commission in comparison to those of CSIS indicating that the legal threshold at paragraph 2(c) was not met.²²⁸ She explained that the prime minister “took into account different considerations than CSIS did when making the determination [...] and [the prime minister] also viewed paragraph 2(c) to be more broad.”²²⁹ Jody Thomas also explained that there is not one person who can determine whether a national security threat exists, and it was not for the CSIS director to decide.²³⁰

The Commission’s final report recommended that that “the incorporation by reference into the *Emergencies Act* of the definition of ‘threats to the security of Canada’ from the CSIS Act should be removed.”²³¹ In its response to the recommendations, the federal government said that it would “carefully consider” this issue in the context of the ongoing litigation, along with other factors, to decide whether any such amendments to the CSIS Act are necessary.²³²

In regard to the concept of “threats to the security of Canada,” the Committee recommends:

226 DEDC, [Evidence](#), 1 December 2022, 1835 (Thomas).

227 DEDC, [Evidence](#), 10 May 2022, 2105 (Lucki); DEDC, [Evidence](#), 3 November 2022, 2025 (Carrique).

228 DEDC, [Evidence](#), 8 December 2022, 1855 (West).

229 Ibid.

230 DEDC, [Evidence](#), 1 December 2022, 1835 (Thomas).

231 Public Order Emergency Commission, [Report of the Public Inquiry into the 2022 Public Order Emergency: Volume 3 – Analysis \(Part 2\) and Recommendations](#), Final report, 17 February 2023, p. 315 (Recommendation 31).

232 Public Safety Canada, [Government of Canada Response to the Public Order Emergency Commission Recommendations](#), 6 March 2024.

Recommendation 14

That the federal government review the *Canadian Security Intelligence Service Act* to ensure that the definition of “threats to the security of Canada” and the Canadian Security Intelligence Service’s operational mandate are adequate and consistent with the *Emergencies Act*.

Recommendation 15

That the federal government remove the incorporation by reference into the *Emergencies Act* of the definition of “threats to the security of Canada” from the *Canadian Security Intelligence Service Act*.

On the section 3 “national emergency” test, François Daigle stated that either paragraph 3(a) or (b) of the *Emergencies Act* could have been engaged in this situation, but the government opted for paragraph 3(a) (serious danger to lives, health or safety of Canadians beyond the capacity of provinces).²³³ However, former Minister Lametti explained that paragraph 3(a) of the *Emergencies Act* was engaged in this particular case:

Because [the emergency] seriously endangered Canadians and the safety and security of Canadians, and it exceeded the capacity of other authorities of the provinces, in particular, to take care of it.²³⁴

Some witnesses clarified various aspects of the last part of the section 3 definition of a national emergency (“that cannot be effectively dealt with under any other law of Canada”). François Daigle explained that the legal test under section 3 refers to whether other laws were effective at dealing with the emergency, rather than whether they existed, and in this particular case, the federal government determined that they were not effective.²³⁵

On the “national emergency” test, the Committee recommends:

Recommendation 16

That the federal government assess the role that economic factors may play in determining the existence of a “national emergency” and amend the *Emergencies Act* accordingly.

233 DEDC, [Evidence](#), 7 June 2022, 1935 (Daigle).

234 DEDC, [Evidence](#), 26 April 2022, 2020 (Lametti).

235 DEDC, [Evidence](#), 7 June 2022, 1835 (Daigle).

CHAPTER 8: SPECIAL TEMPORARY MEASURES

The Committee heard extensive evidence on the scope and justification for the special temporary measures made by the federal government to end the illegal protests and blockades, including their funding.²³⁶ These are the Regulations and the Order, as mentioned earlier.

These temporary measures ended on 23 February 2022 when the declaration of a public order emergency under the *Emergencies Act* was revoked.

Emergency Measures Regulations

The Regulations set out various types of prohibitions:

- prohibition from participating in a public assembly “that may reasonably be expected to lead to a breach of the peace,”²³⁷ otherwise referred to as “prohibited assemblies”;
- prohibition from entering Canada from abroad in order to participate in a prohibited assembly;²³⁸
- prohibition from travelling “to or within an area” where an assembly is taking place and from bringing a minor;²³⁹ and
- prohibition from providing material assistance to the participants of a prohibited assembly.²⁴⁰

It was clear from the evidence received by the Committee that the purpose of this special temporary measure was to address the challenges that police services

236 For a study on the financial measures that were enacted, see also: House of Commons, Standing Committee on Finance, [Invocation of the Emergencies Act and Related Measures](#), Fifth Report, June 2022.

237 By one of three ways set out in subsection 2(1) of the [Emergency Measures Regulations](#), SOR/2022-21: (a) the serious disruption of the movement of persons or goods or the serious interference with trade; (b) the interference with the functioning of critical infrastructure; or (c) the support of the threat or use of acts of serious violence against persons or property.

238 [Emergency Measures Regulations](#), SOR/2022-21, s. 3.

239 *Ibid.*, s. 4.

240 *Ibid.*, s. 5.

experienced in keeping the peace and to give the federal government additional tools to put an end to the protests and prevent new ones from taking place.²⁴¹

During the meetings, some witnesses went into more detail on the effect and scope of the measures set out in the Regulations.²⁴² Brenda Lucki told the Committee that “[t]he [*Emergency Measures Regulations*] supplemented existing authorities and provided new instruments for law enforcement to address these illegal blockades.”²⁴³ François Daigle said the following:

Each of the prohibitions listed in sections 2 to 5 of the Regulations addressed behaviours observed during the unlawful blockades and the occupation of Ottawa streets. The key prohibition is set out in subsection 2(1), which supplements the powers to maintain the peace that police have at common law by prohibiting certain public assemblies.²⁴⁴

Several witnesses said it was necessary to prohibit supplying protesters, particularly with fuel and food.²⁴⁵

Others said that it was important to protect critical infrastructure and to prohibit bringing minors to the protest areas.²⁴⁶

Several witnesses deemed it necessary and useful to establish an exclusion zone.²⁴⁷ For Steve Bell, this was “the most important power conferred under the [*Emergencies Act*],” making it possible “to stop movement into the downtown core and create a more

241 DEDC, [Evidence](#), 26 April 2022, 1900 (Mendicino); 2005 (Lametti); DEDC, [Evidence](#), 3 May 2022, 2025 (Isabelle Jacques); DEDC, [Evidence](#), 10 May 2022, 1835, 1915, 1920 (Lucki); DEDC, [Evidence](#), 7 June 2022, 1835, 1840, 1850 (Daigle); 2010 (Stewart); DEDC, [Evidence](#), 6 October 2022, 2010 (Sloly); DEDC, [Evidence](#), 3 November 2022, 2025, 2050 (Carrique).

242 DEDC, [Evidence](#), 26 April 2022, 2005 (Lametti); DEDC, [Evidence](#), 10 May 2022, 1835 (Lucki); DEDC, [Evidence](#), 7 June 2022, 1835, 1840 (Daigle), Canadian Civil Liberties Association, [Submissions of the Canadian Civil Liberties Association to the Special Joint Committee on the Declaration of Emergency](#), Brief submitted to DEDC, 3 February 2023, p. 4.

243 DEDC, [Evidence](#), 10 May 2022, 1835 (Lucki); DEDC, [Evidence](#), 7 June 2022, 1835 (Daigle).

244 DEDC, [Evidence](#), 7 June 2022, 1835 (Daigle).

245 Ibid., 1835, 1840; 2105 (Stewart); DEDC, [Evidence](#), 14 June 2022, 1950 (Freeland).

246 DEDC, [Evidence](#), 26 April 2022, 2005 (Lametti); DEDC, [Evidence](#), 10 May 2022, 2110 (Lucki); DEDC, [Evidence](#), 14 June 2022, 2050 (Blair); DEDC, [Evidence](#), 6 October 2022, 1925 (Sloly); DEDC, [Evidence](#), 3 November 2022, 2025 (Carrique).

247 DEDC, [Evidence](#), 14 June 2022, 2005, 2020 (Blair); DEDC, [Evidence](#), 3 November 2022, 1835, 1845 (Bell); 1900 (Ferguson); 2025 (Carrique).

stabilized environment in advance of the operation that successfully and safely cleared the core and restored order in [Ottawa].”²⁴⁸

As discussed in Chapter 5: Police Response to the “Freedom Convoy”, Challenges Faced by Police of this report, various witnesses addressed the practical difficulties of obtaining the services of towing companies to remove the heavy vehicles belonging to the protesters and forming the blockades.²⁴⁹

Some witnesses said that tow truck drivers were hesitant or simply refused to tow away trucks from the protest areas, whether because they feared for their safety and that of their equipment, or because of the intimidation, harassment and death threats they received from protesters.²⁵⁰

On this point, Peter Sloly told the Committee that “[b]y default, it would be the ability of police to predictably obtain sufficient tow resources.”²⁵¹

Furthermore, some witnesses said that the *Criminal Code*, provincial laws and municipal bylaws would not have achieved the same objectives as the Regulations in a timely or safe manner.²⁵²

During his appearance, the Honourable Perrin Beatty said the following:

To give one example, my understanding is that in jurisdictions other than Ontario, their emergencies legislation gives the power to authorities to be able to press companies into providing services during a crisis. Ontario’s legislation did not. It did not allow them to require tow truck drivers to do it. My argument would be that this should be dealt with at the level of the Ontario legislation, and if that power is needed, give it there.²⁵³

248 DEDC, [Evidence](#), 3 November 2022, 1835 (Bell).

249 DEDC, [Evidence](#), 26 April 2022, 1910 (Mendicino); 2005 (Lametti); DEDC, [Evidence](#), 10 May 2022, 1915, 1920 (Lucki); DEDC, [Evidence](#), 7 June 2022, 2010, 2020 (Stewart); DEDC, [Evidence](#), 14 June 2022, 2005, 2020, 2050, 2105 (Blair); DEDC, [Evidence](#), 6 October 2022, 1925, 1930, 2005 (Sloly); See also Peter Sloly, [Written response to questions](#), Written submission to DEDC, 3 November 2022; DEDC, [Evidence](#), 27 October 2022, 1930, 1945, 1950, 2005 (Watson); DEDC, [Evidence](#), 3 November 2022, 1905 (Bell); 2025 (Carrique).

250 DEDC, [Evidence](#), 26 April 2022, 1910, 1945 (Mendicino); 2045 (Lametti); DEDC, [Evidence](#), 10 May 2022, 1955 (Lucki); DEDC, [Evidence](#), 14 June 2022, 2020 (Blair); DEDC, [Evidence](#), 27 October 2022, 1950 (Watson); DEDC, [Evidence](#), 3 November 2022, 2025, 2055 (Carrique); DEDC, [Evidence](#), 1 December 2022, 1845 (Thomas).

251 DEDC, [Evidence](#), 6 October 2022, 1930 (Sloly).

252 DEDC, [Evidence](#), 26 April 2022, 1910, 1945 (Mendicino); 2020 (Lametti); DEDC, [Evidence](#), 10 May 2022, 1915 (Lucki); DEDC, [Evidence](#), 27 October 2022, 2005 (Watson); DEDC, [Evidence](#), 3 November 2022, 1905 (Bell); DEDC, [Evidence](#), 1 December 2022, 1845 (Thomas).

253 DEDC, [Evidence](#), 29 March 2022, 2120 (Beatty).

In contrast, Thomas Carrique said that in an effort to procure tow trucks, “a request to the province for indemnification through a procurement process ... in an emergency” was underway when the *Emergencies Act* was invoked.²⁵⁴

Some witnesses commented on the usefulness and efficiency of the authority built into the Regulations, removing the requirement that RCMP officers and out-of-province police officers be sworn in, allowing them to be operational in a timely manner.²⁵⁵

Steve Bell said that “[g]iven the large number of external police officers who assisted [the OPS’s] operations, removing the process of swearing them in freed up precious time and resources.”²⁵⁶

Peter Sloly pointed out that “[t]he facilitation, particularly, of the swearing-in of special constable status across the country to allow the airlift of officers arriving from literally every province into the city was massively important.”²⁵⁷

However, the Honourable Perrin Beatty told the Committee that:

[I]f the argument is made that it would have taken too much time to swear in police officers in Ottawa who were coming in from other jurisdictions and that’s an issue, amend whatever other statute is necessary to deal with that. Don’t require the government to invoke the federal emergencies legislation to deal with that sort of situation.²⁵⁸

Emergency Economic Measures Order

The Order provided for two main financial measures:²⁵⁹

254 DEDC, [Evidence](#), 3 November 2022, 2100 (Carrique).

255 DEDC, [Evidence](#), 29 March 2022, 2120 (Beatty); DEDC, [Evidence](#), 10 May 2022, 1935 (Lucki); 2005 (Duheme); DEDC, [Evidence](#), 7 June 2022, 2105 (Stewart); DEDC, [Evidence](#), 14 June 2022, 2105, 2115 (Blair); DEDC, [Evidence](#), 6 October 2022, 1910, 1930, 2000, 2010 (Sloly); DEDC, [Evidence](#), 3 November 2022, 1835 (Bell).

256 DEDC, [Evidence](#), 3 November 2022, 1835 (Bell).

257 DEDC, [Evidence](#), 6 October 2022, 1910 (Sloly).

258 DEDC, [Evidence](#), 29 March 2022, 2120 (Beatty).

259 The Order also provided for the suspension of insurance policies for vehicles used at a prohibited assembly, although this power does not appear to have been used. See: [Emergency Economic Measures Order](#), SOR/2022-22, ss. 2 and 3, 5–7; DEDC, [Evidence](#), 3 May 2022, 1935, 2045 (Jacques); DEDC, [Evidence](#), 7 June 2022, 1950 (Jennifer Aitken); DEDC, [Evidence](#), 14 June 2022, 1950 (Freeland); DEDC, [Evidence](#), 27 October 2022, 2135, 2140 (Kanellakos); DEDC, [Evidence](#), 24 November 2022, 2035 (Laskowski).

- freezing of assets,²⁶⁰ and
- new requirements for crowdfunding platforms and payment services providers to report to FINTRAC.²⁶¹

According to Isabelle Jacques, Assistant Deputy Minister of the Financial Sector Policy Branch, Department of Finance, the purpose of the temporary financial measures was twofold:²⁶² “to stop the funding of illegal activities, or certainly curtail it,” that being the main goal, and “to dissuade people from participating in illegal activities on the Hill.”²⁶³

Regarding the second purpose, the Committee heard extensively from witnesses that these measures had a significant deterrent effect on the protesters, causing them to leave the prohibited public assemblies once the measures came into effect.²⁶⁴

In contrast, Professor Nomi Claire Lazar wrote in her brief to the Committee that in her opinion, the federal government did not adequately justify why the Order was necessary:

But claims of necessity often leave reasoning implicit: we can vaguely see the connection between means and end, but Government leaves the middle steps opaque. This was arguably the case, for instance, with the Emergency Economic Measures Order in the February 2022 emergency when they first came down. The order stated the measures were necessary to resolve the emergency, but did not state why. Nor was it obvious what specific purpose they served in ending the emergency: was it ‘necessary’ to discourage participation, in order to thin the crowd, in order to lower the chance of violence and harm? Or was it ‘necessary’ to limit funding for leaders, and with what specific end in view? The Government’s description of the measures did not make the necessity links clear. The strength of each link must be tested, and that requires we see the links. Might an amendment to S. 61(1) that required a clearer explanation of the necessary connection between measures and ends be worth considering?²⁶⁵

In his appearance in February 2024, the Honourable Arif Virani, Minister of Justice and Attorney General of Canada, said that the financial measures enacted in the Order were

260 [Emergency Economic Measures Order](#), SOR/2022-22, ss. 2 and 3, 5–7.

261 *Ibid.*, s. 4.

262 DEDC, [Evidence](#), 3 May 2022, 1850, 2100, 2020 (Jacques).

263 *Ibid.*, 1850.

264 DEDC, [Evidence](#), 26 April 2022, 2005, 2105 (Lametti); DEDC, [Evidence](#), 3 May 2022, 1935, 2045, 2100 (Jacques); DEDC, [Evidence](#), 10 May 2022, 1835, 1850, 2110 (Lucki); DEDC, [Evidence](#), 7 June 2022, 1835 (Daigle); 2105 (Stewart); DEDC, [Evidence](#), 14 June 2022, 1835, 1950 (Freeland); DEDC, [Evidence](#), 3 November 2022, 1925, 1930 (Bell); 2025, 2050 (Carrique).

