

MEMO

To: National Citizens Inquiry Support Group

From: Shawn Buckley - updated February 3, 2024

Re: Documenting history of non-profit set up by the Support Group to receive and disburse funds.

1. Reason for Memorandum

The majority us are original Support Group members. As such we recall that the Support Group set up the not-for-profit company, Citizens Inquiry Canada (the “CIC”), solely for the purpose of collecting and disbursing funds for the Support Group. We recall that the CIC was to have no authority over the Support Group or the National Citizens Inquiry. The Support Group had all the authority to continue to set up and run the National Citizens Inquiry. The sole authority given by the Support Group to the CIC was to collect and disburse funds for, and at the direction of, the Support Group.

There are, however, some members of the Support Group who joined the Support Group after the CIC was formed. Setting out and attaching the documentation concerning the limited role of the CIC is needed in light of the current attempts by the CIC to take over the National Citizens Inquiry.

2. Privacy respected

When we began the original Support Group decided not to share the names of its members. This was primarily to prevent the National Citizens Inquiry from appearing biased. We wanted the NCI to be based on the witness testimony, not the membership of the Support Group.

Some of the original members have moved on and have not consented to being identified. So I will remove any identifying information to honour the original privacy agreement. This would allow this Memorandum and supporting documentation to be released to the public.

The original Support Group members will have copies of the original documents to view any part of original documents I block out.

3. History of the Support Group and the CIC - Initial documentation

The first meeting of what became the Support Group was held on July 15, 2022. This meeting was the first between members from two different main groups that wanted to put on a citizen led inquiry. It was a feeling out meeting.

A second meeting was held on July 22, 2022. It was decided to draft terms of reference. Working on terms of reference led members from the two groups to form a single group called the Steering Committee. The first meeting where the Steering Committee started as a unified group with the original membership was July 29, 2022.

The “Steering Committee” changed it’s name on July 29, 2022 to the “Support Group”. The reason for the name change was to ensure it did not appear that the group running the NCI administration had control over the independent commissioners.

I am attaching the meeting minutes for the July 29, 2022 meeting. These minutes show how the Support Group had set itself up to run, right down to quorum and voting. As of July 29, 2022, the Support Group was an unincorporated association dedicated to setting up and running the National Citizens Inquiry.

The first mention of setting up a non-profit corporation to collect and disburse funds was at the August 11, 2022 Support Group meeting. I am attaching the minutes of that meeting. These minutes include:

- Section J – Committee Role & Responsibilities amended to include establishing a not-for-profit entity *to receive and manage funds*
- **Inquiry Budget**
 - Members briefly discussing funding matters.
 - Suggested and agreed that a not-for-profit entity be established *to receive and manage the inquiry’s funds* / create a bank account.
 - David and Andrej to develop and propose to the Committee the necessary by-laws /corporate structure for said entity.

(emphasis added).

The next meeting was on August 24, 2022. I am attaching a copy of the meeting agenda. The agenda includes:

For Approval...

- **NCI Not-for-Profit - Proposed Corporate Structure**

Please see details in attached *proposal*

(emphasis added).

I am also attaching a copy of the “proposal”. It includes:

A. Purpose

As discussed by the Support Committee, a legal entity is required *to receive and manage the Inquiry's funds*. Furthermore, a central legal entity shall be better situated to hold and protect the Inquiry's intellectual property, as well as to provide liability protection to its members, volunteers, and participants.

It has been proposed that a not-for-profit (NFP) corporation be established to accomplish this objective.

The NFP would strictly act as a legal "organ" for the Inquiry and shall not be used as a decision making mechanism. The Support Committee shall retain authority over all

administrative, logistical, and financial matters, instructing the NFP's Board to action as needed (e.g., to release funds).

B. Proposed Name

The proposed name is "Citizens Inquiry Canada". A NUANS report has been generated and confirmed the name's availability.

D. Directors and Formal Roles

Per Section A above, *the NFP merely acts as a necessary legal "organ" and has no formal authority to make administrative, logistical, or financial decisions on the Inquiry's behalf.*

It is proposed that the NFP have the legally required minimum of three (3) directors. Specifically:

- Preston Manning (NFP Board Chair)
- Andrej Litvinjenko (NFP Board Secretary)
- David Ross (NFP Board Treasurer)

These three individuals shall be responsible for actioning the Support Committee's directions and otherwise ensuring that the NFP remains compliant with applicable laws.

These directors would be appointed by the Members set out in Section C above.

(emphasis added).

This proposal could not be more clear in setting out that the not-for-profit is to be set up solely to collect and disburse funds on behalf of the Support Group. It could not be more clear that the not-for-profit, the CIC, was to take all of its direction from the Support Group.

I am attaching the minutes from the August 24, 2022 Support Group meeting. At that meeting, the "proposal" was adopted without any changes. The minutes include:

6. NCI Legal Entity - Corporate Structure

- Members agreed *to proposal* to create federal NFP corporation and for Directors to be Preston (Chair), Andrej (Secretary), and David (Treasurer)

(emphasis added).

There was full attendance at the August 24, 2022 meeting, including the attendance of David Ross and Andrej Litvinjenko.

It is most likely that David Ross and/or Andrej Litvinjenko drafted the proposal. This is likely due to the August 11, 2022 Support Group meeting minutes which include:

David and Andrej to develop and propose to the Committee the necessary by-laws

/corporate structure for said entity.

For clarity, the Support Group set up the CIC according to the “proposal” which makes it clear the CIC has no authority over the Support Group or the running of the NCI. Rather the CIC is to take all direction from the Support Group.

4. History of the Support Group and the CIC - Incorporation documents

Following the “proposal” adopted by the Support Group on August 24, 2022, the CIC was incorporated on September 9, 2022. I am attaching a copy of the Directors’ Resolution and the Members’ Resolution adopting the bylaws for the CIC. Included in these documents are:

BACKGROUND

- The Corporation *was incorporated by the National Citizens' Inquiry Support Group on September 9, 2022 for the purposes of holding and managing funds raised by and needed for the National Citizens' Inquiry*, as well as other incidental legal liability, legislative, and, regulatory compliance matters.
- *As agreed upon by the Support Group*, the Corporation's initial directors shall be Andrej Litvinjenko, David Ross, and Preston Manning. Similarly, the Corporation's membership shall consist of the Support Group's membership as of September 9, 2022...
- The Corporation requires a standard By-Law enacted to facilitate good governance. The proposed By-Law has already been reviewed and unanimously approved-in-principle *by the Support Group*.

