

Department of Justice

1) With regard to the **ten**-page legal opinion forming Tab C of the February 14, 2022, memorandum from the Clerk of the Privy Council to the Prime Minister concerning the invocation of the *Emergencies Act*:

- (a) on what date was the opinion written;(b) who requested the opinion’s preparation;
- (c) who authored the opinion;
- (d) who approved the opinion;
- (e) did the then-Attorney General of Canada approve the opinion and, if he did, was his approval with or without amendment;
- (f) what was the nature of the opinion and the questions it addressed;
- (g) did the opinion advise on the declaration of a public order emergency, orders and regulations which might be adopted in connection with an emergency, or both;
- (h) was the government’s declaration of a public order emergency consistent with the opinion’s conclusion;
- (i) were the government’s orders and regulations adopted in connection with the emergency consistent with the opinion’s conclusion;
- (j) did the opinion offer an interpretation of thresholds required for declaring a national emergency under the *Emergencies Act*;
- (k) if the answer to (j) is affirmative, was the opinion consistent with the view held by the Government of Canada in April 2020, expressed in correspondence from the Prime Minister and the then-President of the Queen’s Privy Council for Canada and Minister of Emergency Preparedness to premiers and provincial ministers, that a situation which “cannot be effectively dealt with under any other law of Canada” meant a “situation cannot be addressed adequately under any other law of Canada, including those of the provinces and territories”;
- (l) if the answer to (k) is negative, why did the government adopt a newer, lower, lesser threshold for declaring a national emergency in 2022;
- (m) did the opinion offer an interpretation on the appropriate degree of consultation required under the *Emergencies Act* with the lieutenant governors in council;
- (n) if the answer to (m) is affirmative, was it consistent with the understanding of Privy Council Office officials in April 2020 that “in a crisis situation where things may change quickly, a week is sufficient”;
- (o) if the answer to (n) is negative, why did the government adopt a newer, lesser understanding of consultations required with provincial governments;

(p) if the answer to (m) is affirmative, was it consistent with the Justice Department's April 2020 suggestion to provide copies of correspondence to lieutenant governors out of an abundance of caution;

(q) why was the opinion withheld from this committee in response to the committee's May 31, 2022, order for document production;

(r) why was the opinion withheld from the Public Order Emergency Commission;

(s) why was the opinion withheld from this committee in response to the committee's February 6, 2024, request for document production;

(t) who is the "client" for the purposes of this opinion;

(u) who has the authority, in relation to this opinion, to exercise a client's right to waive solicitor-client privilege;

(v) did the opinion's conclusions more closely reflect the government's actions in February 2022 or the Federal Court judgment in January 2024; and

(w) if the government acted in a manner consistent with the legal opinion it was provided, why would the government not take the opportunity to demonstrate it acted in good faith in February 2022?

2) With regard to the Federal Court judgment in January 2024 declaring the government's use of the *Emergencies Act* to be illegal and unconstitutional:

(a) when did the Attorney General of Canada finish reading the complete judgment;

(b) who were the members of the "team", which the Attorney General referred to, which assisted him in reading the judgment;

(c) had any member of the "team" finished reading the complete judgment prior to the government announcing its intention to appeal;

(d) were briefings on the judgment provided, prior to the government's announcement, to (i) the Prime Minister, (ii) the Deputy Prime Minister and Minister of Finance, and (iii) the full Cabinet;

(e) if the answer to any part of (d) is affirmative, who provided the briefing;

(f) who approved the decision to appeal; and

(g) when was the decision to appeal made?