265 Nomi Claire Lazar, [On Necessity and Accountability in the Emergencies Act](#), Brief submitted to DEDC, 13 February 2023.

intended to destabilize the illegal blockade by cutting off protesters' finances, which could come from foreign and bitcoin sources.²⁶⁶

Scope of the Financial Measures

Once the Order was made, it culminated in the freezing of approximately 280 financial products, including bank accounts, credit cards and lines of credit, representing a total of \$8 million, of which \$3.8 million was from one payment processor.²⁶⁷ The RCMP reported that 257 financial products had been frozen, and that 57 entities had been disclosed to financial institutions.²⁶⁸ During her appearance, Brenda Lucki said that “170 Bitcoin wallet addresses [...] were shared with the virtual asset service providers.”²⁶⁹

Angelina Mason, General Counsel and Vice-President, Legal with the Canadian Bankers Association, said that approximately 180 accounts were frozen by banks, with a total value of \$8.3 million. For the most part, these tended to be larger accounts.²⁷⁰ In addition, Michael Hatch, Vice-President, Government Relations with the Canadian Credit Union Association, said that fewer than 10 accounts from credit unions were seized, with a total value of less than half a million dollars, the largest of which was a mortgage account of approximately \$200,000.²⁷¹

Accounts were unfrozen as of 21 February 2022, and all accounts were available to the account holders no later than 24 February 2022.²⁷² The Order had no retroactive effect.²⁷³

As for the decision to proceed with an emergency order instead of separate court orders to freeze the accounts of individuals who were participating in illegal activities, the federal government said that it wanted to act quickly, as it could have taken days to bring forward court orders.²⁷⁴ Some witnesses said they had to act on short notice,

266 DEDC, [Evidence](#), 27 February 2024, 2125 (Virani).

267 DEDC, [Evidence](#), 3 May 2022, 1830 (Jacques); DEDC, [Evidence](#), 14 June 2022, 1835 (Freeland).

268 DEDC, [Evidence](#), 10 May 2022, 1835 (Lucki); 2030 (Duheme).

269 Ibid., 1835 (Lucki). On the use of cryptocurrencies such as Bitcoin in connection with convoy funding, see also: DEDC, [Evidence](#), 3 May 2022, 2055, 2115 (Jacques); 2115 (Julien Brazeau); 2055, 2115 (Donna Achimov); DEDC, [Evidence](#), 10 May 2022, 2030 (Duheme); DEDC, [Evidence](#), 14 June 2022, 1835, 1915 (Freeland).

270 DEDC, [Evidence](#), 17 November 2022, 2040, 2045 (Angelina Mason).

271 Ibid., 2005, 2020, 2035, 2040, 2050 (Michael Hatch).

272 DEDC, [Evidence](#), 3 May 2022, 1830 (Jacques); DEDC, [Evidence](#), 14 June 2022, 1915 (Freeland).

273 DEDC, [Evidence](#), 3 May 2022, 1830, 2025 (Jacques).

274 DEDC, [Evidence](#), 14 June 2022, 1915 (Freeland).

under the circumstances, either in the decision-making process or in applying the Act and the emergency special measures.²⁷⁵ Isabelle Jacques told the Committee that no written economic impact assessments were prepared by the Department of Finance before the *Emergencies Act* and related financial measures were invoked.²⁷⁶

Some witnesses said that no money laundering or funding of terrorism or IMVE was reported that justified the making of the Order.²⁷⁷ Barry MacKillop of FINTRAC added that in the context of the convoy, “[i]t wasn’t that the event was funded in view of supporting [IMVE] activities.”²⁷⁸

Lastly, some witnesses confirmed that neither the RCMP nor the OPP had laid any criminal charges in relation to a contravention of the Regulations or the Order following the events of February 2022.²⁷⁹

Role of Financial Institutions

Some witnesses mentioned the expanded role of financial institutions in selecting accounts or other financial products that would be frozen, regarding *designated persons*. [Emphasis added]²⁸⁰

Several witnesses said that the RCMP sent a list of names directly to the institutions involved, who then made a decision about whether to cease dealings with individuals on the list.²⁸¹ It was confirmed before the Committee that financial institutions were not

275 DEDC, [Evidence](#), 3 May 2022, 1905, 2035 (Jacques); 1835 (MacKillop); 1905 (Donna Achimov).

276 Ibid., 2035 (Jacques). In contrast, a document in response to the Committee motion of 31 May 2022 was provided by the Department of Finance: Department of Finance, [Document submitted to the Committee pursuant to the motion adopted on Tuesday, 31 May 2022](#), Written submission to DEDC, 30 June 2022.

277 DEDC, [Evidence](#), 3 May 2022, 1840, 1925, 1930, 1945, 1950 (MacKillop); DEDC, [Evidence](#), 1 December 2022, 2055, 2100 (Jacob Wells); Canadian Civil Liberties Association, [Submissions of the Canadian Civil Liberties Association to the Special Joint Committee on the Declaration of Emergency](#), Brief submitted to DEDC, 3 February 2023, p. 5.

278 DEDC, [Evidence](#), 3 May 2022, 1945 (MacKillop).

279 DEDC, [Evidence](#), 10 May 2022, 2100 (Duheme); DEDC, [Evidence](#), 3 November 2022, 2015 (Carrique).

280 Any individual or entity that is engaged, directly or indirectly, in a prohibited activity, as defined in s. 1 of the [Emergency Economic Measures Order](#), SOR/2022-22.

281 DEDC, [Evidence](#), 3 May 2022, 1845, 1850, 1920 (Jacques); 1935 (MacKillop); DEDC, [Evidence](#), 10 May 2022, 1835, 1850 (Lucki); 2050 (Duheme).

subject to penalties if they chose not to follow the list, and they were also granted immunity from prosecution under section 7 of the Order.²⁸²

Brenda Lucki specified that the RCMP worked closely with financial institutions to develop a streamlined process to share information on an ongoing basis about the freezing or unfreezing of financial products for the individuals involved.²⁸³ In principle, all the information included in the files to identify the *designated person*, [Emphasis added] sometimes only a licence plate number, but excluding criminal records, were provided to the financial institutions.²⁸⁴

It seems as though the list of *designated persons* [Emphasis added] referred to in the evidence was not the same as the list of donors that was referred to in the RCMP statement of 21 February 2022: “[a]t no time, did we provide a list of donors to financial institutions.”²⁸⁵

On that point, witnesses appearing before the Committee confirmed that donors’ names were never provided to financial institutions.²⁸⁶ Small donors or buyers who supported the protesters did not have their accounts frozen,²⁸⁷ unless they were within the prohibited area.²⁸⁸ Furthermore, the vast majority of account holders were not affected by these temporary financial measures.²⁸⁹ Some witnesses said that the allegations of people having their accounts frozen for making a \$25 donation were “perhaps, a little bit of hyperbole.”²⁹⁰

When the Order came into force, financial institutions sent activity reports to the Department of Finance outlining the number of accounts that had been frozen and the

282 DEDC, [Evidence](#), 3 May 2022, 1930, 1950, 1955 (Jacques).

283 DEDC, [Evidence](#), 10 May 2022, 1835 (Lucki).

284 *Ibid.*, 2125; 2125 (Duheme).

285 Royal Canadian Mounted Police, [Statement on the freezing of financial accounts](#), 21 February 2022.

286 DEDC, [Evidence](#), 10 May 2022, 1835 (Lucki); DEDC, [Evidence](#), 14 June 2022, 1905 (Freeland).

287 DEDC, [Evidence](#), 14 June 2022, 1920 (Freeland).

288 DEDC, [Evidence](#), 10 May 2022, 2025 (Lucki).

289 DEDC, [Evidence](#), 17 November 2022, 2005 (Mason).

290 *Ibid.*, 2035 (Hatch).

total value, without giving details about the account holders.²⁹¹ Four or five accounts that were not on the RCMP lists were frozen by the banks in question.²⁹²

Some witnesses added that no bank accounts were frozen directly by the federal government and that the RCMP had acted independently in providing its list to the financial institutions.²⁹³ Barry MacKillop said that FINTRAC did not have the authority or the power to freeze bank accounts.²⁹⁴

Accounts were unfrozen as soon as the RCMP informed the financial institutions that the names on the list were no longer in contravention of the Regulations or, in one case, when an individual was able to show their financial institution that they were no longer in Ottawa and participating in the prohibited activities.²⁹⁵ However, some accounts may have remained frozen due to a court order.²⁹⁶

It appears as though there was a contradiction in the testimony about the discretionary power granted to financial institutions. According to some witnesses, they acted independently in deciding which accounts would be frozen, without any political direction from the government.²⁹⁷ However, Angelina Mason said that financial institutions did not have any discretion in following the list provided by the RCMP.²⁹⁸ Michael Hatch said that there was a discretionary opportunity under the Order, in relation to the freezing of accounts that were not on the list provided by the RCMP.²⁹⁹

These representatives of financial institutions also said that they were not given adequate guidance on freezing accounts.³⁰⁰ However, they had the opportunity to ask the federal government questions about compliance, including scope, application of the temporary emergency measures and the definition of *designated person* participating in

291 DEDC, [Evidence](#), 3 May 2022, 1855, 1920, 1940 (Jacques).

292 DEDC, [Evidence](#), 17 November 2022, 2030 (Mason).

293 DEDC, [Evidence](#), 3 May 2022, 1935, 2020, 2025 (Jacques); 1940 (MacKillop); DEDC, [Evidence](#), 10 May 2022, 1835, 1850 (Lucki); DEDC, [Evidence](#), 14 June 2022, 1835 (Freeland).

294 DEDC, [Evidence](#), 3 May 2022, 1845 (MacKillop).

295 DEDC, [Evidence](#), 17 November 2022, 2005, 2020, 2055 (Mason).

296 DEDC, [Evidence](#), 14 June 2022, 1915 (Freeland); DEDC, [Evidence](#), 17 November 2022, 2005, 2030 (Mason).

297 DEDC, [Evidence](#), 3 May 2022, 1855 (Jacques); DEDC, [Evidence](#), 10 May 2022, 1835 (Lucki), DEDC, [Evidence](#), 14 June 2022, 1835 (Freeland).

298 DEDC, [Evidence](#), 17 November 2022, 2015, 2020, 2040, 2055 (Mason).

299 *Ibid.*, 2005, 2015, 2020, 2035 (Hatch).

300 *Ibid.*, 2015, 2030, 2035; 2045, 2110, 2115, 2120 (Mason); 2005, 2110, 2115 (Hatch).

prohibited activities.³⁰¹ During his appearance, Rob Stewart admitted that there were “some challenges along the lines of implementation of the economic measures” that resulted in misunderstandings as to their scope or application.³⁰²

Furthermore, Michael Hatch said that credit unions were not treated the same as the six big banks, which the federal government had consulted and informed several days earlier.³⁰³

The implementation of the financial measures in question also raised privacy concerns. During her appearance, Isabelle Jacques stated that there were no consultations with the Privacy Commissioner.³⁰⁴ However, she said that the Department of Finance was not privy to any specific information, only “aggregate amounts.”³⁰⁵

Regarding personal information on the confidential list sent by the RCMP to financial institutions, Angelina Mason said that “privacy law kicks into effect, which requires that you only hold information as necessary and for the purpose for which it was collected.”³⁰⁶

The Committee also received a brief from the Privacy Commissioner of Canada, who expanded on the potential privacy implications of invoking the *Emergencies Act*:

[P]rivacy is fundamental, and ensuring that it is protected builds necessary trust and supports the achievement of important public interest goals. In the context of any emergency, it is important for a clear privacy governance framework to be developed and implemented to ensure that government institutions and private sector entities can effectively meet their obligations under both the *Privacy Act* and [*Personal Information Protection and Electronic Documents Act*].³⁰⁷

The Committee notes that the financial measures set out in the Order, including the freezing of assets by the financial institutions involved, resulted in many questions and concerns as to their scope and implementation. As such, the Committee recommends:

301 Ibid., 2110 (Mason); 2005 (Hatch).

302 DEDC, [Evidence](#), 7 June 2022, 2050 (Stewart).

303 DEDC, [Evidence](#), 17 November 2022, 2005 (Hatch).

304 DEDC, [Evidence](#), 3 May 2022, 1845 (Jacques).

305 Ibid., 2025.

306 DEDC, [Evidence](#), 17 November 2022, 2050 (Mason).

307 Office of the Privacy Commissioner of Canada, [Privacy during an Emergency](#), Brief submitted to DEDC, 24 January 2023.

Recommendation 17

That the federal government, in collaboration with the Canadian Bankers Association, the Canadian Credit Union Association and the Financial Transactions and Report Analysis Centre of Canada, develop standardized processes regarding freezing and unfreezing accounts in the case that the *Emergencies Act* is invoked.

Crowdfunding Platforms

Many witnesses commented on the role of crowdfunding platforms in funding the “Freedom Convoy.”³⁰⁸

Kim Wilford, General Counsel for the GoFundMe platform, informed the Committee that just over \$10 million was raised on this platform before it was shut down on 2 February 2022, of which 88% was from Canada. Approximately 133,000 donors were from Canada, 14,000 were from the United States, and 4,000 were from other countries, representing 3%.³⁰⁹

Jacob Wells, Co-Founder of the GiveSendGo platform, said that the amount collected on that platform was approximately \$13 million, and around \$600,000 was given in tips. The average donation was approximately \$100, and the average tip was \$5.³¹⁰

Kim Wilford and Jacob Wells said they did not receive any donations from China³¹¹ or Russia.³¹² Certain witnesses said there was no proof supporting the claim that funds raised were the proceeds of crime.³¹³

The Committee heard that funds raised on the GoFundMe platform had been returned to donors as of 5 February 2022, including the transaction processing fees and tips. Donors could also opt to redirect their funds to credible and established charities.³¹⁴ As

308 DEDC, [Evidence](#), 3 May 2022, 1835, 1900, 1915, 1920 (MacKillop); 1905 (Achimov); 2000, 2040 (Brazeau); DEDC, [Evidence](#), 10 May 2022, 1835 (Lucki); DEDC, [Evidence](#), 17 November 2022, 1840 (Kim Wilford); DEDC, [Evidence](#), 1 December 2022, 2040 (Wells).

309 DEDC, [Evidence](#), 17 November 2022, 1840, 1850 (Wilford).

310 DEDC, [Evidence](#), 1 December 2022, 2045, 2125 (Wells).

311 DEDC, [Evidence](#), 17 November 2022, 1855 (Wilford).

312 Ibid., 1855, 1940; DEDC, [Evidence](#), 1 December 2022, 2050 (Wells).

313 DEDC, [Evidence](#), 17 November 2022, 1910 (Wilford); 2015 (Hatch); DEDC, [Evidence](#), 1 December 2022, 2100 (Wells).

314 DEDC, [Evidence](#), 17 November 2022, 1840, 1940 (Wilford).

for the platform GiveSendGo, Jacob Wells said that the vast majority of donations had been refunded by mid-March 2022.³¹⁵

While Kim Wilford said that the organization had worked closely with the City of Ottawa and its police service to understand what was happening on the ground in downtown Ottawa,³¹⁶ Jacob Wells said that no police or federal or provincial government representative had contacted the organization about convoy funding.³¹⁷

On the subject of the legality of funding these protests using crowdfunding platforms, Kim Wilford explained that the GoFundMe campaign was suspended on 2 February 2022 and then removed on 4 February 2022, which was before the *Emergencies Act* was invoked. The organization said that it did so because its terms of service were no longer being complied with.³¹⁸ Jacob Wells told the Committee about its internal verification team that does due diligence to ensure that the recipients of funds are legally able to receive them (e.g., verifying that an individual's name is not on a list) or if the goals stated in the campaign are legal endeavours that comply with the laws of the country in question.³¹⁹

The issue of applying Canadian laws outside of Canada or its jurisdiction was also addressed by a number of witnesses.³²⁰

When the Order was made, it introduced new obligations to report suspicious transactions to the FINTRAC for crowdfunding platforms and some payment service providers.³²¹

Despite the introduction of this new obligation, the registration process had not been completed by the time the special emergency measures were lifted.³²² Kim Wilford said that GoFundMe had registered with FINTRAC following the coming into force of this

315 DEDC, [Evidence](#), 1 December 2022, 2045, 2110 (Wells).

316 DEDC, [Evidence](#), 17 November 2022, 1840, 1900 (Wilford).

317 DEDC, [Evidence](#), 1 December 2022, 2045, 2055 (Wells).

318 DEDC, [Evidence](#), 17 November 2022, 1840, 1925, 1935, 2120 (Wilford).

319 DEDC, [Evidence](#), 1 December 2022, 2040, 2105 (Wells).

320 DEDC, [Evidence](#), 3 May 2022, 2000, 2040 (Brazeau); 2000 (MacKillop); DEDC, [Evidence](#), 17 November 2022, 1840, 1850 (Wilford); [Evidence](#), 1 December 2022, 2055 (Wells).

321 [Emergency Economic Measures Order](#), SOR/2022-22, s. 4.

322 DEDC, [Evidence](#), 3 May 2022, 1835 (MacKillop).

requirement, in partnership with Stripe, the payment processor.³²³ Jacob Wells said that the organization was updating its platform and processes to include new regulations.³²⁴

These new obligations were then included in regulatory changes that came into force on 27 April 2022.³²⁵ The events of February 2022 led to the modernization of federal regulations to reflect changes in the financial sector.³²⁶ Julien Brazeau, Director General of the Financial Crimes and Security Division, Financial Sector Policy Branch, Department of Finance, explained to the Committee:

Briefly, essentially the new regulations made permanent what was contained in the emergency measures, in terms of the obligations on crowdfunding platforms and payment service providers to register and to disclose suspicious transaction, and also put on them heightened responsibilities in terms of due diligence and verification of clients.³²⁷

The Committee welcomes the new regulatory measures for crowdfunding platforms and some payment service providers. However, in light of the recent invocation of the *Emergencies Act*, the Committee recommends:

Recommendation 18

That the federal government review the financial measures of the *Emergencies Act* and the amendments made to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* in April 2022 to determine their efficacy and if legislation to address any gaps in regard to regulations for crowdfunding platforms should be enacted.

CHAPTER 9: CHARTER COMPLIANCE

The preamble of the *Emergencies Act* provides that any special temporary measures made during a declaration of emergency be subject to the *Canadian Charter of Rights and Freedoms* (the Charter), as well as the *Canadian Bill of Rights* and the *International*

323 DEDC, [Evidence](#), 17 November 2022, 1840, 1930, 1940 (Wilford).

324 DEDC, [Evidence](#), 1 December 2022, 2115 (Wells).

325 Government of Canada, [Crowdfunding platforms and certain payment service providers must register with FINTRAC and the definition of “EFT” has been amended](#), 27 April 2022; DEDC, [Evidence](#), 3 May 2022, 1855, 1950 (Jacques); 2040 (Achimov); 1920 (MacKillop).