DUE DILIGENCE AND CONSULTATIONS

The Corporation's corporate structure, purpose, and constating documents have been discussed, reviewed, and *unanimously approved-in-principle by the Support Group*.

(emphasis added).

David Ross and Andrej Litvinjenko signed two separate resolutions with the above text.

The resolutions did not require the above background information to be included. That information was deliberately added so that it was clear the CIC was incorporated following the “proposal” adopted by the Support Group.

5. History of the Support Group and the CIC - Support Group Minutes

Prior to December 13, 2023, all members of the Support Group, including David Ross and Andrej Litvinjenko always followed the adopted “proposal”. Ches Crosbie who joined the Support Group after the CIC was incorporated also followed the “proposal”.

In other words for the entire history of the National Citizens Inquiry prior to December 13, 2023, it was clear that:

- the Support Group was the authority in running the NCI, and
- the CIC was restricted to receiving and disbursing funds at the direction of the Support Group.

All of the Support Group minutes from meetings after August 24, 2022 to December 13, 2023 will be in line with this. They show that ***all management decisions have been made by the Support Group***.

The sole exception is when the Support Group agreed on one occasion that the CIC Directors could decide how to exclude a specific individual from the Support Group.

You can review all of the Support Group minutes which confirm this.

6. History of the Support Group and the CIC - Inquiry Rules

The National Citizen Inquiry Rules are on the National Citizens Inquiry website for public review. The Rules govern the conduct of the National Citizens Inquiry.

The Rules include:

Introduction

The National Citizen's Inquiry ("Inquiry") is a citizen-led and citizen-funded initiative that is completely independent from government and operates without legal compulsion or coercion. *Legally, it is organized as a non-profit corporation with a Board of Directors to manage financial and compliance issues; however, the Inquiry is led by a Support Group and Commissioners.*

The Support Group is an all-volunteer citizen committee represented across Canada by Regional Subcommittees. Its role is primarily administrative and logistical. It drafted the Inquiry's Terms of Reference ("Terms of Reference") and these Rules of Practice and Procedure (the "Rules") and appointed the Commissioners. *The Support Group will continue in its role in running the administration of the Inquiry, and as necessary adjusting the Rules to ensure the Inquiry responds to the demands of Canadians to have a fair inquiry. The Commissioners have the role, independent of the Support Group of running the Inquiry hearings, approaching all evidence with an open mind, and independently finding facts and making recommendations.*

8. In these Rules,

- "Support Group" means the collection of individuals forming the Support Group *which started and manages both the National Citizens' Inquiry and the non-profit corporation started for the management of National Citizens' Inquiry funds.*

(emphasis added).

The Inquiry Rules make it clear that the Support Group manages *both* the National Citizens inquiry *and* the non-profit corporation (the CIC) started for the management of National Citizen Inquiry funds.

The CIC is not even mentioned by name in the Inquiry Rules. It is only mentioned as a non-profit organization the two times reproduced above.

It should be noted that both Ches Crosbie and Andrej Litvinjenko participated in the drafting of the Rules. I am attaching a February 14, 2023 email going to both Ches Crosbie and Andrej Litvinjenko asking for comments on a draft of the Rules including changes to include the text reproduced above. The draft Rules are attached to the email. This is one of two emails sent to Ches Crosbie and Andrej Litvinjenko on February 14, 2023, with the above text set out in red in the attached draft.

Both Ches Crosbie and Andrej Litvinjenko knew full well that the Rules included the text reproduced above as they participated in the drafting of the Rules.

The March 6, 2023 Support Group Minutes include:

- d. Commission Rules: A final version was shared with the SG, Commissioners, Regional Teams and posted online.

The Support Group deferred to the Legal Committee for the text of the Rules. But the Support Group read the Rules, including the text set out above. No objections were raised.

My understanding is that David Ross sent the Rules to the regional sub-committees as authoritative and binding.

7. History of the Support Group and the CIC - Operational History

I was more involved in the setting up and running of the NCI up to the end of the hearings than any other single person. I was chair of the Administrative Committee which was tasked with keeping track of all operational aspects of the NCI. I set up and directly managed many of the operational aspects of the NCI.

I have never been given a single direction at any time from a person acting as a director for the CIC or from the CIC. I only took direction from the Support Group.

Because I was an original Support Group member and knew of the history set out above, I would have refused any direction from the CIC had it occurred (which it did not).

The idea that the CIC has any operational authority over the Support Group or the NCI is inconsistent with the operational history of the National Citizens Inquiry.

8. History of the Support Group and the CIC - David Ross December 15, 2023 and December 17, 2023 emails

At the April 11, 2023 Support Group meeting David Ross replaced Preston Manning as chair of the Support Group.

David Ross served as chair of the Support Group from April 11, 2023 until he was voted off of the Support Group on December 13, 2023. Ted Kuntz became the new chair of the Support Group on December 13, 2023.

On December 15, 2023, two days after he was voted off of the Support Group David Ross sent an email to Ches Crosbie and Ted Kuntz. I am attaching a copy of the email. The email includes:

Fourthly, and this also is essential to a proper legal transition to a new structure for NCI/CEC by the time our initial Annual General Meeting is required to be held on or about Feb 22, 2024, **would you please make it an urgent priority for the SG to confirm the appointment of Andrej Letvinjenko and TAAG Law as NCI's corporate lawyers to guide the needed restructuring?** I believe that Andrej and I are the only two in the entire organization who have intimate knowledge of our organization's setup, and currently identified gaps that need urgent attention. This was on our last SG agenda but we didn't get that far.

(emphasis added).

The annual general meeting is referring to the CIC annual general meeting. David Ross is asking the Support Group to appoint counsel for the CIC. This is consistent with the entire history of the National Citizens Inquiry where the Support Group was the guiding body for all decisions, including for things such as the appointment of counsel for the CIC.

This email is inconsistent with David Ross' new assertion that the CIC has all authority over the Support Group.