326 DEDC, [Evidence](#), 14 June 2022, 1915, 1955 (Freeland).

327 DEDC, [Evidence](#), 3 May 2022, 1950 (Brazeau).

Covenant on Civil and Political Rights. It also recognizes that fundamental rights “are not to be limited or abridged even in a national emergency.”

The *Department of Justice Act* further provides that the Minister of Justice must examine every regulation transmitted for registration to determine whether the provisions are consistent with the Charter.³²⁸ The *Statutory Instruments Act* also states that proposed regulations must be examined before being made for consistency with the Charter.³²⁹

In May 2022, the Department of Justice published a “Charter backgrounder” in relation to the Regulations and Order made under the declaration of emergency of February 2022. That Charter backgrounder explains that both the Regulations and the Order were reviewed for consistency with the Charter and describes the potential effects of the special temporary measures on the rights and freedoms guaranteed by the Charter.³³⁰

Although the *Department of Justice Act* requires the Minister of Justice to table a Charter statement for every government bill “that sets out potential effects of the Bill on the rights and freedoms that are guaranteed by the [Charter],” this requirement does not apply to a declaration of emergency or in respect of regulations or orders.³³¹ As such, the Committee recommends:

Recommendation 19

That the federal government amend section 4.2 of the *Department of Justice Act*, concerning the requirements for the Minister of Justice to table a “Charter statement” on government legislation, so as to require such statements to be tabled with respect to any declaration of emergency and each regulation or order adopted in respect of a national emergency.

Some ministers and departmental officials agreed that the special temporary measures made under the *Emergencies Act* were consistent with the Charter.³³² François Daigle also told the Committee that the special temporary measures were consistent with the

328 [Department of Justice Act](#), R.S.C. 1985, c. J-2, subsection 4.1(1).

329 [Statutory Instruments Act](#), R.S.C. 1985, c. S-22, subsection 3(2).

330 Department of Justice Canada, [Charter Backgrounder: Regulations and Order Made under the Emergencies Act in February 2022](#), 10 May 2022.

331 [Department of Justice Act](#), subsection 4.2(1).

332 DEDC, [Evidence](#), 26 April 2022, 1900, 2010 (Mendicino, Lametti); DEDC, [Evidence](#), 7 June 2022, 1840 (Daigle).

Charter, and the declaration of emergency did not suspend the Charter.³³³ Former Minister Lametti also explained that the special temporary measures were screened for Charter compatibility.³³⁴ However, François Daigle specified that although the Department of Justice reviewed the special temporary measures for Charter compliance, the application of those measures by police services and other groups was not included in that assessment.³³⁵

The proportional nature of the special temporary measures was emphasized by some government witnesses, as was the limited duration and targeted nature of the measures. François Daigle underlined that the measures were proportional several times during his appearance, stating that “the measures were targeted, proportional, time limited and Charter compliant.”³³⁶ Former Minister Lametti similarly stated that the special temporary measures were “necessary, reasonable and proportional to the situation.”³³⁷ For her part, Jody Thomas described the special temporary measures as “reasonable, proportionate and, thankfully, short-lived.”³³⁸

Several government witnesses addressed the tension between the special temporary measures and the rights to freedom of expression and peaceful assembly guaranteed in section 2 of the Charter. On this subject, former Minister Mendicino commented that:

[W]e must defend freedom of speech, assembly and lawful protest. However, freedom in a democracy never includes the freedom or licence to trample on the rights of others, or small business families hoping to put food on their families’ tables or parents attempting to walk their children to school. We should never ever encourage, countenance or be complicit in illegal behaviour, for it is an affront to the administration of justice and the rule of law.³³⁹

Former Minister Lametti similarly testified that “[f]reedom of expression doesn’t trench upon the rights of other people” and that “[t]his was well beyond freedom of

333 DEDC, [Evidence](#), 7 June 2022, 1840 (Daigle).

334 DEDC, [Evidence](#), 26 April 2022, 2010 (Lametti).

335 DEDC, [Evidence](#), 7 June 2022, 1840 (Daigle).

336 Ibid.

337 DEDC, [Evidence](#), 26 April 2022, 2005 (Lametti).

338 DEDC, [Evidence](#), 1 December 2022, 1830 (Thomas).

339 DEDC, [Evidence](#), 26 April 2022, 1830 (Mendicino).

expression.”³⁴⁰ François Daigle also noted the Charter only protects peaceful assembly, and the special temporary measures did not prohibit any and all public assembly.³⁴¹

There was some discussion at Committee as to the legality of freezing bank accounts and other financial products under the Order, with regard to section 8 of the Charter. Isabelle Jacques told the Committee that “freezing” accounts did not meet the definition of “seizure” in section 8 of the Charter as there is no creditor involved.³⁴² Instead, other witnesses explained that accounts were suspended or frozen,³⁴³ with François Daigle adding that it was not a seizure within the meaning of the Charter because there was “no transfer of ownership.”³⁴⁴ On a related point, Kent Roach explained that financial institutions could be subject to Charter scrutiny for the exercise of their power to freeze bank accounts under the special temporary measures, even though those decisions were not made by the federal government.³⁴⁵

Finally, some witnesses highlighted the possibility of legal challenges, particularly to seek a remedy under the Charter. For example, Kent Roach explained that “[a]nyone can say that things are Charter-proof” and that many aspects of the special temporary measures “could be Charter-suspect.”³⁴⁶ Specifically, he cast doubt on the Charter compliance of the measures to seize financial assets and the protest-related measures.³⁴⁷ In a similar vein, Leah West told the Committee that it was possible that individuals could claim that their Charter rights were unjustifiably infringed and seek a remedy from the courts, and those claims could be founded on a potential finding by the Commission, the Committee or the Federal Court that it was unjustifiable to invoke the *Emergencies Act*.³⁴⁸

More recently, questions relating to Charter rights were addressed in a judicial review in the Federal Court.

340 Ibid., 2015 (Lametti).

341 DEDC, [Evidence](#), 7 June 2022, 1850 (Daigle).

342 DEDC, [Evidence](#), 3 May 2022, 1850 (Jacques).

343 See DEDC, [Evidence](#), 26 April 2022, 2040 (Lametti); DEDC, [Evidence](#), 7 June 2022, 1920, 1950 (Daigle, Aitken); DEDC, [Evidence](#), 14 June 2022, 1920 (Freeland); DEDC, [Evidence](#), 17 November 2022, 2055 (Mason, Hatch).

344 DEDC, [Evidence](#), 7 June 2022, 1920 (Daigle).

345 DEDC, [Evidence](#), 8 December 2022, 1925 (Roach).

346 Ibid., 1925.

347 Ibid.

348 Ibid., 2025 (West).

In his [decision](#) of 23 January 2024,³⁴⁹ Justice Mosley considered whether the Regulations and Order issued under the *Proclamation Declaring a Public Order Emergency* violated sections 2(b), 2(c), 2(d), 7 or 8 of the Charter, and whether these violations could be saved under section 1.

He concluded that they violated section 2(b), which guarantees the right to freedom of expression, and section 8, which guarantees the right to be secure against unreasonable search and seizure.³⁵⁰ Moreover, he found that these impairments could not be justified under section 1 of the Charter.³⁵¹ Sections 2(c), 2(d) and 7 of the Charter – which, respectively, guarantee the rights to peaceful assembly, association, and life, liberty and security of the person – were not found to have been impaired.³⁵²

CHAPTER 10: ACCESS TO INFORMATION AND DOCUMENTS

This Committee is a special joint committee consisting of members from both houses of Parliament.

Under House of Commons Standing Order 108(1)(a), standing committees are empowered “to send for persons, papers and records.”³⁵³ Under Standing Order 116(1), in a special committee, “the Standing Orders shall apply so far as may be applicable.”³⁵⁴

House of Commons Procedure and Practice explains in more detail the powers of parliamentary committees with respect to the conduct of hearings before it, including matters of procedure and privilege.³⁵⁵

349 [Canadian Frontline Nurses v. Canada \(Attorney General\)](#), 2024 FC 42.

350 *Ibid.*, paras. 309, 341, 359 and 373.

351 For more information about section 1 of the Charter, see Department of Justice Canada, “[Section 1 – Reasonable Limits](#),” Charterpedia; Legal test established in: [R. v. Oakes](#), [1986] 1 SCR 103.

352 [Canadian Frontline Nurses v. Canada \(Attorney General\)](#), paras. 314, 317 and 324; This decision has been appealed, and the case is now before the Federal Court of Appeal: Federal Court of Appeal, *Canadian Frontline Nurses et al. v. Attorney General of Canada*, Files A-73-24, A-74-24, A-75-24, A-76-24; details available in the [Court file database](#), consulted on 31 October 2024.

353 House of Commons, [Standing Orders of the House of Commons – Consolidated version as of 18 September 2023](#), S.O. 108(1)(a). It should be noted that following the adoption of the motions in the House of Commons and the Senate, the Committee began its work under the *Standing Orders of the House of Commons*. See House of Commons, [Journals](#), 2 March 2022; Senate, [Journals](#), 3 March 2022.

354 *Ibid.*, S.O. 116(1).

355 Marc Bosc and André Gagnon, eds., “[Chapter 20: Committees](#),” *House of Commons Procedure and Practice*, 3rd ed., 2017.

On the other hand, section 62 of the *Emergencies Act*, under which this Committee is constituted, is silent as to how it should carry out its parliamentary review and receive evidence and documents.

Over the course of this study, there were several occasions where witnesses refused or were unable to answer the Committee's questions or submit documentation due to various types of privilege or confidence.

In a document prepared further to a motion of the Committee of 22 September 2022,³⁵⁶ the offices of the Committees and Legislative Services Directorate of the House of Commons, the Senate Committees, the Law Clerk and Parliamentary Counsel of the House of Commons and the Law Clerk and Parliamentary Counsel of the Senate wrote the following:

The preeminent right of committees to obtain answers to their questions stems from the Houses' authority to institute and conduct inquiries and the power to send for persons, papers and records. These parliamentary privileges are rooted in the preamble and section 18 of the *Constitution Act, 1867*, and section 4 of the *Parliament of Canada Act*. These powers were delegated by both Houses to the Special Joint Committee on the Declaration of Emergency through the Houses' orders establishing the Committee.

Given their constitutional nature, a committee's powers supersede statutory law and other privileges, such as solicitor-client privilege.³⁵⁷

The memo goes on to state the following:

House of Commons Procedure and Practice notes that particular attention is paid by committees to the questioning of public servants:

The obligation of a witness to answer all questions put by the committee must be balanced against the role that public servants play in providing confidential advice to their Ministers. The role of the public servant has traditionally been viewed in relation to the implementation and administration of government policy, rather than the determination of what that policy should be. Consequently, public servants have been excused from commenting on the policy decisions made by the government. In addition, committees ordinarily accept the reasons that a public servant gives for declining to answer a specific question or series of questions which may involve the giving of a legal opinion, may be perceived as a conflict with the witness's responsibility to the Minister,

356 DEDC, [Minutes of Proceedings](#), 22 September 2022.

357 Parliament of Canada, *The Rights of Committees to Procure Responses to Oral Questioning*, Document prepared for DEDC, 24 October 2022.

may be outside of their own area of responsibility, or may affect business transactions.

Although they can insist that a witness respond to specific questions, committees do not have the power to deal with a failure to comply with their orders. Only the Senate and the House of Commons have the disciplinary powers to punish refusal. The disciplinary powers of the Houses include, for example, the power to reprimand a person who is not a member.

During the Committee hearings, several ministers and federal officials claimed that the information or documents requested by the Committee were protected by privilege, including Cabinet confidence or solicitor-client privilege.³⁵⁸ For example, Former Minister Lametti invoked three types of privilege during his appearance before the Committee: Cabinet confidence, solicitor-client privilege and litigation privilege.³⁵⁹

Most witnesses said that they were not able, not authorized or not consulted about the possibility of waiving the privilege that was invoked for the Committee's review.³⁶⁰ According to François Daigle of the Department of Justice, the fact of receiving evidence in camera in no way makes it possible to waive solicitor-client privilege.³⁶¹ Stephen Laskowski of the Canadian Trucking Alliance invoked the rule of relevance when various Committee members asked him questions.³⁶²

The Committee also learned that an internal federal government legal opinion had been drafted to determine whether invoking the *Emergencies Act* was justified under the circumstances, but the Committee was unable to obtain a copy given that solicitor-client privilege was invoked. Leah West and Kent Roach said it would have been useful to read the legal opinion for a full legal analysis of the situation.³⁶³

358 DEDC, [Evidence](#), 26 April 2022, 1850 (Mendicino) 2020, 2025, 2045, 2050, 2105 (Lametti); DEDC, [Evidence](#), 3 May 2022, 1840 (Jacques); DEDC, [Evidence](#), 10 May 2022, 1845, 1930, 2005 (Lucki); 1900 (Vigneault); DEDC, [Evidence](#), 7 June 2022, 1855, 1900, 1905 (Daigle); 2015 (Stewart); DEDC, [Evidence](#), 14 June 2022, 1840 (Freeland); 2015, 2030 (Blair); DEDC, [Evidence](#), 1 December 2022, 1900, 1905, 1950 (Thomas); DEDC, [Evidence](#), 27 February 2024, 2020, 2025, 2040, 2050, 2105, 2120 (Virani).

359 DEDC, [Evidence](#), 26 April 2022, 2020, 2025, 2045, 2050, 2105 (Lametti).

360 Ibid., 2050; DEDC, [Evidence](#), 3 May 2022, 1840, 2015 (Jacques); DEDC, [Evidence](#), 1 December 2022, 1900 (Thomas).

361 DEDC, [Evidence](#), 7 June 2022, 1900 (Daigle).

362 DEDC, [Evidence](#), 24 November 2022, 2025, 2030 (Laskowski).

363 DEDC, [Evidence](#), 8 December 2022, 1905, 1910, 1915 (West); 1910 (Roach).

Kent Roach said that it was important for the Committee to be given access to information or documents, even if they were covered by solicitor-client privilege.³⁶⁴ In this sense, he suggested the following to the Committee:

I really think that you can only fully investigate this if you do so in a manner that is in camera, subject to national security confidentiality.

I would add that I think that, moving forward, you should consider that an inquiry would have powers to go behind solicitor-client privilege. [National Security and Intelligence Review Agency], for example, has those powers.³⁶⁵

In their brief to the Committee, the Canadian Civil Liberties Association pointed out the following:

Several witnesses before the Commission stated that the Department of Justice had provided a legal opinion that suggested that “threats to the security of Canada” in the [*Emergencies Act*] did not have the same meaning as the term in the *CSIS Act*, despite the CSIS definition’s direct incorporation into the [*Emergencies Act*]. The government of Canada has claimed solicitor-client privilege over this opinion.

The [Canadian Civil Liberties Association] acknowledges the fundamental importance of solicitor-client privilege. However, to the extent that the government relies on this legal advice to support the argument that it acted in good faith and on a good faith basis that the threshold for declaring a public order emergency was met, it can only do so by disclosing the opinion.³⁶⁶

The possibility of a formal or implied waiver was also discussed in Committee. Jody Thomas said that the client who could waive it was the Governor in Council.³⁶⁷ According to Leah West, the client was Cabinet or the prime minister.³⁶⁸

Following her appearance before the Committee, Jody Thomas wrote the Committee a letter maintaining the refusal to divulge the information requested about this legal opinion because of solicitor-client privilege:

With regard to the federal government's legal opinion on the interpretation of the necessary legal thresholds to declare a public order emergency:

364 Ibid., 1910, 1950.

365 Ibid., 1910.

366 Canadian Civil Liberties Association, [Submissions of the Canadian Civil Liberties Association to the Special Joint Committee on the Declaration of Emergency](#), Brief submitted to DEDC, 3 February 2023, pp. 3–4.

367 DEDC, [Evidence](#), 1 December 2022, 1900 (Thomas).

368 DEDC, [Evidence](#), 8 December 2022, 2025, 2030 (West).

- (a) on what date was the opinion requested;
- (b) on what date was the written opinion prepared;
- (c) who requested the preparation of the opinion;
- (d) who wrote the opinion;
- (e) who approved the opinion; and
- (f) were the conclusions changed in the course of the approvals process?

Due to Solicitor Client Privilege, I respectfully decline to answer this question.³⁶⁹

It is worth noting that on 31 May 2022, the Committee adopted a motion “[t]hat an Order do issue for all security assessments and legal opinions which the government relied upon in determining that” the various thresholds under the *Emergencies Act* had been met and that the temporary measures exercised under the Act were consistent with the Charter.³⁷⁰

On or around 29 June 2022, a letter in response to the Committee’s document production order was sent by François Daigle of the Department of Justice, in which he writes that “[u]pon full consideration, it is our Department’s determination that all legal opinions in our holdings that would be responsive to the Committee’s order are subject to solicitor-client privilege.”³⁷¹ In his letter, he also states the following:

Although other countries may have occasionally departed from this rule, in Canada, it is solely within the discretion of the Government of Canada and its ministers to waive solicitor-client privilege in respect of legal advice provided to the Crown. For reasons of principle and practice, this rarely occurs and the general rule remains that such advice will normally be withheld from committees of Parliament, subject to such ministerial discretion and considerations of public policy.³⁷²

It is worth mentioning that this letter sets out the grounds for refusal only as they pertain to information protected by solicitor-client privilege, but not by Cabinet confidence.