On December 17, 2023, David Ross sent an email to Ryan and Ted Kuntz. This email included:

Hi again gentlemen. Just thinking further about this, and especially Ryan's latest email. To be clear, I am NOT ok with my financial and personal identity remaining in place in any way, shape or form for NCI operations *if I am not in operating management (which I am now already not in operating management)*. So, I think that Ted needs his own Infomaniak account so that mine can be closed (by you Ryan; I didn't have the technical smarts to open it, and I haven't gained them to close it!). Ryan, we would need you to supervise and execute all this so that nothing goes awry on transfer. Thanks both for your anticipated cooperation in this; my best to you both, Dave.

At the time of this email, David Ross is the Chair of the CIC Board. His saying:

...if I am not in operation management (which I am now already not in operational management)..

is inconsistent with David Ross' new assertion that the CIC has all operational authority. This could not be more clear.

In my opinion the "new" assertion is a fabrication used to seize control over the National Citizens Inquiry.

I am attaching copies of these emails.

9. There is no documentation to support the new claims by the CIC directors that the CIC and not the Support Group run the National Citizens Inquiry

After the December 15, 2023 email from David Ross referenced above, some of the directors of the CIC began communicating the “new idea” that it is the CIC and not the Support Group that has operational authority over the National Citizens Inquiry. The directors making this claim are David Ross, Ches Crosbie as regular directors and Andrej Litvinjenko as a director emeritus. I am not sure what a director emeritus is as there is no provision for such director in the CIC bylaws we were sent by David Ross, or which can be obtained online.

Other than verbal and email communications from the Directors of the CIC *after* David Ross was voted off of the Support Group on December 13, 2023, I can find no documents to support this “new idea”. If any of you are aware of any documents prior to December 13, 2023 asserting this new claim, please forward them to me so that I can update this Memo.

10. All of the documents and practice prior to the December 13 removal of David Ross from the National Citizens Inquiry are inconsistent with the new position taken by some of the directors of the CIC.

Ches Crosbie, David Ross and Andrej Litvinjenko have pushed this “new idea” that the CIC runs the NCI. One or all of them have convinced our social media contractor, Garrett Melee, to break with the Support Group. As a consequence the National Citizens Inquiry is facing:

- the loss of all of our original social media accounts. These accounts were funded by citizens donating to the National Citizens Inquiry. Those donations paid for Garrett Melee’s wages to post on social media. Those donations provided funds for pushing the accounts on social media. The accounts belong to the National Citizens Inquiry. Control of them should be returned by Garrett Melee to the Support Group;
- messaging by Ches Crosbie and Garrett Melee on the original social media accounts that are inconsistent both with our former messaging and with proper messaging for an independent inquiry;
- Ches Crosbie and Garrett Melee putting out messages as if they are the National Citizens Inquiry when they are no longer connected to the National Citizens Inquiry in any way (the Support Group having relieved them of all duties and titles);
- loss of the funds donated to the National Citizens Inquiry that the Support Group trusted the directors of the CIC to manage.

The documentation set out above and attached to this Memorandum are so clear that it is not necessary for me to offer an opinion (legal or otherwise) on the merits of the “new claim”.

What is the most striking, is that the three directors advancing their “new idea” were so heavily involved in establishing that it was the Support Group that had all authority over the CIC, not the other way around (as they are now asserting).

I think we should share this Memorandum with the public so that they can make up their own minds.

Attachments

1. July 29, 2022 Support Group Minutes.
2. August 11, 2022 Support Group Minutes.
3. August 24, 2022 Support Group Agenda.
4. August 18, 2022 Not-for-profit proposal adopted by the Support Group on August 24, 2022.
5. August 24, 2022 Support Group Minutes.
6. Approval of Corporate Bylaws Documents.
7. February 14, 2023 Email on Rules and Draft Rules.
8. December 15, 2023 Email from David Ross.
9. December 17, 2023 Email from David Ross.

Attachment 1

July 29, 2022 Support Group Minutes

Minutes of National Citizens' Inquiry Support Committee

July 29, 2022

1. **In attendance:** Andrej, Dave, [edited out], Shawn, Kari, [edited out], Scarlett, [edited out], Ted, Kari, Preston
Note that Scarlett replaces [edited out].
2. **Review of July 26 Draft Terms of Reference for Citizens Inquiry:**
 - Needs a declaration of the objective of neutrality so as to make clear that the conclusions and recommendations of the Inquiry have not be pre-determined.
 - Should make clear that all testimony to the Inquiry could be subject to cross-examination, not just questionable inputs.
 - Should make clear that the Inquiry could also receive written testimony evidence submitted other than orally.
 - Inquiry might be directed to follow court-like procedures with respect to receiving evidence, instructions to witnesses, cross examination, etc. and provided with legal counsel.
 - Preston to incorporate the above into one more draft of the Inquiry Terms of Reference.
3. **Review of July 27 Terms of Reference for Citizens Inquiry Support Committee**
 - Change of name from Steering Committee to Support Committee agreed to.
 - Membership as listed in the July 27 draft agreed to with suggestions that future consideration be given to adding someone with medical/scientific experience, someone with media/communications , and someone representing the Freedom Convoy (lawyer Eva Chipiuk suggested).
 - Proposal that Preston Manning serve as Chair and Andrej Litvinjenko serve as Secretary was agreed to, with the roles of each to be clarified. E.g. who handles relations with Inquiry Commissioners, who handles relations with Advisory Committee, and who handle other tasks (Preston and Andrej to discuss and clarify for next meeting.)
 - It is to be understood that Preston and Andrej don't represent any one group (e.g. TBOF, CCCA, etc.) but serve the Support Committee as a whole and the Inquiry as a whole.
 - With respect to a quorum it was agreed that 7 Support Committee members present on a ZOOM or in person constitutes a quorum.
 - With respect to voting it was agreed that every effort be made to achieve a general overall consensus on positions and actions to be taken without a formal vote. But that any member could ask that a vote be taken of those present or of the entire committee membership by email, and that a motion will be deemed to be carried if it receives the support of two thirds of those voting.
 - It was agreed that the avoidance of conflicts of interests by committee members was very important, with Andrej and Dave to draft a Declaration of Interests form for presentation to the next meeting.
 - Preston to incorporate the above into one more draft of the Terms of Reference for the Support Committee.
 - Other major aspects of the draft Terms of Reference – in particular the role of the Committee, its guiding Principles, its proposed activities, its communications strategy and capacity, and its funding – to be reviewed at the next meeting.
4. **Scheduling Next Meeting:**
 - Andrej proposed that the next ZOOM meeting be held at 3:00 pm EST on Friday August 5.
 - [edited out] requested that the meeting be scheduled a little later on the day to accommodating their schedules. Andrej to consider, review preferences of other members and advice of the date and time of the next meeting if it is to be different than 3:00 pm EST on Aug. 5.

5. Other considerations:

- [edited out] suggests a need for clarification of the “tone” of the Inquiry – is it seeking justice, is it seeking truth and reconciliation, is it engaged in investigation and/or prosecution, etc.?

Attachment 2

August 11, 2022 Support Group Minutes

Minutes of National Citizens' Inquiry Support Committee

August 11, 2022

1. **In attendance:** Andrej, David, [edited out], Shawn, Kari, Preston, Scarlett, Ted
Absent: [edited out]
2. **Review of July 26 Draft Terms of Reference for Citizens Inquiry:**
 - Agreement to shorten event title to “National Citizens’ Inquiry”
 - Terms amended to state Inquiry shall investigate the amounts and distribution of government grants and expenditures made through governments’ response to COVID-19.
 - Noted that Commissioners will likely wish to have input on Terms
 - Agreement that draft Terms be adopted as official Terms until such time as the Committee or Commissioners make further changes
3. **Review of Conflict of Interest Forms**
 - Committee reviewed two forms: long form prepared by Shawn and short form prepared by Ted.
 - Agreement that long form was appropriate for Commissioners and short form sufficient for Support Committee members
 - Agreed that Shawn and Andrej will develop a draft process for Commissioner intake, including the Conflict of Interest form
 - Agreed that the short form’s questions 1 and 2 are captured by its question 3 so that only the single question is necessary. Secretary to amend the form as needed.
4. **Review of Support Committee’s Terms of Reference**
 - Noted that Sections A – E were previously reviewed and approved. Committee proceeded to review Sections F – K.
 - With respect to Section F on Conflict of Interest this needs to be revised in the light of the previous discussion on conflict of interest to recognize the two different forms – one for Commissioners and one for Support Committee members – and to make clear that Committee members will have access to and opportunity to review the conflict of interest forms signed by Commissioners. Secretary to amend.
 - Section G - Dispute Resolution was added to address concerns raised by [edited out] and other members.
 - Chair stressed that, the Support Committee’s role is to support and facilitate the work of the Inquiry Commissioners, not to direct the Inquiry or tell the Commissioners what to think or do.
 - A member suggested there may be a need for a “buffer person” between the Support Committee and Commissioners. Group recognized potential need and value and noted need to contemplate duties further.
 - Section J – Committee Role & Responsibilities amended to include establishing a not-for-profit entity to receive and manage funds.
 - Agreed for Committee to discuss delegation of roles & responsibilities at subsequent meeting.
5. **Discussion on Commissioner Selection Process**
 - Chair solicited potential suggestions for Commissioners
 - Members noted Commissioners should be recruited strictly on the basis of competence, ability, and credibility not on the grounds of political correctness, gender/racial quotas, etc.
 - Suggested Commissioners include: David Redman (former Emergency Measures head in Alberta); Jim McCrae (former Filmon government cabinet minister); Richard Schaas (former CMHO Ontario); Jody Wilsom Rayboldt (former federal cabinet minister).

- Noted that selection process would allow for personal applications and nominations. Initial submission procedure to be straightforward, followed by an application package upon receiving an expression of interest from a candidate/nominator.

6. Inquiry Budget

- Members briefly discussing funding matters.
- Suggested and agreed that a not-for-profit entity be established to receive and manage the inquiry's funds / create a bank account.
- David and Andrej to develop and propose to the Committee the necessary by-laws / corporate structure for said entity.
- Kari and David to develop and present to the Committee an outline of major expenditure categories budget will need to address.

7. Scheduling Next Meeting:

- Next meeting set for Wednesday, August 24, 5:30pm EST.

Attachment 3

August 24, 2022 Support Group Agenda

NCI – SUPPORT COMMITTEE

MEETING

August 24, 2022
17:30 – 19:00pm EST

1. Welcome

2. FOR APPROVAL

- **August 11 Minutes**
- **Support Committee Terms of Reference**
 - i. Revised Conflict of Interest section to distinguish between Committee Member and Commissioner Conflict of Interest Forms / process.
- **Conflicts of Interest Declaration Form**
 - i. Revised "Ted's version" into a "short form" for Support Committee members
 - ii. Commissioners' form to be facilitated through Commissioner Selection Process (see more below)
- **Commissioner Selection Process**
 - i. Call of Expressions of Interest and Critical path documents provide a high level overview of the Commissioner selection process (solicitation, application, evaluation, selection, and announcement).
 - ii. Process contemplates three (3) stages for investigating Commissioners' potential biases/conflicts: (1) answers to general application package; (2) replies to interview questions; (3) reply to Conflict of Interest form (only given to successful candidates).
 - iii. Questions to stages #1 and #2 shall be sourced/expanded upon from "Shawn's version" of the Conflict of Interest form, also taking into account suggestions from [edited out].
- **NCI Not-for-Profit – Proposed Corporate Structure**
 - i. Please see details in attached proposal

3. FOR DISCUSSION

- **Inquiry Expenditure Brief**
 - i. David and Kari to present on anticipated expenditures for Inquiry
 - ii. Additional materials to follow
- **Inquiry Logistics**
 - i. Potential models for Inquiry
 - Schedule and itinerary
 - Volunteer requirements
 - Communications strategy
 - ii. Commissioner suggestions

4. OTHER BUSINESS

End of the Meeting

Attachment 4

August 18, 2022 Not-for-profit proposal adopted by the
Support Group on August 24, 2022

Draft August 18, 2022

NATIONAL CITIZENS' INQUIRY

Into Canada's Response to COVID-19

Not-for-Profit Corporation Structure Proposal

A. Purpose

As discussed by the Support Committee, a legal entity is required to receive and manage the Inquiry's funds. Furthermore, a central legal entity shall be better situated to hold and protect the Inquiry's intellectual property, as well as to provide liability protection to its members, volunteers, and participants.