369 Privy Council Office, [Written response to questions](#), Written submission to DEDC, 28 December 2022.

370 DEDC, [Minutes](#), 31 May 2022.

371 Department of Justice, [Document submitted in response to the motion adopted on Tuesday, 31 May 2022](#), Written submission to DEDC, 29 June 2022, p. 2.

372 *Ibid.*, p. 4.

However, the Department of Justice did share some documents with the Committee to explain the legal context for invoking the *Emergencies Act*.³⁷³ Other federal government departments and agencies also submitted documents to the Committee in response to the order, some of which were redacted.³⁷⁴

In response to another Committee motion, adopted on 20 October 2022, the departments, persons and agencies that produced documents in response to the production order of 31 May 2022 were required to explain in writing the grounds for each redaction.³⁷⁵

Some information remains inaccessible to the Committee due to various privileges or for reasons of public interest, international relations or national security.³⁷⁶

For example, in a letter sent to the Committee on or around 4 November 2022, the Deputy Minister of the Department of Transport, Michael Keenan, responded to this order as follows:

Text on pages 3-4 of the document were redacted on the grounds that they contain information that is Solicitor-Client Privilege. As set out in the letter dated June 29, 2022, from François Daigle, Deputy Minister of Justice and Deputy Attorney General of Canada, legal advice to the Crown which is protected by solicitor-client privilege is normally withheld and not disclosed to committees of Parliament. These redactions have been applied consistently in the production of documents for the Public Order Emergency Commission.³⁷⁷

Nevertheless, there has been some disclosure of protected information on an exceptional basis as the result of Commission or civil proceedings where redactions were removed.³⁷⁸

373 Ibid.

374 [Documents submitted in response to the motion adopted on Tuesday, 31 May 2022](#) and [Documents submitted in response to the motion adopted on Thursday, 20 October 2022](#).

375 DEDC, [Minutes of Proceedings](#), 20 October 2022.

376 See the grounds cited by each federal government department and agency in [Documents submitted in response to the motion adopted on Thursday, 20 October 2022](#).

377 Department of Transport, [Document submitted to the Committee in response to the motion adopted on Thursday, 20 October 2022](#), Written submission to DEDC, 4 November 2022.

378 Privy Council Office, [Document submitted in response to the motion adopted on Tuesday, 31 May 2022](#), Written submission to DEDC, 22 September 2022; Royal Canadian Mounted Police, [Document submitted to the Committee in response to the motion adopted on Thursday, 20 October 2022](#), Written submission to DEDC, 4 November 2022.

It is worth noting that, like the Committee, the Commission also encountered challenges gathering evidence given the various types of privilege invoked.

In his brief to the Committee, Professor Ryan Alford writes the following:

The Government withheld the evidence the public inquiry required to determine whether the Cabinet lacked a reasonable basis for concluding an emergency existed, by asserting solicitor-client privilege in a manner that frustrated the purpose of that inquiry and s. 63 of the Act. ...

Lamentably, the public inquiry witnessed the Minister of Justice asserting solicitor-client privilege over any legal advice given by his department to the Cabinet that provided it with a more pliable and amenable “evolving” definition of a public order emergency than the one established by Parliament in the Act. Additionally, the Minister of Justice would not comment on the testimony from the National Security Advisor and the Deputy Clerk of the Privy Council that the statutory standard had been updated or interpreted in an evolved or holistic manner. In particular, he declined to answer questions about whether fresh legal advice that applied a novel standard was the reason why the Director of the Canadian Security Intelligence Service (“CSIS”) changed his mind about whether the crisis met the legal standard on the very day that the declaration of the emergency was issued. ...

The impasse created by the assertion of solicitor-client privilege by the Government over the central issue of the public inquiry was best summarized by Commissioner Paul Rouleau in his last exchange with the Minister of Justice:

Commissioner Paul Rouleau: I may get into trouble [i.e., by asking questions that impinge on solicitor-client privilege] here, so – but it’s – your counsel can weigh in if need be. But I’m just trying to understand, the job that the Commission is to do is to look at the decision by Cabinet, and as was mentioned by Commission Counsel, there’s an issue of the reasonableness of it. And I’m having a little trouble, and I don’t know if you can help me, is how we assess reasonableness when we don’t know what they were acting on. And do so just presume they were acting in good faith without knowing the basis or structure within which they made that decision? And you know of what I speak ...what was the belief of those who made the decision as to what the law was? And I guess the answer is we just assume they acted in good faith in application of whatever they were told. Is that sort of what you’re saying?

[Former] Minister David Lametti: I think that’s fair.

This dialogue, the pivotal moment of the hearings at the public inquiry, is troubling. It confirms that due to the Government’s decision to create a situation where the

Commissioner “might get into trouble” owing to solicitor-client privilege, it argues we must “just assume they acted in good faith.”³⁷⁹

Ryan Alford concludes his brief as follows:

Governmental accountability is the *raison d'être* of both the parliamentary and public inquiries into a declaration of emergency. The Commission has noted that “The starting point for the Commission is to inquire into the reasons why the Government declared a public order emergency. It is the Government that deemed it necessary to invoke the Emergencies Act; thus it is the Government that must explain its decision to do so.” As the principal author of the Act has emphasized, “wherever you have extraordinary powers, there must be extraordinary accountability.”³⁸⁰

In a document produced before the Commission, the Canadian Constitution Foundation agreed:

Section 58(1) of the Emergencies Act already requires that the federal government table an Explanation of the reasons for the declaration of emergency in Parliament. The Explanation for the February public emergency provides a one sentence explanation for why existing legal tools allegedly fell short. The Act should be amended to require the Attorney General to release a legal opinion that provides a detailed analysis of existing legal tools and makes the case for why they fell short.

... The Act’s requirement that it be a tool of last resort needs to be given teeth and the government seeking to invoke it must complete the exercise of comprehensively reviewing all legal tools available to it to deal with the emergency as well as explain why these tools are insufficient.³⁸¹

Regarding cabinet confidence, a press release on the Commission’s website states the following:

The Government of Canada has responded to a request from Commissioner Paul Rouleau and agreed not to claim Cabinet privilege over the documents that Cabinet considered in making the decision to declare a public order emergency and implement special measures for dealing with the emergency in February 2022.³⁸²

379 Ryan Alford, [Fulfilling Parliament’s Key Responsibility under the Emergencies Act](#), Brief submitted to DEDC, 3 February 2023.

380 *Ibid.*, p. 5.

381 Public Order Emergency Commission, [“Canadian Constitution Foundation – Reforming the Emergencies Act,” Closing Submissions](#), 9 December 2022, p. 6.

382 Public Order Emergency Commission, [Government of Canada agrees to release Cabinet documents to the Public Order Emergency Commission](#), News release, 28 June 2022.

During his appearance before the Commission, Prime Minister Trudeau said the following:

There have been hundreds of public inquiries over the course of our country's history, and only four times were there waivers of Cabinet confidence. For this situation, it was extremely important to me that all the inputs, or as many inputs as possible, that Cabinet received in making the determinations that we did, were -- are visible to Canadians. So yes, we waived Cabinet confidence in terms of the inputs that Cabinet heard to make the decision. But the actual deliberations, as you point out, remain secret.³⁸³

In the two years following the invocation of the *Emergencies Act*, the Committee recalled some federal witnesses, particularly to obtain answers regarding its multiple requests for access to evidence, including the legal opinion the government relied on before resorting to the Act.

In February 2024, Minister Virani reasserted the government's position that the legal advice in question was protected by solicitor-client privilege,³⁸⁴ which benefits the Government of Canada, the client in this case.³⁸⁵ He added that, as Minister of Justice and Attorney General of Canada, he wore the hat of both advisor to government and member of Cabinet.³⁸⁶ Lastly, he pointed out that, in the circumstances, the government's aim was not necessarily to protect the contents of the legal opinion itself, but the very existence of a privileged relationship "that promotes candour and free, full and fair advice."³⁸⁷

As for Cabinet confidence, Minister Virani said that it exists to "promote open and candid discussions around the cabinet table in the public interest that will be fearlessly advanced at that table and then defended publicly after that."³⁸⁸ He also said that Cabinet confidence is waived very rarely but acknowledged Parliament's power to request it.³⁸⁹

In light of the preceding, the Committee is concerned that it did not have access to all the information and documents that the federal government relied on to invoke the

383 Public Order Emergency Commission, [Public Hearings](#), 25 November 2022, pp. 94–95.

384 DEDC, [Evidence](#), 27 February 2024, 2020, 2025, 2040, 2050, 2105, 2115, 2120 (Virani).

385 *Ibid.*, 2105.

386 *Ibid.*, 2115.

387 *Ibid.*, 2050.

388 *Ibid.*, 2040.

³⁸⁹ *Ibid.*, 2040, 2120.

Emergencies Act and the related special temporary measures, in part due to the various types of privilege invoked by many of the witnesses.

The Committee agrees that access to all information and documents held by the federal government with respect to the invocation of the *Emergencies Act* should be improved. Consequently, the Committee recommends:

Recommendation 20

That the federal government be required to keep a thorough written record of the process leading to a declaration of emergency to prevent revisionist testimony and that this written record should be provided to the parliamentary review committee once it is appointed.

With respect to evidence before a parliamentary review committee, the Committee agrees that the rules surrounding future proceedings need to be changed, particularly to ensure that any review is transparent and comprehensive.

For this reason, the Committee recommends:

Recommendation 21

That the federal government amend the *Emergencies Act* to better define the parliamentary review committee's role; and that a new definition include matters pertaining to the access of documents beyond access to those orders and regulations currently outlined within this Act.

APPENDIX A: LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

Organizations and Individuals	Date	Meeting
As an individual Hon. Perrin Beatty, P.C., O.C.	2022/03/29	3
House of Commons Philippe Dufresne, Law Clerk and Parliamentary Counsel	2022/03/29	3
Senate Philippe Hallée, Law Clerk and Parliamentary Counsel	2022/03/29	3
Canada Border Services Agency Ted Gallivan, Executive Vice-President	2022/04/26	5
Canadian Security Intelligence Service David Vigneault, Director	2022/04/26	5
Department of Justice Jenifer Aitken, Acting Assistant Deputy Minister, Central Agencies Portfolio François Daigle, Deputy Minister of Justice and Deputy Attorney General of Canada Samantha Maislin Dickson, Assistant Deputy Minister, Public Safety, Defence and Immigration Portfolio Hon. David Lametti, P.C., M.P., Minister of Justice and Attorney General of Canada Heather Watts, Deputy Director General and General Counsel, Human Rights Law Section	2022/04/26	5

Organizations and Individuals	Date	Meeting
<p>Department of Public Safety and Emergency Preparedness</p> <p>Hon. Marco E. L. Mendicino, P.C., M.P., Minister of Public Safety</p> <p>Rob Stewart, Deputy Minister</p>	2022/04/26	5
<p>Royal Canadian Mounted Police</p> <p>Brenda Lucki, Commissioner</p>	2022/04/26	5
<p>Department of Finance</p> <p>Julien Brazeau, Director General, Financial Crimes and Security Division, Financial Sector Policy Branch</p> <p>Manuel Dussault, Senior Director, Framework Policy, Financial Institutions Division, Financial Sector Policy Branch</p> <p>Isabelle Jacques, Assistant Deputy Minister, Financial Sector Policy Branch</p>	2022/05/03	6
<p>Financial Transactions and Reports Analysis Centre of Canada</p> <p>Donna Achimov, Deputy Director, Chief Compliance Officer, Compliance Sector</p> <p>Barry MacKillop, Deputy Director, Intelligence</p>	2022/05/03	6
<p>Canadian Security Intelligence Service</p> <p>Marie-Hélène Chayer, Executive Director, Integrated Terrorism Assessment Centre</p> <p>Cherie Henderson, Assistant Director, Requirements</p> <p>David Vigneault, Director</p>	2022/05/10	7
<p>Royal Canadian Mounted Police</p> <p>Brian Brennan, Deputy Commissioner, Contract and Indigenous Policing</p> <p>Michael Duheme, Deputy Commissioner, Federal Policing</p> <p>Brenda Lucki, Commissioner</p>	2022/05/10	7

Organizations and Individuals	Date	Meeting
<p>Department of Justice</p> <p>Jenifer Aitken, Acting Assistant Deputy Minister, Central Agencies Portfolio</p> <p>François Daigle, Deputy Minister of Justice and Deputy Attorney General of Canada</p> <p>Samantha Maislin Dickson, Assistant Deputy Minister, Public Safety, Defence and Immigration Portfolio</p> <p>Heather Watts, Deputy Director General and General Counsel, Human Rights Law Section</p>	2022/06/07	9
<p>Department of Public Safety and Emergency Preparedness</p> <p>Talal Dakalbab, Assistant Deputy Minister, Crime Prevention Branch</p> <p>Dominic Rochon, Senior Assistant Deputy Minister, National Security and Cyber Security Branch</p> <p>Rob Stewart, Deputy Minister</p>	2022/06/07	9
<p>Department of Finance</p> <p>Jenifer Aitken, Acting Assistant Deputy Minister, Law Branch</p> <p>Hon. Chrystia Freeland, P.C., M.P., Minister of Finance</p> <p>Isabelle Jacques, Assistant Deputy Minister, Financial Sector Policy Branch</p> <p>Sarah Paquet, Director and Chief Executive Officer, Financial Transactions and Reports Analysis Centre of Canada</p>	2022/06/14	10
<p>Privy Council Office</p> <p>Hon. Bill Blair, P.C., M.P., President of the Queen’s Privy Council for Canada and Minister of Emergency Preparedness</p> <p>Jacqueline Bogden, Deputy Secretary to the Cabinet, Emergency Preparedness and COVID Recovery</p>	2022/06/14	10
<p>Ontario Provincial Police</p> <p>Thomas Carrique, Commissioner</p> <p>Chris Harkins, Deputy Commissioner</p> <p>Carson Pardy, Chief Superintendent</p>	2022/06/21	11

Organizations and Individuals	Date	Meeting
House of Commons Patrick McDonell, Sergeant-at-Arms and Corporate Security Officer	2022/09/29	13
Parliamentary Protective Service Larry Brookson, Acting Director	2022/09/29	13
Senate Julie Lacroix, Director, Corporate Security	2022/09/29	13
As an individual Peter Sloly, Chief of Police (Retired), Ottawa Police Service	2022/10/06	14
City of Ottawa Kim Ayotte, General Manager, Emergency and Protective Services Mathieu Fleury, City Councillor Steve Kanellakos, City Manager Jim Watson, Mayor	2022/10/27	16
Ontario Provincial Police Thomas Carrique, Commissioner Chris Harkins, Deputy Commissioner, Field Operations	2022/11/03	17
Ottawa Police Services Steve Bell, Interim Chief Patricia Ferguson, Acting Deputy Chief	2022/11/03	17
Canadian Bankers Association Angelina Mason, General Counsel and Vice-President, Legal and Risk	2022/11/17	18
Canadian Credit Union Association Michael Hatch, Vice-President, Government Relations	2022/11/17	18
GiveSendGo Jacob Wells, Co-Founder	2022/11/17	18
GoFundMe Kim Wilford, General Counsel	2022/11/17	18

Organizations and Individuals	Date	Meeting
Canadian Trucking Alliance Stephen Laskowski, President Geoffrey Wood, Senior Vice-President, Policy	2022/11/24	19
Canadian Vehicle Manufacturers' Association Brian Kingston, President and Chief Executive Officer Jennifer Steeves, Director, Industry & Consumer Affairs	2022/11/24	19
City of Windsor Drew Dilkens, Mayor	2022/11/24	19
Village of Coutts Jim Willett, Mayor	2022/11/24	19
GiveSendGo Jacob Wells, Co-Founder	2022/12/01	20
Integrated Terrorism Assessment Centre Marie-Hélène Chayer, Executive Director	2022/12/01	20
Privy Council Office Martin Green, Assistant Secretary to the Cabinet, Intelligence Assessment Mike MacDonald, Assistant Secretary to the Cabinet, Security and Intelligence Jody Thomas, National Security and Intelligence Advisor	2022/12/01	20
As an individual Kent Roach, Professor Faculty of Law, University of Toronto Leah West, Assistant Professor, Norman Paterson School of International Affairs, Carleton University	2022/12/08	21
Canadian Security Intelligence Service David Vigneault, Director	2024/02/27	29

Organizations and Individuals	Date	Meeting
<p>Department of Justice</p> <p>Shalene Curtis-Micallef, Deputy Minister and Deputy Attorney General of Canada</p> <p>Samantha Maislin Dickson, Assistant Deputy Minister, Public Safety, Defence and Immigration Portfolio</p> <p>Jeanette Ettel, Senior Counsel, Human Rights Law Section</p> <p>Hon. Arif Virani, P.C., M.P., Minister of Justice and Attorney General of Canada</p>	2024/02/27	29
<p>Department of Public Safety and Emergency Preparedness</p> <p>Hon. Dominic LeBlanc, P.C., M.P., Minister of Public Safety, Democratic Institutions and Intergovernmental Affairs</p> <p>Shawn Tupper, Deputy Minister</p>	2024/02/27	29
<p>Privy Council Office</p> <p>Alexandra Freeland, Acting Director General, Data and Information Services Directorate</p> <p>Matthew Shea, Assistant Secretary to the Cabinet, Ministerial Services and Corporate Affairs</p>	2024/02/27	29
<p>Royal Canadian Mounted Police</p> <p>Michael Duheme, Commissioner</p>	2024/02/27	29
<p>Translation Bureau</p> <p>Matthew Ball, Vice-President, Service to Parliament and Interpretation</p> <p>Jean-François Lymburner, Chief Executive Officer</p> <p>Annie Plouffe, Acting Vice-President, Policy and Corporate Services</p> <p>Julie Poirier, Acting Vice-President, Linguistic Services</p>	2024/02/27	29

APPENDIX B: LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

Alford, Ryan

Canadian Civil Liberties Association

Lazar, Nomi Claire

Office of the Privacy Commissioner of Canada

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 3, 5 to 7, 9 to 11, 13, 14, 16 to 25, 29, 31 to 34](#)) is tabled.