It has been proposed that a not-for-profit (NFP) corporation be established to accomplish this objective.

The NFP would strictly act as a legal "organ" for the Inquiry and shall not be used as a decision making mechanism. The Support Committee shall retain authority over all administrative, logistical, and financial matters, instructing the NFP's Board to action as needed (e.g., to release funds).

B. Proposed Name

The proposed name is "Citizens Inquiry Canada". A NUANS report has been generated and confirmed the name's availability.

C. Proposed Membership

The NFP's membership shall consist of the Support Committee members. For additional clarity, the Support Committee members would be members of the NFP in their personal capacity and not on behalf of the organization(s) they represent, if any.

D. Directors and Formal Roles

Per Section A above, the NFP merely acts as a necessary legal "organ" and has no formal authority to make administrative, logistical, or financial decisions on the Inquiry's behalf.

It is proposed that the NFP have the legally required minimum of three (3) directors. Specifically:

- Preston Manning (NFP Board Chair)
- Andrej Litvinjenko (NFP Board Secretary)
- David Ross (NFP Board Treasurer)

These three individuals shall be responsible for actioning the Support Committee's directions and otherwise ensuring that the NFP remains compliant with applicable laws.

These directors would be appointed by the Members set out in Section C above.

E. Meetings, Quorum, and Voting

The NFP's governance rules have been proposed in the accompanying draft By-Law. This By-Law is primarily based on the model by-law provided by Corporations Canada for NFP corporations.

Attachment 5

August 24, 2022 Support Group Minutes

National Citizens' Inquiry

Meeting of the Support Committee

Minutes

August 24, 2022

1. **In attendance:** Andrej, [edited out], Dave, [edited out], Shawn, Kari, [edited out], Preston, [edited out], Scarlett, Ted,
2. **Review and approval of previous minutes**
3. **Review and approval of Support Committee's Terms of Reference**
 - Revision made to Section A – Background to more clearly articulate areas of concern for the Committee.
4. **Review and approval of Conflict of Interest Form**
 - "Short form" for Committee members approved as is.
 - Secretary to distribute forms to members for completion.
5. **Commissioner Selection Process**
 - Members reviewed and agreed-in-principle to process proposed by the draft critical path.
 - Noted potential value in advertising commissioner positions in legacy newspapers; group noted that independent and social media may be more fruitful avenues.
 - Members agreed the number of Commissioners should be five (5).
 - Members agreed to constitute a Commissioner Selection Subcommittee consisting of Preston (Chair), [edited out], and Shawn. Per approved critical path, the Subcommittee shall oversee the recruiting process and make selection recommendations to the Committee.
 - Noted the paramount importance of ensuring Inquiry is "credible", which shall very much depend on the credibility of the selected Commissioners.
6. **NCI Legal Entity – Corporate Structure**
 - Members agreed to proposal to create federal NFP corporation and for Directors to be Preston (Chair), Andrej (Secretary), and David (Treasurer)
 - Noted that a registered charity can contract NFPs to do work (would be one additional way to finance some of the Inquiry's work).
 - Andrej to establish virtual office in Ottawa, David and [edited out] to establish phone service
 - David to establish bank account
 - [edited out], David, and Andrej to establish secure webhosting and on-line donation.
7. **Review of Inquiry Expenditure Brief**
 - Reviewed briefing document listing the various standard categories of expenditures for an initiative like the Inquiry.
 - In order to refine further, and attach numbers, decisions need to be made as to the scope and nature of the proposed Inquiry process (see below).
8. **Comprehensive Discussion of the Inquiry's Logistics**
 - Reviewed document outlining three potential models: one single mega inquiry, travelling inquiry featuring local hearings in a number of locations, and "momentum inquiry" featuring a series of hearings but each highlighting a particular theme – and variations of each.

- Noted the importance of the first hearing event-whatever it is – as it will set the tone for the rest and if done well will feed interest and demand for further hearings.
- After discussion of Single or Multiple hearings it was agreed that the plan should be for **Multiple Hearings**.
- With respect to the themes of the Multiple Hearings, noted the importance of each covering a specific theme with the nature and content of Provincial Health Orders being a common feature; Members agreed and suggested that each hearing should also invite/be open to additional inputs so hearings do not look cooked to produce a certain outcome.
- Consequently agreed that **each momentum hearing should have three elements**: A general invitation for public input, consideration of provincial health orders for the province where the hearing is being held, and a specific focus on a particular theme – e.g. health (including vaccine) impacts, impacts on rights and freedoms, impacts on schools and children, economic impacts.
- Kari suggests that Inquiry hearings need to ignite two things not just one: (1) Interest and participation in the next hearing (2) But also a **parallel process of interest and activity on the key themes outside the hearings** – op eds, social media blitzes, demands for action by supportive interest groups, etc.
- **Location of multiple momentum hearings**: In recognition of regional nature of Canada it was agreed that there should be momentum hearings in Atlantic Canada (Halifax), Quebec (Montreal), Ontario (Toronto), Prairies (Calgary or Edmonton), BC (Victoria).
- Noted the value of a one day “**Kick off hearing**” (Ottawa or Winnipeg) to establish the themes of the regional hearings and to generate interest in the rest of the hearing process.
- Noted the value of a **one day Summation Hearing in Ottawa** after the regional momentum hearings have been completed to summarize the main points made at the regional hearings.
- Thus, in total the plan it was agreed that there would be for seven (7) events: Kick off, 5 regional momentum hearings, Summation hearing in Ottawa.
- Ted suggested that special attention needs to be given to actions to prevent “drop off of interest” after the first two or three hearings. The fact that each hearing will address a particular theme of interest should help to sustain interest.
- Kari suggested that governmental officials should be invited to testify at each hearing and when, as is expected, they refuse, this should increase interest in the hearings (what are they hiding?)
- **Other relevant matters with respect to the hearing process** – raised but needing to be thoroughly discussed/decided at next Support Committee ZOOM include length of each hearing (2 or 3 days?), pre-hearing process (establishment of website, initial announcement, solicitation of citizen demand for Inquiry, solicitation of suggested Commissioners, etc.), financing the hearing process. David also suggests need for schedule/time line for the whole process and Shawn suggests need for a decision as to whether to pay Commissioners, if so how much, and whether or not to make any compensation public.
- Preston/Andrej to prepare a Draft Citizens Inquiry Plan incorporating all of the above - including unanswered questions – for next Support Committee ZOOM.
- [edited out] suggested and others agreed that we need **sub-committees to organize each of the proposed events/hearings. Andrej/Preston to draft Guidelines for the Organization of Citizen Inquiry Hearings to provide guidance to sub-committees**. This draft to be reviewed at the next Support Committee Zoom and Support Committee members to come to the next XOOM with suggestions for chairs/members of proposed sub committees in each city.

9. Scheduling Next Meeting:

- Next meeting set for Wednesday, August 24, 5:30pm EST.

Attachment 6

Approval of Corporate Bylaws Documents

CITIZENS INQUIRY CANADA

FOR: Board of Directors
FROM: Andrej Litvinjenko, Secretary
SUBJECT: Initial Organizational Matters
DATE: September 9, 2022

ACTION REQUIRED:

APPROVAL

RECOMMENDATION

INFORMATION

OBJECTIVES

- Constitute the Corporation's Membership and approve By-Law No. 1.

BACKGROUND

- The Corporation was incorporated by the National Citizens' Inquiry Support Group on September 9, 2022 for the purposes of holding and managing funds raised by and needed for the National Citizens' Inquiry, as well as other incidental legal liability, legislative, and, regulatory compliance matters.
- As agreed upon by the Support Group, the Corporation's initial directors shall be Andrej Litvinjenko, David Ross, and Preston Manning. Similarly, the Corporation's membership shall consist of the Support Group's membership as of September 9, 2022, namely:
 - Andrej Litvinjenko
 - [edited out]
 - David Ross
 - [edited out]
 - Kari
 - [edited out]
 - Preston Manning
 - [edited out]
 - Scarlett Martyn
 - Shawn Buckley
 - Ted Kuntz
- The Corporation requires a standard By-Law enacted to facilitate good governance. The proposed By-Law has already been reviewed and unanimously approved-in-principle by the Support Group.

DUE DILIGENCE & CONSULTATIONS

- The Corporation's corporate structure, purpose, and constating documents have been discussed, reviewed, and unanimously approved-in-principle by the Support Group.
-

NEXT STEPS

- If approved, the Board shall facilitate the subsequently required corporate governance steps to complete the Corporation's initial set-up.

**REVIEWED &
APPROVED BY**

LEGAL YES N/A

CFO YES N/A

**MOTION FOR
APPROVAL**

- That the Board approve By-Law No. 1, and that all members of the National Citizens' Inquiry Support Group, as of September 9, 2022, be granted membership in the Corporation.

**SUPPORTING
MATERIALS**

- **By-Law No. 1**

DocuSigned by:
Andrej Litvinjenko
011D51ECE40E411...

Andrej Litvinjenko
Secretary

RESOLUTION OF THE BOARD OF DIRECTORS

September 9, 2022

Pursuant to s. 127(5) of the *Not-for-profit Corporations Act*, the undersigned, being Directors of the Corporation, hereby vote in favour of and approve the following resolution:

That the Board approve By-Law No. 1, and that all members of the National Citizens' Inquiry Support Group, as of September 9, 2022, be granted membership in the Corporation.

DocuSigned by:

Andrej Litvinjenko

011D51E9E40E411...

Andrej Litvinjenko,
Director and Secretary

DocuSigned by:

David Ross

801C007607AE4CE...

David Ross
Director and Treasurer

DocuSigned by:

Preston Manning

30A642C7E6454E3

Preston Manning
Director and Chair

CITIZENS INQUIRY CANADA

FOR: Members of the Corporation
FROM: Andrej Litvinjenko, Secretary
SUBJECT: Initial Organizational Matters
DATE: September 9, 2022

ACTION REQUIRED:

- APPROVAL RECOMMENDATION INFORMATION

OBJECTIVES

- Approve By-Law No. 1 and all other actions taken by the Interim Board of Directors to-date.
- Instate the Interim Board as the Initial Board.

BACKGROUND

- The Corporation was incorporated by the National Citizens' Inquiry Support Group on September 9, 2022 for the purposes of holding and managing funds raised by and needed for the National Citizens' Inquiry, as well as other incidental legal liability, legislative, and, regulatory compliance matters.
- As agreed upon by the Support Group, the Corporation's initial directors shall be Andrej Litvinjenko, David Ross, and Preston Manning. Similarly, the Corporation's membership shall consist of the Support Group's membership as of September 9, 2022, namely:
 - Andrej Litvinjenko
 - [edited out]
 - David Ross
 - [edited out]
 - Kari
 - [edited out]
 - Preston Manning
 - [edited out]
 - Scarlett Martyn
 - Shawn Buckley
 - Ted Kuntz
- The Members have reviewed By-Law No. 1 and all of the interim Board's actions to-date.

DUE DILIGENCE & CONSULTATIONS

- The Corporation's corporate structure, purpose, and constating documents have been discussed, reviewed, and unanimously approved-in-principle by the Support Group.

NEXT STEPS

- If approved, the Corporation's initial governance

**REVIEWED &
APPROVED BY**

LEGAL YES N/A

CFO YES N/A

**MOTION FOR
APPROVAL**

- That the Members (1) approve By-Law No. 1, and all other actions taken by the interim Board of Directors; (2) appoint Andrej Litvinjenko, David Ross, and Preston Manning to the Board of Directors for a term of two (2) years; and, (3) that Mr. Litvinjenko, Mr. Ross, and Mr. Manning be appointed as Secretary, Treasurer, and Chair of the Board of Directors, respectively.