Respectfully submitted,

Hon. Gwen Boniface, Rhéal Éloi Fortin and Matthew Green
Joint Chairs

JUSTIN TRUDEAU'S POLITICAL EMERGENCY **Dissenting Opinions of the Official Opposition**

For nine years, Prime Minister Justin Trudeau has divided Canadians. Invoking the *Emergencies Act* in February 2022 was the very height of his efforts.

For nine years, Mr. Trudeau has done nothing but attack the hard-working Canadians who deliver our food and goods, who build our homes, and who work in our factories. He sought to distract Canadians from the failures of his government. He sought to make Canadians afraid of their neighbours, hoping that if they were afraid they would forget that they cannot afford to put food on the table or pay their rent, that they would forget about their family and friends dying every day from overdoses, or that their dreams of home-ownership are evaporating.

Mr. Trudeau's divisive rhetoric in early 2022 "served to energize the protestors, hardening their resolve and further embittering them towards government authorities," according to the Public Order Emergency Commission (better known as the Rouleau Commission).¹

Even Liberals agree; during the pandemic, "a decision was made to wedge, to divide, and to stigmatize," according to Liberal MP Joël Lightbound,² who has since been replaced as chair of the Liberals' Quebec caucus.

Just as Mr. Trudeau sought to distract, his government sought to avoid much needed accountability and openness. The work of the Special Joint Committee on the Declaration of Emergency was, in equal parts, revealing and deeply frustrating. While a number of key points came to light during our study, though more due to the Rouleau Commission process, it was clear that a government which appropriated to itself sweeping authority and powers, to bypass the legislative procedures of Parliament and to intrude upon provincial jurisdiction, had no genuine interest in being open and accountable for its choices and decisions.

While we agree with some aspects of the Committee's report, and some of its recommendations, Conservatives fundamentally disagree that the Liberal government was justified and within its rights to invoke the *Emergencies Act* as well as the recommendations which, in our view, would roll back government accountability about any future national emergency.

Moreover, the Federal Court has made a landmark ruling, finding that Justin Trudeau's Liberal government illegally invoked the *Emergencies Act* and used it to violate Canadians' most essential constitutional rights to freedom of expression and to be secure against unreasonable search and seizure. Conservatives believe that the Liberals must answer for their reckless

¹ Public Order Emergency Commission, [Report of the Public Inquiry into the 2022 Public Order Emergency, Vol. 1 \(Overview\)](#) [Rouleau Commission Report], p. 173.

² *National Post*, February 9, 2022, p. A1, "['We're more divided than ever': Liberal MP laments the efforts of his party 'to wedge, to divide and to stigmatize' citizens who disagree over pandemic measures](#)".

abandonment of the law and the most basic freedoms of all Canadians.

We know that Mr. Trudeau will never stop dividing Canadians, because we know that he will never stop trying to distract Canadians from his failures. Canadians deserve better. Conservatives will repair the bonds that Mr. Trudeau has broken. A Pierre Poilievre government will turn the hurt Canadians are feeling into the hope they need.

Justin Trudeau's invocation of the Emergencies Act failed in several ways

Justin Trudeau's failed to satisfy the necessary legal thresholds in declaring an "emergency"

In failing to denounce the government's flawed decision, the Committee majority has embraced the Liberal line that the government appropriately invoked the *Emergencies Act* in 2022, relying upon the Rouleau Commission Report as providing a clean bill of health. Despite that, it must be recalled that Commissioner Rouleau wisely observed, however, that "I do not come to this conclusion easily, as I do not consider the factual basis for it to be overwhelming. Reasonable and informed people could reach a different conclusion than the one I arrived at."³ And we do.

To us, we hear the Commissioner saying it was, in his own mind, a "51/49" call, at best. Even then, we think that too generous to a government which, instead of easing tensions or trying to resolve the hurt Justin Trudeau caused, went out of its way to make the situation worse by name-calling and demonizing fellow Canadians.

More recently—and in a legal and authoritative fashion—Mr. Justice Mosely of the Federal Court ruled "that there was no national emergency justifying the invocation of the *Emergencies Act* and the decision to do so was therefore unreasonable and *ultra vires*."⁴ For good measure, he added, "the record does not support a conclusion that [there was] a critical, urgent and temporary situation that was national in scope and could not effectively be dealt with under any other law of Canada",⁵ leading him to conclude "that the [Liberal government] did not have reasonable grounds to believe that a threat to national security existed within the meaning of the Act and the decision was *ultra vires*."⁶

We are convinced that the Rouleau Commission would have reached the same conclusion as the Federal Court if it had access to the legal opinion which the government claims justified its invocation of the *Emergencies Act*. Certainly, with the benefit of a judicial ruling on point, the Commissioner may well have found it even more troubling to arrive at the conclusion he did.

³ *Toronto Star*, February 17, 2023 (online), "[Justin Trudeau called out for labelling convoy protesters but Emergencies Act report finds he met threshold to shut them down](#)".

⁴ *Canadian Frontline Nurses v. Canada (Attorney General)*, 2024 FC 42, para. 255.

⁵ *Ibid.*, para. 294.

⁶ *Ibid.*, para. 297.

The artful language used at Commission proceedings about novel interpretations of the law, plus the obsessive secrecy in shielding it from sunlight, including the government’s outright refusal to turn over the legal opinions which our Committee ordered to be produced⁷—effectively, given the circumstances, carving out a secretive, undiscernible branch of criminal law—further diminished any confidence we had in there being a compelling case that the legal threshold was satisfied. In fact, it is little wonder the government had also tried to shut down the Federal Court proceedings, before Mr. Justice Mosely could ever rule.⁸

Regardless, based on the evidence available, Conservatives conclude that the scale of protests in winter 2022, and the protesters’ commitment to their cause, was directly proportional to the Prime Minister’s divisive rhetoric which stoked the situation. As such, the use of the *Emergencies Act* “could have been avoided”, even according to the Rouleau Commission.⁹ Conservatives further conclude:

- That the declaration of a public order emergency in February 2022 was inappropriate, unnecessary and counterproductive to the democratic process; and
- That the thresholds required by the *Emergencies Act* for declaring a public order emergency in February 2022 were not met.

Justin Trudeau failed federalism by severely intruding into provincial jurisdiction

Parliament’s general jurisdiction to “make Laws for the Peace, Order and good Government of Canada”¹⁰ has been interpreted as containing a so-called “emergency branch” which has been described thus by the leading constitutional scholar Peter Hogg: “In ‘a sufficiently great emergency *such as that arising out of war*’, the p.o.g.g. power would authorize laws which in normal times would be competent only to the provinces.”¹¹

The Rouleau Commission astutely commented that “disruption of the ordinary rules of federalism should not be done lightly, nor accepted as appropriate without serious justification.”¹²

Yet, the Liberal government’s approach sadly fell well short of the mark here. Certainly it was clear that the 2022 protests were not “war” by any stretch of the imagination. Most provincial governments, including from multiple provinces where protests had been occurring, made clear

⁷ Deputy Minister of Justice and Deputy Attorney General of Canada, June 29, 2022, [letter to the Joint Clerks of the Special Joint Committee on the Declaration of Emergency](#).

⁸ [Canadian Constitution Federation v. Canada \(Attorney General\)](#), 2022 FC 1233, para. 21.

⁹ [Rouleau Commission Report](#), p. 248.

¹⁰ [Constitution Act, 1867](#), 30 & 31 Victoria, c. 3 (U.K.), s. 91.

¹¹ *Constitutional Law of Canada* (fourth ed.), p. 464, citing [Fort Frances Pulp and Paper Co. v. Man. Free Press Co.](#), 1923 UKPC 64, [1923] A.C. 695 [emphasis added].

¹² [Rouleau Commission Report](#), p. 241.

both that the *Emergencies Act* was unwelcome and unnecessary and that the federal government simply had been ignoring more-routine types of requests for support and resources.¹³ Indeed, the Federal Court, too, agreed that the government’s position that there was an emergency “throughout Canada” was “an overstatement of the situation known to the Government at the time.”¹⁴

While we agree with some of the Committee’s recommendations concerning strengthening intergovernmental and inter-agency collaboration, Conservatives recognize that there were serious failures on the part of the federal Liberal government in overstepping, uninvited, into provincial jurisdiction without clear and obvious grounds for doing so. Therefore,

Conservatives recommend:

- That the *Emergencies Act* be amended to require the federal government, before issuing, continuing or amending a declaration of emergency, to take into account any recommendations by provincial governments; and
- That the *Emergencies Act* be amended to require the federal government, when issuing, continuing or amending a declaration of a public order emergency that applies to the whole of Canada to specify the grounds for its belief that the emergency exists throughout Canada.

Justin Trudeau failed national security by contorting legal definitions and dismissing professional advice to suit his political purposes

The then-Commissioner of the Royal Canadian Mounted Police (RCMP) had held the view that the *Emergencies Act* was not necessary to address the February 2022 protests. These views were written into her remarks for briefing the Cabinet’s Incident Response Group and were even expressed by e-mail to the Chief of Staff of the then-Minister of Public Safety,¹⁵ which was in turn sent directly to the Minister with the pertinent advice emboldened in red text,¹⁶ ahead of a consequential Cabinet meeting. Yet, her critical point of view was apparently not brought to the attention of ministers.¹⁷ While this should normally be utterly unbelievable, the whole

¹³ According to notes of the February 14, 2022, First Ministers Meeting teleconference (Public Order Emergency Commission [document SSM.NSC.CAN.00000625](#)), the premiers of Quebec, Prince Edward Island and Saskatchewan as well as the then-premiers of Nova Scotia, New Brunswick, Manitoba and Alberta did not support the use of the *Emergencies Act*. The then-Premier of British Columbia commented “local law enforcement has been able to manage”, and the Premier of Nunavut observed the protests had no impact on the North.

¹⁴ [Canadian Frontline Nurses v. Canada \(Attorney General\)](#), 2024 FC 42, para. 248.

¹⁵ Public Order Emergency Commission, [document SSM.NSC.CAN.00002906_REL.0001](#) (“IRG Sunday Speaking Points (Feb 13)”), p. 7; [document PB.NSC.CAN.00003256_REL.0001](#) (“RE: Follow ups”), p. 2.

¹⁶ Public Order Emergency Commission, document [SSM.NSC.CAN.00002280_REL.0001](#) (“List”).

¹⁷ Public Order Emergency Commission, *Transcript*, [November 15, 2022](#), pp. 80-84, 139, 209-210, 212-213, 238, 261-263 and 288; [November 17, 2022](#), pp. 203-204 and 206; [November 18, 2022](#), pp. 150-157; [November 21, 2022](#), pp. 212 and 351; [November 22, 2022](#), pp. 61-62, 64-65 and 75-76; [November 24, 2022](#), pp. 221-222; [November 25, 2022](#), p. 85.

saga around foreign election interference over the past few years has proven that, when it comes to national security, this Liberal government operates in full ignorance of any facts, conclusions or advice which runs counter to its interests and preferred narrative.

Indeed, the Liberals' lack of searching for practical, everyday tools was obvious in the contrast with how others approached the situation. The Attorney General of Ontario, for instance, secured a court order, under the *Criminal Code*, concerning protest funding;¹⁸ and Ottawa residences pursuing a class action successfully sought a “*Mareva* injunction”, restricting the use of assets.¹⁹ Additionally, Zexi Li, a resident of Ottawa, the cities of Windsor and Ottawa, and a coalition of automobile industry interests each applied for—and obtained—court injunctions against protests.²⁰ This all stood in contrast to the Liberal government which did nothing under its dramatic, showy legal overreach in declaring a national emergency.

To ensure essential advice does not fall through the cracks again, **Conservatives recommend** that the *Emergencies Act* be amended to require the prime minister and other responsible ministers, before the government issues, continues or amends a declaration of a public order emergency, to obtain written confirmations from the Commissioner of the RCMP, the leadership of the relevant provincial police service (where one exists) and the leadership of the relevant police of local jurisdiction that (a) all means available to them have been exhausted, and (b) they are unable to provide and execute operational plans to address the situation at hand in a timely manner.

Beyond the RCMP Commissioner's own view, the then-Director of the Canadian Security Intelligence Service (CSIS) did not believe that the protests amounted to a “threat to the security of Canada” within the meaning assigned by the *Canadian Security Intelligence Service Act*,²¹ an assessment the Federal Court held “must be given some weight.”²² This test, the so-called “CSIS Act threshold”, is incorporated by reference into the *Emergencies Act* and must be satisfied in order for a public order emergency to be declared.²³ This was a point underscored by the Federal Court, ruling that this concept “must be interpreted with reference to the meaning of that term *as it is defined* in section 2 of the CSIS Act”.²⁴

The fact that the CSIS Director was led to taking the position that a legal threshold he considered and applied daily was to be read totally differently, when the Prime Minister wanted it that way, through the genius of a “separate interpretation” of the law,²⁵ which the

¹⁸ CBC News, February 10, 2022 (online), “[Ontario court freezes access to funds raised for protest convoy on GiveSendGo platform](#)”.

¹⁹ *Li et al. v. Barber et al.*, 160 O.R. (3d) 454, 2022 ONSC 1176.

²⁰ *Li v. Barber et al.*, 2022 ONSC 1513; *Automotive Parts Manufacturers' Association v. Boak*, 2022 ONSC 1001; *City of Ottawa v. Persons Unknown*, 2022 ONSC 1151.

²¹ *Canadian Security Intelligence Service Act*, R.S.C. 1985, c. C-23, s. 2, as am. by *Anti-terrorism Act*, S.C. 2001, c. 41, s. 89.

²² *Canadian Frontline Nurses v. Canada (Attorney General)*, 2024 FC 42, para. 284.

²³ *Emergencies Act*, R.S.C. 1985, c. 22 (4th Supp.), s. 16.

²⁴ *Canadian Frontline Nurses v. Canada (Attorney General)*, 2024 FC 42, para. 259 [emphasis added].

²⁵ Public Order Emergency Commission, *Transcript*, [November 21, 2022](#), pp. 58, 94-95 and 99-100.

government steadfastly refuses to allow to see the light of day, underscores the notion that invoking the *Emergencies Act* was merely a political and communications exercise for a Prime Minister intent on dividing Canadians during tense times within society.

While we agree with the Committee's recommendation to review the CSIS Act threshold, we absolutely cannot agree with recommendations which, ahead of that review, would remove the link between the CSIS Act threshold and the *Emergencies Act* or to consider "economic factors" in determining whether a public order emergency exists. If anything, those latter two recommendations seriously undermine the Liberal government's invocation of the *Emergencies Act* as justifiable and legitimate. By seeking to amend the Act, after the fact, to legitimize the arguments and legal theories on which the government declared a national emergency makes it all the more obvious that there was little strength to them to begin with.

While we agree with the Committee's recommendation for a "Charter statement" to be tabled, to increase the transparency which ought to surround such an extraordinary assumption of legal authority by a government, **Conservatives further recommend:**

- That the *Emergencies Act* be amended to require the federal government to lay before each House of Parliament the legal advice the government relied upon in declaring a national emergency, prior to each House voting on a motion to confirm the declaration of emergency, so that the House can make a properly informed decision; and
- That the *Emergencies Act* be amended to change the threshold for the federal government to declare a public order emergency from "believing on reasonable grounds" to "being satisfied on reasonable grounds" that an emergency exists.

Justin Trudeau's "tools" for police, like his banking punishments, were recklessly unconstitutional and must not be repeated

When Marco Mendicino, the then-Public Safety Minister, was not claiming to Committee that law enforcement asked for the invocation of the *Emergencies Act*, he asserted that the Liberal government sought to support police with additional "tools",²⁶ a position we would also hear from other government witnesses.²⁷

The evidence and logic advanced before us to support these bold moves seemed flimsy. Therefore, Conservatives conclude that the regulations and orders adopted during the February 2022 public order emergency, and especially those concerning financial accounts, unacceptably impinged on Canadians' civil liberties. Do not just take our word for it, though.

²⁶ Declaration of Emergency Committee, *Evidence*, [April 26, 2022](#), pp. 7-8, 12 and 14.

²⁷ For example, *ibid.*, [April 26, 2022](#), pp. 17, 24, 25 and 27; [May 10, 2022](#), pp. 1-2 and 9; [June 7, 2022](#), pp. 18, 21, 25 and 27; and [June 14, 2022](#), pp. 24 and 31.