**SUPPORTING
MATERIALS**

- **By-Law No. 1**

DocuSigned by:

Andrej Litvinjenko

011D51E0E40E411

Andrej Litvinjenko
Secretary

RESOLUTION OF THE BOARD OF DIRECTORS

September 9, 2022

Pursuant to s. 166(1) of the *Not-for-profit Corporations Act*, the undersigned, being Members of the Corporation, hereby vote in favour of and approve the following resolution:

That the Members (1) approve By-Law No. 1, and all other actions taken by the interim Board of Directors; (2) appoint Andrej Litvinjenko, David Ross, and Preston Manning to the Board of Directors for a term of two (2) years; and, (3) that Mr. Litvinjenko, Mr. Ross, and Mr. Manning be appointed as Secretary, Treasurer, and Chair of the Board of Directors, respectively.

DocuSigned by:
Andrej Litvinjenko
Andrej Litvinjenko

DocuSigned by:
David Ross
David Ross

DocuSigned by:
Kari
Kari

DocuSigned by:
Preston Manning
Preston Manning

DocuSigned by:
Scarlett Martyn
Scarlett Martyn

DocuSigned by:
Shawn Buckley
Shawn Buckley

DocuSigned by:
Ted Kuntz
Ted Kuntz

CANADA CITIZENS INQUIRY

By-Law No. 1

Section 1 – General

1.01 Definitions

In this by-law and all other by-laws of the Corporation, unless the context otherwise requires:

- a. "Act" means the *Canada Not-for-profit Corporations Act* S.C. 2009, c.23 including the Regulations made pursuant to the Act, and any statute or regulations that may be substituted, as amended from time to time;
- b. "articles" means the original or restated articles of incorporation or articles of amendment, amalgamation, continuance, reorganization, arrangement or revival of the Corporation;
- c. "board" means the board of directors of the Corporation and "director" means a member of the board;
- d. "by-law" means this by-law and any other by-laws of the Corporation as amended and which are, from time to time, in force and effect;
- e. "meeting of members" includes an annual meeting of members or a special meeting of members; "special meeting of members" includes a meeting of any class or classes of members and a special meeting of all members entitled to vote at an annual meeting of members;
- f. "ordinary resolution" means a resolution passed by a majority (for example more than 50%) of the votes cast on that resolution;
- g. "Regulations" means the regulations made under the Act, as amended, restated or in effect from time to time; and
- h. "special resolution" means a resolution passed by a majority of not less than two-thirds (2/3) of the votes cast on that resolution.

1.02 Interpretation

In the interpretation of this by-law, words in the singular include the plural and vice-versa, words in one gender include all genders, and "person" includes an individual, body corporate, partnership, trust and unincorporated organization. References to "days" shall mean calendar days.

Other than as specified in 1.01 above, words and expressions defined in the Act have the same meanings when used in these by-laws.

1.03 Corporate Seal

The Corporation may have a corporate seal in the form approved from time to time by the board. If a corporate seal is approved by the board, the secretary of the Corporation shall be the custodian of the corporate seal.

1.04 Execution of Documents

Deeds, transfers, assignments, contracts, obligations and other instruments in writing requiring execution by the Corporation may be signed by any one (1) of its officers or directors. In addition, the board may from time to time direct the manner in which and the person or persons by whom a particular document or type of document shall be executed. Any person authorized to sign any document may affix the corporate seal (if any) to the document. Any signing officer may certify a copy of any instrument, resolution, by-law or other document of the Corporation to be a true copy thereof.

1.05 Financial Year End

The financial year end of the Corporation shall be determined by the board of directors.

1.06 Banking Arrangements

The banking business of the Corporation shall be transacted at such bank, trust company or other firm or corporation carrying on a banking business in Canada or elsewhere as the board of directors may designate, appoint or authorize from time to time. The banking business or any part of it shall be transacted by an officer or officers of the Corporation and/or other persons as the board of directors may from time to time designate, direct or authorize.

1.07 Annual Financial Statements

The Corporation may, instead of sending copies of the annual financial statements and other documents referred to in subsection 172(1) (Annual Financial Statements) of the Act to the members, publish a notice to its members stating that the annual financial statements and documents provided in subsection 172(1) are available at the registered office of the Corporation and any member may, on request, obtain a copy free of charge at the registered office or by prepaid mail.

Section 2 - Membership – Matters requiring special resolution

2.01 Membership Conditions

Subject to the articles, there shall be one class of members in the Corporation. Membership in the Corporation shall be available only to individuals interested in furthering the Corporation's purposes and who have applied for and been accepted into membership in the Corporation by resolution of the board or in such other manner as may be determined by the board. Each member shall be entitled to receive notice of, attend and vote at all meetings of the members of the Corporation.

2.02 Notice of Meeting of Members

Notice of the time and place of a meeting of members shall be given to each member entitled to vote at the meeting by the following means:

- a. by mail, courier or personal delivery to each member entitled to vote at the meeting, during a period of 21 to 60 days before the day on which the meeting is to be held; or
- b. by telephonic, electronic or other communication facility to each member entitled to vote at the meeting, during a period of 21 to 35 days before the day on which the meeting is to be held.

Pursuant to subsection 197(1) (Fundamental Change) of the Act, a special resolution of the members is required to make any amendment to the by-laws of the Corporation to change the manner of giving notice to members entitled to vote at a meeting of members.

Section 3 - Membership dues, termination and discipline

3.01 Membership Dues

Members shall be notified in writing of the membership dues, if any, at any time payable by them and, if any are not paid within one (1) calendar month of the membership renewal date, the members in default shall automatically cease to be members of the Corporation.

3.02 Termination of Membership

A membership in the Corporation is terminated when:

- a. the member dies, or, in the case of a member that is a corporation, the corporation is dissolved;
- b. a member fails to maintain any qualifications for membership described in Section 2.01 of these by-laws;
- c. the member resigns by delivering a written resignation to the chair of the board of the Corporation in which case such resignation shall be effective on the date specified in the resignation;
- d. the member is expelled in accordance with Section 3.03 below or is otherwise terminated in accordance with the articles or by-laws;
- e. the member's term of membership expires; or
- f. the Corporation is liquidated or dissolved under the Act.

Subject to the articles, upon any termination of membership, the rights of the member, including any rights in the property of the Corporation, automatically cease to exist.

3.03 Discipline of Members

The Members, by special resolution, shall have authority to suspend or expel any member from the Corporation for any one or more of the following grounds:

- a. violating any provision of the articles, by-laws, or written policies of the Corporation;
- b. carrying out any conduct which may be detrimental to the Corporation as determined by the Members;
- c. for any other reason that the Members consider to be reasonable, having regard to the purpose of the Corporation.