Firstly, the Rouleau Commission concluded that the absence of flexibility as “concerning”,²⁸ found a failure to “provide for adequate procedural protections”,²⁹ and held the “lack of an unfreezing mechanism [to be] a failing”.³⁰

Secondly, in a legally binding decision, the Federal Court ruled that those financial orders violated the right to be secure against unreasonable search and seizure, guaranteed by section 8 of the *Canadian Charter of Rights and Freedoms*,³¹ in a manner that was not justifiable in a free and democratic society.³²

But the Court did not stop there. The complementary regulations adopted by the Liberal Cabinet equally offended constitutional rights “[b]y criminalizing the entire protest, the Regulations limited the right to expression of protestors who wanted to convey dissatisfaction with government policies, but who did not intend on participating in the blockades”,³³ rendering them “overbroad in so far as it captured people who simply wanted to join in the protest by standing on Parliament Hill carrying a placard.”³⁴ Accordingly, Mr. Justice Mosley held that peaceful protesters’ constitutional freedom of expression was also infringed,³⁵ in a manner that, too, was not justifiable in a free and democratic society.³⁶

In our modern, digital world, “de-banking” could have drastic implications for anyone; subjecting someone to them might have effects opposite to those its proponents might expect. Therefore, Conservatives cannot agree with the majority’s recommendation that “standardized processes” for freezing bank accounts should be developed. Nothing about this drastic penalty should be normalized in any respect.

Though we support the recommendation that a “Charter statement” must accompany any regulations and orders adopted to address an emergency, which might have helped curb the government’s excesses in 2022, **Conservatives further recommend** that the *Emergencies Act* be amended to change the threshold for the federal government to adopt regulations and orders in relation to a public order emergency from “believing on reasonable grounds” to “being satisfied on reasonable grounds” that their adoption is necessary to deal with the emergency.

National emergencies require strong accountability and oversight which Justin Trudeau failed to satisfy and his supporters wish to dilute

²⁸ [Rouleau Commission Report](#), p. 243.

²⁹ *Idem*.

³⁰ *Ibid.*, p. 244.

³¹ [Canadian Frontline Nurses v. Canada \(Attorney General\)](#), 2024 FC 42, para. 340

³² *Ibid.*, paras. 352-359.

³³ *Ibid.*, para. 307.

³⁴ *Ibid.*, para. 308.

³⁵ *Ibid.*, para. 309.

³⁶ *Ibid.*, paras. 353-355 and 359.

Perrin Beatty, dubbed the author or architect of the *Emergencies Act*, commented publicly that “The goal in drafting the act from start to finish was to create as much accountability and scrutiny as possible, and if you want people to be satisfied that the right decisions were made, then you have to have processes that are completely transparent.”³⁷

We could not agree more which is why we regret the majority’s decision, instead, to make recommendations to circumscribe a future parliamentary review committee’s ability to scrutinize any government which seeks to exercise emergency powers. The process which we experienced this time already had serious shortcomings, as it was.

To begin, we believe Mr. Mendicino blatantly misled the Committee when he told us:

- “The government remained engaged with law enforcement throughout to ensure that they had the support and the resources they needed. However, when efforts using existing authorities proved ineffective, the advice we received was to invoke the *Emergencies Act*.”³⁸
- “The advice we were getting was that law enforcement needed the *Emergencies Act*....”³⁹
- “...we invoked the act because it was the advice of non-partisan professional law enforcement....”⁴⁰
- “As we took our decision in what we could do to respond, we were following the advice of various levels of law enforcement, including the RCMP and the commissioners....”⁴¹

Mr. Mendicino was baldly contradicted by an array of witnesses appearing before our Committee and the House of Commons Standing Committee on Procedure and House Affairs, including then-RCMP Commissioner Brenda Lucki,⁴² then-Ottawa Interim Police Chief Steve Bell,⁴³ then-Gatineau Mayor France Bélisle,⁴⁴ former Ottawa Police Chief Peter Sloly,⁴⁵ then-Ottawa City Manager Steve Kanellakos,⁴⁶ then-Parliamentary Protective Service Acting Director, RCMP Superintendent Larry Brookson,⁴⁷ then-Minister of Emergency Management Bill Blair,⁴⁸

³⁷ *Toronto Star*, February 26, 2022, p. A18, “[Emergencies Act architect worried about review](#)”.

³⁸ Declaration of Emergency Committee, *Evidence*, [April 26, 2022](#), p. 2.

³⁹ *Ibid.*, p. 4.

⁴⁰ *Idem.*

⁴¹ *Ibid.*, p. 7.

⁴² *Ibid.*, [May 10, 2022](#), p. 10.

⁴³ House of Commons, Procedure and House Affairs Committee, *Evidence*, [May 17, 2022](#), pp. 5-6; Declaration of Emergency Committee, *Evidence*, [November 3, 2022](#), pp. 2 and 9.

⁴⁴ House of Commons, Procedure and House Affairs Committee, *Evidence*, [May 31, 2022](#), p. 3.

⁴⁵ *Ibid.*, [June 2, 2022](#), p. 3; Declaration of Emergency Committee, *Evidence*, [October 6, 2022](#), pp. 2-3.

⁴⁶ House of Commons, Procedure and House Affairs Committee, *Evidence*, [June 9, 2022](#), p. 4; Declaration of Emergency Committee, *Evidence*, [October 27, 2022](#), p. 3.

⁴⁷ House of Commons, Procedure and House Affairs Committee, *Evidence*, [June 21, 2022](#), p. 3; Declaration of Emergency Committee, *Evidence*, [September 29, 2022](#), p. 10.

⁴⁸ Declaration of Emergency Committee, *Evidence*, [June 14, 2022](#), pp. 22-23.

then-Ottawa Mayor Jim Watson,⁴⁹ and Ontario Provincial Police Commissioner Tom Carrique.⁵⁰

As mentioned earlier, the government flatly ignored our Committee's order to produce the legal opinions upon which it relied to determine that the thresholds necessary to invoke the *Emergencies Act* had been met. Moreover, in the documents which were produced, the government also withheld Cabinet confidences despite Parliament's authority to obtain the production of any records within its jurisdiction,⁵¹ not to mention the fact the government actually released Cabinet confidences to the Rouleau Commission,⁵² as well as in Federal Court proceedings.⁵³

All told, this state of affairs has left Conservatives to conclude:

- That, in light of the evidence given to the Public Order Emergency Commission and to a committee of the House of Commons, Marco Mendicino deliberately misled the Committee during his appearance, particularly with regard to his assertion that the *Emergencies Act* was invoked on the advice of law enforcement;
- That the government failed to respect the Committee's May 31, 2022, order for the production of documents, including applying unauthorized redactions and completely withholding all aspects of the legal advice considered by the government; and
- That the government unacceptably waited until after ministers and most senior officials had appeared as witnesses before the government decided on its partial waiver of Cabinet confidences in the documents it provided elsewhere than the Committee.

While we agree with the Committee's recommendation for the government to keep a thorough written record for the use of a future parliamentary review committee (despite the circumscribed mandate our colleagues in the majority would impose upon it), **Conservatives would also recommend** that the *Emergencies Act* be amended to include explicit document preservation requirements related to any declaration of a national emergency, for the purposes of both the parliamentary review committee and the post-emergency inquiry, as well as for historical and archival purposes.

Additionally, to support transparency and accountability, **Conservatives further recommend** that the *Emergencies Act* be amended to require the federal government to place before the parliamentary review committee (as well as the post-emergency inquiry) all information concerning the "inputs" for its decisions in relation to any declaration of emergency, or

⁴⁹ *Ibid.*, [October 27, 2022](#), p. 14.

⁵⁰ *Ibid.*, p. 17.

⁵¹ *Senate Procedure in Practice*, pp. 190, 200-201 and 227; *House of Commons Procedure and Practice (third ed.)*, pp. 137-139 and 983-987.

⁵² Public Order Emergency Commission, June 28, 2022, news release, "[Government of Canada agrees to release Cabinet documents to Public Order Emergency Commission](#)".

⁵³ *Canadian Constitution Foundation v. Canada (Attorney General)*, 2022 FC 1233, paras. 27-37.

regulations or orders adopted in relation to it, including information that would normally be protected as Cabinet confidence or solicitor-client privilege, subject to safeguarding measures that the committee or inquiry, as the case may be, considers appropriate for that information.

Conservatives disagree with the majority's recommendation to narrow the scope of the parliamentary review committee's mandate solely to the period of a national emergency. Government accountability to Parliament is a central tenet of our constitution; seeking to dilute it could prove to be reckless and short-sighted. To the contrary, **Conservative recommend** that the *Emergencies Act* be amended to clarify expressly both the role of parliamentary oversight during an emergency and after-the-fact accountability.

While Conservatives agree with the recommendations that the parliamentary review committee must be struck promptly after a declaration of emergency and that resources for its meetings must be available on a priority basis, we would have gone further and made other recommendations to improve the exercise of oversight and accountability. Given our conclusion that the Committee's use of standard committee practices, typically designed for policy studies and deliberations, proved unsatisfying for an exercise largely oriented to government and institutional oversight and accountability, **Conservatives recommend**:

- That any ministers appearing before the committee give their evidence under oath or solemn affirmation; and
- That any future parliamentary review committee consider alternative evidence-gathering approaches, including (a) ordering the production of documents, from the outset, so as to support better questioning of witnesses; (b) inviting briefs from, or on behalf of, key actors in the national emergency, from the outset; (c) making greater use of written questions from members to witnesses and prospective witnesses, including prior to their appearances, so as to enhance witness selection decisions and to support better questioning of witnesses; (d) giving a role to external legal counsel, when appointed, to question witnesses either in advance of committee meetings or at the meetings; and (e) structuring questioning rounds in a fashion that permits more sustained lines of questioning, recognizing that many witnesses are appearing in fact-gathering and accountability contexts, rather than for policy deliberations.

To ensure an additional focus of accountability in the parliamentary review committee's work, **Conservatives also recommend** that the *Emergencies Act* be amended to specify that the chair (or a co-chair) of the committee must be an opposition Member of the House of Commons.

Justin Trudeau compounded the lack of accountability by denying bilingualism resources

We were greatly concerned with the lack of dedication to bilingualism, especially by the Privy Council Office in supporting the Rouleau Commission. Our Committee, in the interests of

efficiency, chose to rely significantly upon the evidence-gathering of the Commission,⁵⁴ yet that was mostly done in a single official language, often English. As a result, it bogged down our Committee's ability to discharge its responsibility. The Committee, midway through consideration of a draft report, had to suspend its work until key documents were finally available in both official languages.⁵⁵

A key tenet of successful management of crisis or urgent situations is clear, intelligible communications. In a bilingual country like Canada, that means doing so in each official language. Because of the extraordinary powers assumed by governments in such situations, Conservatives conclude that that imperative of bilingualism must be equally applicable to scrutiny and oversight of national emergencies. Therefore, **Conservatives recommend** that adequate resources be furnished to, or organized within, the Translation Bureau to support timely communication and deliberations concerning any business related to an invocation of the *Emergencies Act*.

Justin Trudeau should not dictate control over security at Canada's Parliament, where Canadians come to be heard

Since the Parliament of Canada opened, Parliament Hill and the streets of downtown Ottawa have witnessed countless protests, demonstrations and other efforts to object to (or, even, to support) government policies, to raise awareness about issues and concerns, and to participate in public debates. In the main, the events of winter 2022 were no different in spirit and intention, even if the tactics may have been unique.

Conservatives believe that decisions concerning parliamentary security operations—and particularly in striking the right balance in ensuring the Parliament of Canada is safe and secure while remaining open and accessible to all, including those peacefully protesting—be the responsibility of security and policing professionals. Politicians should not be issuing operational instructions on these important issues.

While we agree that there should be collaboration among security partners on discussing the appropriate security footprint for Parliament Hill, and that any changes should be supported with adequate resources, we cannot agree with the majority's recommendation taking the premature and political conclusion to include Wellington Street and to close it to vehicular traffic.

We believe our Conservative colleagues on the Procedure and House Affairs Committee, which tabled a report on these issues in December 2022, set out the right approach to Parliament Hill security in their dissenting opinions, including an encouragement of policing and security partners to collaborate on the preparation of a consensus plan that can be sustained by

⁵⁴ Declaration of Emergency Committee, *Minutes of Proceedings*, [September 22, 2022](#).

⁵⁵ *Ibid.*, [June 13, 2023](#).

stakeholders and other interested parties.⁵⁶ We urge favourable consideration for their views.

Justin Trudeau simply failed Canadians

In winter 2022, Justin Trudeau had the chance to calm things down. Instead, he took every opportunity to fan the flames of division. If Mr. Trudeau had not chosen to demonize and name-call Canadians, not to stoke anger and hurt at every turn, this never would have happened.

In sum, Mr. Trudeau and the Liberals were wrong—both in law and in motives—to invoke the *Emergencies Act* to address a determined, committed protest against a divisive government policy which left the Prime Minister embarrassed.

Put simply, this would never have happened under a Conservative government led by Pierre Poilievre because it would ensure that the *Emergencies Act* can never be used again to silence political opposition.

Canadians deserve better. Conservatives will repair the bonds that Mr. Trudeau has broken. Common sense Conservatives will protect the Charter rights of Canadians and unite our country and our people for hope and freedom.

⁵⁶ House of Commons, Procedure and House Affairs Committee, [Protecting the Parliamentary Precinct: Responding to Evolving Risks](#) (44th Parl., First Sess., 19th Report), pp. 75-77.

Bloc Québécois's Complementary Report [DEDC]

First, the Bloc Québécois would like to thank the witnesses for their valuable testimony in speaking out about the occupation of Parliament Hill from January 28 to February 20, 2022, as well as the collateral events that occurred. The Committee also considered the evidence presented before the Rouleau Commission, which had made available and translated to examine the context and relevance of the Declaration of Public Order Emergency (Declaration). The state of emergency, as defined in the *Emergencies Act*, was in effect from February 14 to February 23, 2024.

We believe that such a report, by its importance in the citizens' democratic life, would have deserved clear and constructive conclusions. In our view, the absence of conclusions in the present report alone justifies the submission of a supplementary report to make our own known.

As a preliminary remark, we are of the opinion that by the nature and intentions of this demonstration, it was, from the outset, an "Unlawful assembly" and the police forces could have acted much more quickly to thwart the occupation plans of the group of demonstrators. This observation seems obvious to us when we read the intelligence note prepared by the OPP and sent to the OPS before the convoy's arrival¹. The Criminal Code is in fact quite clear and applies perfectly to the situation at hand. Article 63 paragraphs 1 and 2 clearly state that a demonstration can become an "unlawful assembly":

" 63 (1) An unlawful assembly is an assembly of three or more persons who, with intent to carry out any common purpose, assemble in such a manner or so conduct themselves when they are assembled as to cause persons in the neighbourhood of the assembly to fear, on reasonable grounds, that they

- (a) will disturb the peace tumultuously; or*
- (b) will by that assembly needlessly and without reasonable cause provoke other persons to disturb the peace tumultuously.*

Lawful assembly becoming unlawful

(2) Persons who are lawfully assembled may become an unlawful assembly if they conduct themselves with a common purpose in a manner that would have made the assembly unlawful if they had assembled in that manner for that purpose"².

¹ Louis Blouin on X : "[Voici le rapport de renseignement de la PPO que le chef de police Sloly avait en main avant l'arrivée des camionneurs. Il a quand même laissé les camions s'installer au centre-ville. #polcan #CEDU https://t.co/M5KSWG9Ux4](https://t.co/M5KSWG9Ux4)" / X

² [Criminal Code](#), Section 63.

The Bloc Québécois is of the opinion that not only was the Government of Canada not required to invoke the *Emergencies Act*, but that its decision to do so was mainly due to its chaotic and disorganized management of events. The next few paragraphs will be devoted to supporting the arguments that lead us to this conclusion.

1. THE OBLIGATION TO CONSULT AND THE DETERMINATION OF THE DESIGNATED AREA

Initially, despite the obligation under section 25 of the *Emergencies Act* to consult the premiers of Quebec and the provinces, the Government of Canada did not take their opinions into account. The majority of provinces, seven out of ten, were against invoking the *Emergencies Act*: Quebec, Alberta, Saskatchewan, Manitoba, New Brunswick, Prince Edward Island and Nova Scotia³. Only Ontario, British Columbia and Newfoundland and Labrador felt that the declaration of a state of emergency was necessary. In the alternative, it should be noted that the Government of Canada consulted the territorial governments, even though the *Emergencies Act* does not require it to do so. At the end of this exercise, even after being informed of the contrary opinions of the provinces, the federal government chose to declare a state of emergency.

This was one of the points discussed during the committee hearings. It is interesting to note that some of the testimonies included in the report were to the effect that the consultations had been inadequate, since they had been nothing more than a superficial exercise in which the opinions of the provinces had never really been considered. The federal government's justification for this was quite extraordinary: “[...] the fear of a leakage of information and the possibility that a declaration of a state of emergency could provoke the anger of demonstrators and increase the risk of violence”⁴.

Leakage or not, it was obvious that the federal government's objective was to declare a state of emergency. Increased pressure from the demonstrators would, on the contrary, only have validated their decision.

In order to prevent such a circumvention of the consultation objectives in the future, the Bloc Québécois recommends *that section 25 of the Emergencies Act be amended to require the Governor-in-Council to justify his decision to override the advice of his counterparts. These reasons must be included in the declaration provided for in section 17 of this Act.*

Secondly, the decision to impose a state of emergency on the entire territory was, in our opinion, equally unjustified, especially since paragraph 17(2)(c) of the *Emergencies Act* precisely allows the government to limit the application of the state of emergency to a specific territory.

³ Draft Committee Report DEDC, par. 58

⁴ Draft Committee Report DEDC, par. 56

The very purpose of this provision is to avoid unreasonable infringement of individual rights and freedoms. The federal government, in its haphazard and chaotic management of the crisis, took the easy way out by applying the proclamation to the entire territory, not just specific locations. Moreover, the Federal Court supports our reasoning in a judgment on the matter handed down on January 29, 2024, stating that :

“Section 17(2)(c) of the Act requires that if the effects of the emergency did not extend to the whole of Canada, the area of Canada to which it did extend shall be specified. While the word “area” in the legislative text is singular, per section 33(2) of the Interpretation Act that includes the plural. Thus, it was open to the GIC to specify several or many areas that were affected by the emergency excluding others where the situation had not arisen or was under control. However, the Proclamation stated that it “exists throughout Canada”. This was, in my view, an overstatement of the situation known to the Government at that time. Moreover, in the first reason provided for the proclamation, which referenced the risk of threats or use of serious violence, language taken from section 2 of the CSIS Act, the emergency was vaguely described as happening at “various locations throughout Canada”.⁵

The Bloc Québécois therefore shares Justice Mosley's opinion and disagrees with the federal government's decision to impose such a broadly territorial declaration of a state of emergency.

Therefore, in order to better protect citizens from unjustified interventions by the federal government on their territory, the Bloc Québécois recommends *that the Governor-in-Council be required to justify his decision to designate the zone in which the Emergencies Act will be applied, whether pan-Canadian or more circumscribed.*

2. EXISTING LEGISLATION, REGLEMENTATION AND POWERS

Secondly, according to the many testimonies heard, there were still means within the ordinary body of legislation to contain the crisis when the federal government declared a state of emergency. Last January, the Federal Court agreed, stating as follows:

“[...] While I agree that the evidence supports the conclusion that the situation was critical and required an urgent resolution by governments the evidence, in my view, does not support the conclusion that it could not have been effectively dealt with under other laws of Canada, as it was in Alberta, or that it exceeded the capacity or authority of a province to deal with it. That was demonstrated not

⁵ *Canadian Frontline Nurses v. Canada (Attorney General)*, 2024 FC 42, par. 248 ([EA-challenge-fed-court-reasons-FINAL.pdf](#))

to be the case in Quebec and other provinces and territories including Ontario, except in Ottawa”⁶.

For example, section 170 of the Ontario Highway Traffic Act, concerning the prohibition of parking a vehicle on the roadway, could have been applied and did not require the proclamation of a state of emergency to be enforced. We would also point out that section 175 of the *Criminal Code*, dealing with disturbances of the peace, and section 180 of the *Criminal Code*, dealing with public nuisances, were available to peace officers to enforce order, even before the *Emergency Measures Act* was invoked. And that's not counting the numerous municipal by-laws on the use of public places and noise pollution that were in force at the time.

This report also points out that the Commissioner of the Royal Canadian Mounted Police (RCMP) had sent an e-mail to the Chief of Staff of the former Minister of Public Safety, Mr. Marco Mendicino (February 14, 2023), in which she expressed herself very clearly on the subject: “[...] I don't think we've exhausted all the tools available under the existing laws yet”⁷. She went on to list examples of actions that could be taken.

One of the Rouleau report's conclusions was that “It is clear that legal tools and authorities existed; the problem was that these powers, such as the power to arrest, were not being used because doing so was not thought to be an effective way to bring the unlawful protests to a safe and timely end.”⁸.

The usual means of intervention and the laws in force were not used or were used incorrectly : disorganized command of the Ottawa Police Service.

The Ottawa police are primarily responsible for this chaos, having failed to take the downtown demonstration seriously. Worse still, the Ottawa Police failed to take proper account of information sent to them by the Ontario Provincial Police about the arrival of the convoy. The first warnings were sent on January 13, 2024, 11 days before the arrival of the trucks⁹. What did the Ottawa police do with this information: close Wellington Street, install controls at the entrances to the City of Ottawa, work with the OPP to develop a response plan? No. The Ottawa Police Service (OPS) command was convinced that the “Freedom Convoy” would leave the nation's capital after just one weekend of protest¹⁰. This mistaken belief is clearly observed in the Rouleau Commission's final report:

⁶ *Canadian Frontline Nurses v. Canada (Attorney General)*, 2024 FC 42, par. 254 ([EA-challenge-fed-court-reasons-FINAL.pdf](#))

⁷ Draft Committee Report DEDC, p.102

⁸ Report of the Public Inquiry into the 2022 Public Order Emergency. Vol. 3 : Analysis (part 2) and recommendations. p.206.

⁹ Report of the Public Inquiry into the 2022 Public Order Emergency. Vol. 2 : Analysis. page 141.

¹⁰ [« Convoi de la liberté » : la PPO avait aussi averti du risque d'occupation | Commission d'enquête sur l'état d'urgence | Radio-Canada](#)

“When preparing for the Freedom Convoy protests, the City of Ottawa relied primarily on information provided by law enforcement agencies, which indicated that the protest would last the weekend and, while potentially disruptive, would be peaceful. However, some information the City received raised the possibility of a longer and more serious protest”¹¹.

During the Rouleau Commission hearings, a number of internal problems involving the police chief came to light¹². Testimony suggested that the authority and leadership of OPS Chief Peter Sloly was being challenged within the department. This could explain the absence of an intervention plan and the lack of consistency in the application of existing laws and regulations. Some City of Ottawa police officers even refused to act against protesters, as they were sympathetic to their cause. Concrete examples of this disorganization of OPS command were noted during the Rouleau Commission hearings¹³.

We feel it is important to point out that the Chief of the Ottawa Police Service, Mr. Peter Sloly, asked for reinforcements and formulated an official request for 1,800 additional officers, even before the state of emergency was declared¹⁴. In the absence of an intervention and contingency plan, the Ottawa police did not obtain these resources¹⁵. Indeed, an extract from the Rouleau Commission report is very revealing in this regard:

On January 30, at noon, the OPS finally requested OPP front-line officers and advised that more requests for assistance would follow. The OPS was so overstretched, however, that it was unable to effectively deploy the OPP officers who began arriving that day. OPP Superintendent Abrams supplied the OPS with 10 officers, but the OPS only deployed two of them. Superintendent Abrams withdrew all 10 officers as a result. He perceived that the OPS's command dysfunction and poor coordination prevented it from using OPP resources effectively¹⁶.

The federal government completely ignored the crisis until a call from U.S. authorities to Deputy Prime Minister Chrystia Freeland, in which they “advised” her that the Ambassador Bridge blockade had to be dismantled.

We believe that it was precisely the Detroit-Windsor Bridge incident that led to the Declaration of a State of Emergency, as the Canadian government needed to show the world (especially the U.S.) that it was taking action and taking the situation seriously.

¹¹ Report of the Public Inquiry into the 2022 Public Order Emergency. Vol. 1 : Overview. p.47

¹² [« Convoi de la liberté » : la PPO avait aussi averti du risque d'occupation | Commission d'enquête sur l'état d'urgence | Radio-Canada](#)

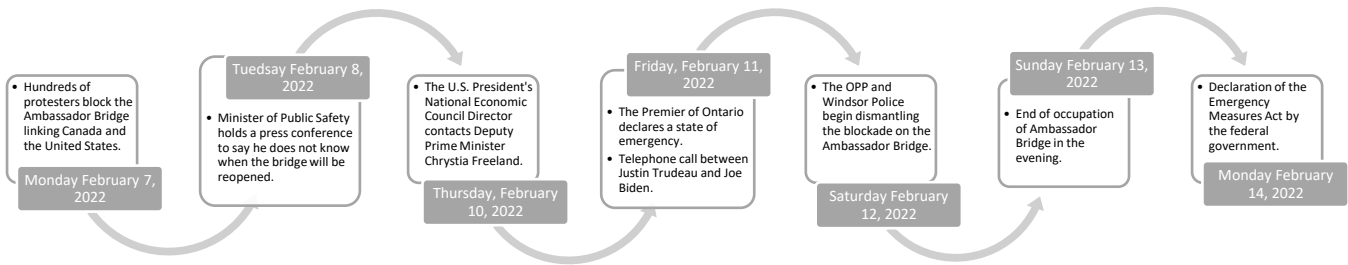
¹³ Report of the Public Inquiry into the 2022 Public Order Emergency. Vol. 1 : Overview. p.45

¹⁴ [Evidence - DEDC \(44-1\) - no 14 - Parlement du Canada, Sloly \(1840\)](#)

¹⁵ [« Convoi de la liberté » : la PPO avait aussi averti du risque d'occupation | Commission d'enquête sur l'état d'urgence | Radio-Canada](#)

¹⁶ Report of the Public Inquiry into the 2022 Public Order Emergency. Vol. 2 : Analysis. p.192

The chronology of events, as well as the wording of the Declaration itself, support our hypothesis.



Indeed, the crisis began to unravel in earnest following the U.S. government's appeal. It took the police 2 days to clear the demonstrators from the Ambassador Bridge. The Canadian Prime Minister feared the reaction and perception of the Americans if he did not show himself capable of resolving the problem.

The *Emergency Measures Act* was applied from February 14, the day the occupation of the Ambassador Bridge ended. It is easy to believe that the Emergency Measures Act was invoked to reassure the United States and restore order in the face of international criticism from all quarters.

Yet this is the same Prime Minister of Canada who told a press conference that it was up to the police to “do their job to resolve the situation”¹⁷ a week after the convoy arrived in Ottawa. He even reportedly told the Premier of Ontario: “You shouldn't need any more legal tools [...] they're crippling the economy, causing millions of dollars in damage every day and hurting people's lives”¹⁸.

So, in front of the Canadian Parliament, despite the proclamation of February 14, 2022, it will take another 5 days before the authorities decide to clear downtown Ottawa. The operation, which was a traditional police intervention, lasted more or less 48 hours, from February 19 to 20, and was far less violent than the repression of other major demonstrations, such as the G20 or the Summit of the Americas. This approach, and the plan that emerged from it, should have been devised at the very outset of events, outlining the various possible scenarios and the measures to be taken for each of them.

The wording of the *Declaration of Emergency Measures*.

In this context, it is interesting to examine the wording of the Declaration tabled by Justin Trudeau before both Houses. It's very hard not to see the direct link between the proclamation of a state of emergency and the fear of negative American perceptions of Canadian weakness in managing the various occupations.

¹⁷ [«Convoi de la liberté»: Trudeau veut que la police fasse son travail | JDM](#)

¹⁸ [Blocage du pont Ambassador : Trudeau était prêt à accepter de l'aide des Américains | Commission d'enquête sur l'état d'urgence | Radio-Canada](#)

The first part of the Declaration lists five elements that describe the state of emergency and justify the imposition of the Emergency Measures Act. Here are the main points¹⁹:

- **(a)** the continuing blockades and the continuing threats to oppose measures to remove the blockades,
- **(b)** the adverse effects on the Canadian economy, including trade corridors and international border crossings,
- **(c)** the adverse effects resulting from the impacts of the blockades on Canada's relationship with its trading partners, including the United States,
- **(d)** the breakdown in the distribution chain and availability of essential goods, services and resources caused by the existing blockades;
- **(e)** the potential for an increase in the level of unrest and violence that would further threaten the safety and security of Canadians.

A state of emergency must first be justified by a genuine threat to Canada's national security. According to Canadian Intelligence, this was not the case²⁰.

In the second part of the Declaration, the government provides for response measures that do not, for the most part at least, require special emergency legislation. For example, regulating or banning certain types of public gatherings that disturb the peace or threaten essential infrastructure, forcing companies to provide a service to resolve the crisis, imposing fines and prison sentences, or allowing the RCMP to enforce laws outside its jurisdiction (municipal and provincial)²¹.

In this regard, the City Manager of the City of Ottawa, Mr. Steve Kanellakos, told the Committee that : *"Throughout the ensuing days, [o]ur efforts resulted in approximately 40 heavy trucks and an unknown number of light trucks and vehicles moving out of the residential areas. At around the same time [...] the federal government invoked the Emergencies Act. To my knowledge, the city never requested the invocation of the act."*²²

Indeed, it's understandable that certain actions were possible, even before the *Emergency Measures Act* was invoked, and were already yielding results.

3. COORDINATION AND INFORMATION SHARING

In addition, the government obstructed the Special Joint Committee's examination of the crisis declaration, refusing to produce certain relevant documents to corroborate the testimony explaining the decision to declare a state of emergency.

¹⁹ [Canada Gazette, Part 2, Volume 156, Number 1: Proclamation Declaring a Public Order Emergency](#)

²⁰ Draft Committee Report, par 144 and 158

²¹ [Royal Canadian Mounted Police Act](#) (art. 20(1) et (2)).

²² [Evidence - DEDC \(44-1\) - No. 16 - Parliament of Canada](#), Kanellakos (1845).

In particular, the legal opinion rendered just prior to the proclamation of the *Emergencies Act*, which was invoked by the various ministers who appeared before the Committee and which, presumably, would have recommended the declaration of a state of emergency, was never disclosed in its unabridged and uncensored version. As a client, the government was entitled to waive professional secrecy and could have allowed Committee members access to this advice and other documents covered by professional secrecy.

The Queen's Privy Council also invoked the confidentiality of its deliberations to withhold from the Committee evidence that might have been relevant to the examination of the declaration of a state of emergency.

In the interest of improving the transparency of federal government institutions and fostering public confidence, the Bloc Québécois recommends *that the following paragraphs be added to section 62 of the Emergencies Act:*

“Evidence

(4.1) The Governor in Council shall disclose to the Parliamentary Review Committee all evidence on which the Governor in Council has reasonable grounds to believe that a national emergency existed.

(4.2) If the evidence disclosed under subsection (4.1) is covered by the confidentiality of the Queen's Privy Council, meetings of the Parliamentary Review Committee to consider it shall be held in camera”.

The OPS had all the information it needed to prepare for the convoy's arrival.

What's more, the OPS's misuse (or even non-use) of the information provided by the OPP is highly surprising. The OPS had been informed at least a week in advance of the convoy's progress and intentions²³!

This valuable information came from a long-term intelligence operation, as some of the organizers of the 2022 convoy were not new to rodeo. Indeed, Pat King had also been involved in another occupation attempt two years earlier²⁴. This was known and public information. Social media allowed the group to get organized. The event was predictable, and even if the scale was uncertain, the OPS had a duty and a responsibility to prepare to the best of its ability. Such was the lack of leadership that the Ontario Provincial Police, who provided Sloly with the information, “even questioned whether the OPS was ‘worthy of assistance’ from other police services”²⁵.

²³ Report of the Public Inquiry into the 2022 Public Order Emergency. Vol. 1 : Overview. pp.43-45

²⁴ [What people are saying at the United We Roll protest | CBC News](#)

²⁵ [«Convoi de la liberté»: la Police d’Ottawa fait son mea culpa | JDQ](#)

The subject of this study is as important as it is delicate, since it deals with the conditions under which a government can grant itself extraordinary powers, even though these powers must be exercised in compliance with Canada's Charter of Rights and Freedoms²⁶. But it's also a question, in a world full of misinformation and disinformation, of finding the balance between effective information sharing and the protection of national security.

4. THE CONFUSION SURROUNDING THE PROTECTION OF THE PARLIAMENTARY PRECINCT.

In closing, the Bloc Québécois deplores the fact that the federal government and the Ottawa police seem to have learned absolutely nothing from all the violent events that have occurred on Parliament Hill since the 1960s! Here are just a few examples of events that should have prompted the federal government to take action²⁷.

Even the 2014 shootout, in which soldier Nathan Cirillo was murdered, failed to address the issue of the Parliamentary Precinct perimeter and Wellington Street security, which is an aberration. Even today, very little has been done in concrete terms, despite a study of the issue by the Standing Committee on Procedure and House Affairs.

Therefore, the Bloc Québécois recommends: *“That this report take into account the conclusions and recommendations of the 19th report of the Standing Committee on Procedure and House Affairs, entitled ‘Protecting the Parliamentary Precinct: Responding to Changing Risks’²⁸.*

The government's inertia in establishing clear roles between the various protection bodies in relation to overflows or events on Parliament Hill is a serious problem that has contributed to the chaos and confusion in the response to the demonstration of January and February 2022.

In 2015, the events of the previous year prompted the creation of the Parliamentary Protective Service (PPS), bringing together the security services of the House of Commons and the Senate, which had previously been completely separate. The PPS answers to the operational command of the RCMP but reports to the Speakers of both Houses and to the Minister of Public Safety and Emergency Preparedness²⁹.

This service must therefore ensure security in the Parliamentary Precinct. However, since the renovations to the Centre and East Blocks, the territory has expanded considerably. Especially since rue Wellington, right in front of Parliament, is not part of it! Either the government was so unaware of the crisis as to believe there was no risk of

²⁶ [Evidence - DEDC \(44-1\) - No. 3 - Parliament of Canada](#), Philippe Hallée (1840).

²⁷ [A history of serious security breaches that rocked Ottawa before deadly Parliament Hill shooting | National Post](#)

²⁸ [Committee Report No. 19 - PROC \(44-1\) - House of Commons of Canada](#)

²⁹ [PPS - Parliamentary Protective Service](#)

Wellington Street overflowing onto Parliament grounds, or everyone assumed it was the responsibility of the Ottawa Police and looked the other way.

The following is an excerpt from a 1999 report on security in the Parliamentary Precinct:

“A clearly defined Parliamentary Precinct is an essential prerequisite on which all other security measures are contingent. Current boundaries — as defined by the Ottawa River on the north, Wellington Street on the south, the Rideau Canal on the east and the Bank Street extension on the west — create a significant vulnerability. The western boundary no longer has a clear physical definition.⁹⁵ Members’ offices have been moved outside of traditional Precinct boundaries, into the Confederation Building, the Wellington Building (on the south side of Wellington Street), and the Justice Building (planned for mid-2000). Parliamentary committees meet regularly in both the Wellington and La Promenade Buildings. This situation creates confusion with respect to jurisdiction and has the potential to result in uneven service and response in risk situations”³⁰. This can't be serious.

That's why the Bloc Québécois recommends: *“that Wellington Street, from the Confederation Bridge to Sussex Street, be included in the Parliamentary Precinct, and that it be under the responsibility of the PPS and the RCMP”*.

5. CONCLUSION

The occupation of downtown Ottawa by the “Freedom Convoy” for almost a month is a blatant indication of how lightly the government and the Ottawa Police Service take threats. Despite clear indications of the demonstrators' arrival and intentions, nothing was done to protect critical infrastructure, or citizens for that matter.

The Bloc Québécois believes that the proclamation of the Emergencies Act is the heavy artillery of Canadian legislation and should only be invoked in cases of extreme emergency. This guiding principle did not guide the federal government's decision-making during the crisis. The result was a proclamation of the Emergencies Act that was unnecessary, abusive and disrespectful of the opinions of Quebec and the provinces, in addition to covering too large a territory.

The Bloc Québécois wanted to shed light on these issues so that the federal government would become aware of these shortcomings and correct them for the sake of national security and the integrity of our democratic institutions.

³⁰ ourcommons.ca/About/BuildingTheFuture/BuildingTheFuture-e.pdf, p.44-45.

Supplementary Opinion of the New Democratic Party

The invocation of the *Emergencies Act* represented a pivotal moment in Canadian governance, testing the strength of our Rights and Freedoms as outlined in the Charter. It challenged us to examine critical issues like transparency, accountability, and the resilience of our democracy. As members of the New Democratic Party, we stand by the recommendations in the main report but believe that further reflection is essential. This reflection will help us address the broader implications of this moment and ensure we chart a future that protects the rights of Canadians.

New Democrats stress the urgent need to rebuild public confidence in our institutions. Achieving this will require a much deeper democratic commitment to parliamentary transparency and accountability—not just in the specific context of the *Emergencies Act* but in our ongoing governance efforts. The occupation’s events revealed a sobering truth: our democracy is more fragile than many of us may have understood. Restoring it fully will require sustained effort, extending far beyond the resolution of this immediate crisis.

During parliamentary debates, we raised fundamental questions about the government’s duty to uphold Charter rights. Specifically, we sought clarity on whether the rights guaranteed under the Charter remained intact, as suggested in the declaration’s preamble, or if the government intended to invoke section 1 of the Charter to justify potential breaches. These inquiries reflect a broader challenge: reconciling emergency measures with the core principles of democracy and justice.

We also share widespread concerns about the long-term consequences of expanding policing powers under emergency measures. History reminds us of repeated overreach and misuse of authority against legitimate political movements, including those led by Indigenous peoples, climate activists, and workers. The failures of local police services during the Freedom Convoy—where officers appeared compromised or even sympathetic to the occupiers—exposed systemic issues that must be addressed. Many Canadians felt abandoned during this crisis, and the resulting loss of public trust underscores the urgent need for structural reform.

It’s troubling that the last royal commission on policing in Canada occurred in 1962, as the challenges of public safety have evolved significantly since then. We call on the Minister of Public Safety to establish a new national commission on policing. This body should examine police mandates, budgets, and their alignment with public safety goals. Additionally, we urge the creation of a dedicated office to investigate radicalization within public security forces and the misuse of resources for undemocratic purposes.

This moment demands more than procedural fixes to the *Emergencies Act*. We must modernize it by adding clear definitions, robust thresholds, and stronger transparency measures. But the work doesn’t stop there. Addressing the structural flaws in governance and policing exposed by this crisis is equally critical. Restoring public trust will require not only legislative reform but also a renewed commitment to the foundational values of democracy, justice, and accountability. Parliament must reclaim its role as the guardian of these principles, ensuring that the rights of Canadians are protected and our institutions remain resilient.

In conclusion, while New Democrats support the main DEDC report and its recommendations, we believe four specific aspects emerging from our committee work warrant further attention. These elements are key to addressing the systemic issues at the heart of this crisis and ensuring we emerge stronger as a nation.

Structure of the committee

As the *Emergencies Act* had never been used, the committee had no previous example as to how to undertake its work, particularly in light of the fact that the Act contemplates the role of the committee in the context of the on-going emergency, not necessarily after the invocation of the act had been revoked. Therefore, the committee undertook a discussion to help frame the scope of our study, taking into consideration s. 62 of the Act, the order of reference from both the House and the Senate, as well as testimony from Philippe Hallée (Law Clerk and Parliamentary Counsel, Senate), Phillippe Dufresne (Law Clerk and Parliamentary Council, House of Commons) and the Honourable Perrin Beatty, former Minister of National Defence and sponsor of the bill that created the *Emergencies Act*.

The key consideration was whether the committee had the ability to consider the factors that led to the invocation of the act or if it was restricted to a narrower consideration of the exercise of powers and the performance of duties of the government during the invocation of the act.

In his testimony, Mr. Hallée stated:

Accordingly, this committee is master of its own affairs, subject to any direction from the House and the Senate. It can determine what information may or may not be relevant and necessary to the task it has been assigned, and it can determine whether a given line of inquiry is or is not within the scope of its mandate. In other words, the committee is within its rights to determine, on its own, whether any given line of inquiry or piece of information is relevant and necessary to its work.¹

Mr. Dufresne further added “while the committee may be able to deal with certain matters in a more specific manner, other matters may require a consideration of the broader context”².

Regarding the argument that s. 62(1) of the Act proscribed narrow parameters for the committee, Mr. Beatty said:

I do want to be clear about this. We anticipated that the primary role of the committee was going to be to provide continuing parliamentary oversight, throughout the time of the crisis, of how the government was using its authority. What we certainly did not preclude was the ability of the committee to look at whether or not the authority that the government had given itself was appropriate.³

Based on the testimony of the Senate and House of Commons Law Clerks and Mr. Beatty, we believe that the committee has the authority to review the conditions and the information used by the government in its decision to invoke the *Emergencies Act* and the committee should not be limited only to reviewing

¹ Special Joint Committee on the Declaration of Emergency, Evidence No. 003, March 29, 2022, p. 2

² Ibid, p. 3

³ Ibid p. 23

the actions taken pursuant to the declaration of emergency. This approach is important for helping our committee understand the necessity and proportionality of the actions taken by the government.

The committee has made several recommendations in the main report regarding the role of the parliamentary committee, concerning the striking of the committee, its role and mandate, as well as administration. We hope that these recommendations as well as the testimony received by the committee will be given full consideration in any future amendments to the *Emergencies Act*.

Access to information

The ability of any parliamentary committee to properly conduct its work will in large part be dependent on whether or not it has access to witnesses and information relevant to its study. Standing Order 108(1)(a) clearly denotes the committee's power to send for persons, papers, and records. This power to send for documents is further outlined by Beauchesne as follows:

- (1) Committees may send for any papers that are relevant to their Orders of Reference. Within this restriction, it appears that the power of the committee to send for papers is unlimited.⁴

In order for the committee to understand whether the *Emergency Measures Regulations* and the *Emergency Economic Measures* enacted by the government were reasonable and proportionate in achieving the goal of ending the emergency, the committee needs to have a better understanding of the inputs that went into the government's decision-making. For example, without knowing the extent of security concerns, detailed understanding of the economic impact of the occupation/blockades, or the unsuccessful measures that had already been taken at the municipal, provincial, and federal levels, it is difficult for the committee to determine the necessity or effectiveness of the measures brought in under the *Emergencies Act*.

Nevertheless, there were numerous instances where the committee was unable to obtain the documentation it requested. Ministers and government officials repeatedly invoked cabinet confidence and/or solicitor-client privilege as a rationale for not answering questions or providing documents.

Of particular concern was the refusal of the government to provide the legal opinion, referenced in witness testimony, that was used by the Cabinet to widen the interpretation of paragraph 2(c) of the *Canada Security Intelligence Service Act*, which sets the threshold for a threat to national security within the *Emergencies Act*.⁵⁶ This legal opinion was of critical importance in the deliberations of the Cabinet and would have provided invaluable insight to the reasonableness of the government's determination that the threshold to declare an emergency was met.

The committee notes that the Public Order Emergency Commission was also refused access to many of these same documents.

Additionally, the refusal of the Premier of Ontario, Doug Ford, and then Solicitor-General of Ontario, Sylvia Jones, to accept the invitation to appear before our committee left significant gaps in the

⁴ Beauchesne, Arthur. *Rules and Forms of the House of Commons of Canada*, (6th ed.) (Toronto: Carswell Co. Ltd., 1958), p. 236

⁵ Special Joint Committee on the Declaration of Emergency, Evidence No. 020, December 1, 2022, p. 2

⁶ Testimony of David Lametti, Public Hearing of the Public Order Emergency Commission, vol. 29, p. 117.

committee's ability to fully understand the decisions and actions taken by the Ontario government to bring an end to the occupation in Ottawa and the blocking of international borders. Although Mr. Ford and Ms. Jones have the right to invoke parliamentary privilege, their refusal to participate in the public inquiry or to appear before our committee is a failure of leadership and further reinforces the criticism that the Ontario government did not take to Freedom Convoy occupation of Ottawa with the seriousness it deserved.

The use of extraordinary powers granted to the federal government by the *Emergencies Act* necessitates extraordinary candor and disclosure. It is not enough that we assume the government acted in good faith as David Lametti implied during his appearance before the Public Order Emergency Commission.⁷ Therefore, we suggest the following:

Recommendation 1: That the *Emergencies Act* be amended to reflect the obligation of the federal government to provide to the parliamentary review committee all the inputs to Cabinet and to ministers on the issue, including all information, advice, and recommendations provided to Cabinet, Cabinet committees and individual ministers.

Ideologically Motivated Violent Extremism (IMVE)

A theme that was present throughout the Freedom Convoy and testimony raised at our committee is the increased threat posed by ideologically motivated violent extremism. From the very outset, extremist elements were present as part of the convoy movement, most prominently those behind a Memorandum of Understanding calling for the overthrow of the elected government.⁸ The involvement of IMVE groups was further raised when right wing paraphernalia was found when police seized a weapons cache at the border blockade in Coutts, Alberta.

During testimony at our committee, then Canada Security Intelligence Service (CSIS) Director David Vigneault stated that:

In the case of the “freedom convoy”, CSIS was concerned by the threat of ideologically motivated violent extremism, or IMVE, and specifically the potential for serious acts of violence. As I recently said publicly, IMVE currently represents a significant national security threat. The combination of major disruptive events like the pandemic, the ever-increasing influence of social media, and the spread of conspiracy theories has created an environment ripe for exploitation by influencers and extremists. This environment has the potential to inspire individuals to commit acts of violence.⁹

Concerns were also raised by Mr. Vigneault that the convoy would be used to spread right-wing propaganda and recruit like-minded people to their cause.

Despite the clear concern by CSIS and other intelligence services, a key intelligence report relied upon by the Ottawa Police Services failed to specifically identify IVME actors as a potential threat. Instead, it identified ISIS, “fringe” entities, and people who “get a sick thrill from just basically trolling the legitimate protesters” as key security concerns.¹⁰ This would appear to be a significant lapse and further aspects of

⁷ Testimony of David Lametti, Public Hearing of the Public Order Emergency Commission, vol. 29, p. 178

⁸ <https://publicorderemergencycommission.ca/files/exhibits/COM00000866.pdf>

⁹ Special Joint Committee on the Declaration of Emergency, Evidence No. 007, May 10, 2022, p. 2

¹⁰ <https://publicorderemergencycommission.ca/files/exhibits/OPS00004039.pdf?t=1667279408>

this intelligence analysis served to undermine the Ottawa Police Services preparation and response to the Freedom Convoy.

The growth of ideologically motivated violent extremism is a very real threat to public safety and national security. It has already been connected to the murder of people in London, ON and Quebec City, QC. Testimony from Marie-Hélène Chayer, Executive Director of the Integrated Terrorism Assessment Centre stated that half of CSIS's counter-terrorism resources are dedicated to investigating IMVE.¹¹

There is also growing acknowledgment of IMVE infiltration into Canada's military and police services. A report by the Minister of National Defence Advisory Panel on Systemic Racism and Discrimination highlighted the disturbing fact that white nationalist and extremists are present within the Canadian Armed Forces, and that membership in extremist groups is growing.¹² In 2021, then Minister of Public Safety also raised concerns that white supremacist and IMVE groups are actively recruiting members of the Royal Canadian Mounted Police.¹³

The risk of having active and former members of the Canadian military and police services is a clear and present threat to the safety and security of Canada. Therefore, we suggest the following:

Recommendation 2: That the federal government strike an independent task force to investigate Ideologically Motivated Violent Extremism (IMVE) within policing services.

Policing

The aspect of the Freedom Convoy that has justifiably received the most amount of attention and criticism is the failures of policing. It was clear from the outset that the Ottawa Police Services was unprepared and misunderstood the threat that the Freedom Convoy posed in the City of Ottawa and that there were significant challenges posed by the multi-jurisdictional aspects of intelligence sharing and of policing in the nation's capital.

Of deep concern was the fact that police operations and tactics were being leaked to protest organizers and leads to questions about how and who was leaking this information. Furthermore, many in the public were dismayed to see police officers refusing to enforce laws or being openly supportive of the Freedom Convoy. It was also revealed that members of Joint Task Force 2, members of the RCMP security detail for the Prime Minister, and other former military and police members were playing key roles in Freedom Convoy organizing and leadership.¹⁴

These factors further served to undermine the confidence that the public had in the ability of the police to control and end the occupation in Ottawa and at border crossings around the country.

Of the 56 recommendations made by the Public Order Emergency Commission, the first 27 recommendations are made regarding policing. Many of the recommendations call for changes to be

¹¹ Special Joint Committee on the Declaration of Emergency, Evidence No. 020, December 1, 2022, p. 20

¹² MINISTER OF NATIONAL DEFENCE ADVISORY PANEL ON SYSTEMIC RACISM AND DISCRIMINATION with a focus on Anti-Indigenous and Anti-Black Racism, LGBTQ2+ Prejudice, Gender Bias, and White Supremacy FINAL REPORT January 2022

¹³ https://www.thestar.com/politics/federal/public-safety-minister-acknowledges-threat-of-white-supremacist-infiltration-to-canada-s-police-forces/article_bfed5787-486e-5dae-83e2-9c7447920628.html

¹⁴ Special Joint Committee on the Declaration of Emergency, Evidence No. 020, December 1, 2022, p. 5

made at all orders of policing with a particular emphasis on interoperability which speaks to the challenge of policing in a multi-jurisdictional structure.

While these recommendations have merit on their own, they form part of a larger body of reports calling for police reform in Canada. In recent years, the National Security and Intelligence Committee of Parliamentarians and the Joint Federal/Provincial Commission into the April 2020 Nova Scotia Mass Casualty have issued reports with significant recommendations on policing in Canada. There have also been increased discussion about the role of contract policing in Canada, expansion of the role of sheriff services in Alberta, and the move to replace the RCMP with a municipal police service in Surrey, B.C.

Therefore, in light of the deficiencies exposed in recent reports, the changing aspects of law enforcement, and a need to update approaches to community safety, we suggest the following:

Recommendation 3: That the federal government, in co-ordination with provincial, territorial and indigenous governments undertake a nation review of policing in Canada.

Conclusion

The Freedom Convoy, both in Ottawa and at sites across the country, saw a combination of factors that made this movement different than most other protests. The reach of social media and the speed at which information was circulated, the rapid influx of millions of dollars in donations, the sophisticated supply lines set up to maintain the Ottawa occupation, and a decentralized leadership placed significant challenges on police and government officials.

The failure of police in Ottawa to properly understand the threat posed by the Freedom Convoy allowed for protesters to entrench themselves and for the original weekend demonstration to become an unlawful demonstration and ultimately a three-week occupation. Testimony from police services made clear that during the occupation illegal acts were taking place daily, several weapons charges laid against protesters, and police had being swarmed when they tried to make arrests.¹⁵ The inability of police to control and disperse the occupation in Ottawa, the numerous and potentially expanding blockades at border crossings throughout the country, and the significant seizure of weapons in Coutts, AB made clear that there was a national emergency.

The use of extraordinary measures, such as the *Emergencies Act*, can never be taken lightly and should only be considered as a tool of last resort. These powers must be used in a time limited fashion, proportional to the emergency it is addressing, and should be done with a maximum of transparency and accountability. It is incumbent on the government to provide the public with as much information as possible regarding its decision to invoke the Act in order for parliamentarians and the public to fully understand the full extent of the emergency, the full breadth of options available to the government, and to justify the measures put in place. Failing to provide this high level of transparency will increase cynicism and fuel conspiracy. It further undermines the ability for the government to fully be held to account for its actions, and the Liberal government deserves the criticism it has received for failing to provide critical documents and testimony to the parliamentary oversight committee and to the Public Order Emergency Commission.

¹⁵ Special Joint Committee on the Declaration of Emergency, Evidence No. 017, November 3, 2022.

The invocation of the *Emergencies Act* has revealed deep and systemic challenges in Canada's governance, policing, and the protection of democratic rights. The issues of transparency, accountability, and public trust exposed during this crisis must be addressed with urgency and purpose. As New Democrats, we believe the recommendations in this report are a vital step forward, but they must be accompanied by broader reforms. Whether it is modernizing the *Emergencies Act*, investigating extremism within public institutions, or rethinking the role and structure of policing, Canada must seize this moment to rebuild its institutions in alignment with democratic values. Only through sustained effort and genuine accountability can we restore public confidence and ensure that our democracy remains resilient against future challenges.