Section 4 - Meetings of members

4.01 Persons Entitled to be Present

The only persons entitled to be present at a meeting of members shall be those entitled to vote at the meeting, the directors and the public accountant of the Corporation and such other persons who are entitled or required under any provision of the Act, articles or by-laws of the Corporation to be present at the meeting. Any other person may be admitted only on the invitation of the chair of the meeting or by resolution of the members.

4.02 Chair of the Meeting

In the event that the chair of the board is absent, the members who are present and entitled to vote at the meeting shall choose one of their number to chair the meeting.

4.03 Quorum

A quorum at any meeting of the members (unless a greater number of members are required to be present by the Act) shall be two-thirds (2/3) of the members entitled to vote at the meeting.

4.04 Votes to Govern

At any meeting of members every question shall, unless otherwise provided by the articles or by-laws or by the Act, be determined by a majority of the votes cast on the question. In case of an equality of votes either on a show of hands or on a ballot or on the results of electronic voting, the chair of the meeting in addition to an original vote shall have a second or casting vote.

Section 5 – Directors

5.01 Election and Term

Subject to the articles, the members will elect the directors at the first meeting of members and at each succeeding annual meeting at which an election of directors is required, and the directors shall be elected to hold office for a term expiring not later than the close of the third annual meeting of members following the election.

Section 6 - Meetings of Directors

6.01 Calling of Meetings

Meetings of the board may be called by the chair of the board or any two (2) directors at any time; provided that, for the first organization meeting following incorporation, such meeting may be called by any director or incorporator.

6.02 Notice of Meeting

Notice of the time and place for the holding of a meeting of the board shall be given to every director of the Corporation not less than seven (7) days before the time when the meeting is to be held by one of the following methods:

- a. delivered personally to the latest address as shown in the last notice that was sent by the Corporation in accordance with section 128 (Notice of directors) or 134 (Notice of change of directors);
- b. mailed by prepaid ordinary mail to the director's address as set out in (a);
- c. by telephonic, electronic or other communication facility at the director's recorded address for that purpose; or
- d. by an electronic document in accordance with Part 17 of the Act.

Notice of a meeting shall not be necessary if all of the directors are present, and none objects to the holding of the meeting, or if those absent have waived notice of or have otherwise signified their consent to the holding of such meeting. Notice of an adjourned meeting is not required if the time and place of the adjourned meeting is announced at the original meeting.

6.03 Votes to Govern

At all meetings of the board, every question shall be decided by a majority of the votes cast on the question. In case of an equality of votes, the chair of the meeting in addition to an original vote shall have a second or casting vote.

6.04 Resolution in Lieu of Meeting

Except where required by the *Act*, if all directors sign a resolution, they are not required to hold a meeting as prescribed either herein or the *Act*.

Section 7 – Officers

7.01 Description of Offices

Unless otherwise specified by the board which may, subject to the Act modify, restrict or supplement such duties and powers, the offices of the Corporation, if designated and if officers are appointed, shall have the following duties and powers associated with their positions:

- a. **Chair of the Board** - The chair of the board, if one is to be appointed, shall be a director. The chair of the board, if any, shall, when present, preside at all meetings of the board of directors and of the members. The chair shall have such other duties and powers as the board may specify.

- b. **Executive Director** – If appointed, the president shall be the chief executive officer of the Corporation and shall be responsible for implementing the strategic plans and policies of the Corporation. The president shall, subject to the authority of the board, have general supervision of the affairs of the Corporation.
- c. **Secretary** – If appointed, the secretary shall attend and be the secretary of all meetings of the board, members and committees of the board. The secretary shall enter or cause to be entered in the Corporation's minute book, minutes of all proceedings at such meetings; the secretary shall give, or cause to be given, as and when instructed, notices to members, directors, the public accountant and members of committees; the secretary shall be the custodian of all books, papers, records, documents and other instruments belonging to the Corporation.
- d. **Treasurer** - If appointed, the treasurer shall have such powers and duties as the board may specify.

The powers and duties of all other officers of the Corporation shall be such as the terms of their engagement call for or the board or president requires of them. The board may, from time to time and subject to the Act, vary, add to or limit the powers and duties of any officer.

Section 8 – Other

8.02 Invalidity of any provisions of this by-law

The invalidity or unenforceability of any provision of this by-law shall not affect the validity or enforceability of the remaining provisions of this by-law.

8.03 Omissions and Errors

The accidental omission to give any notice to any member, director, officer, member of a committee of the board or public accountant, or the non-receipt of any notice by any such person where the Corporation has provided notice in accordance with the by-laws or any error in any notice not affecting its substance shall not invalidate any action taken at any meeting to which the notice pertained or otherwise founded on such notice.

CERTIFIED to be By-Law No. 1 of the Corporation, as enacted by the directors of the Corporation by resolution on the 9th day of Sept, 2022 and confirmed by the members of the Corporation by special resolution on the 9th day of Sept, 2022.

Dated as of the 9th day of Sept, 2022.

Attachment 7

February 14, 2023 Email on Rules and Draft Rules

Subject: Suggested Revisions to Rules

From: Shawn Buckley <shawn@buckleyandco.ca>

Date: 14/02/2023, 11:59 a.m.

To: Ches Crosbie <chescrosbie@chescrosbie.ca>, Michael Collins <Michael@tupmanbloom.com>

CC: Andrej Litvinjenko <a.litvinjenko@gmail.com>, "D.S. Andersson (Protonmail)" <chezdale@protonmail.com>

Ches, Michael, Andrej and Dale

I am attaching a draft of the Rules where I have made some significant changes and additions. The changes and additions are all in red text.

The main changes are:

- to ensure that it is the Support Group that maintains discretion over the Rules;
- to add definitions so the Rules are meaningful;
- to set out a quorum and rules if a Commissioner cannot attend a hearing;
- to set out Rules for voir dires and similar proceedings for lay witnesses;
- to set out Rules for the taking of evidence by a single commissioner;
- to amend the Summons so that it is clear the person receiving the summons can schedule a hearing time that will accommodate them during the course of hearings.

There are also minor changes.

All the best.

Shawn

On 10/02/2023 7:43 a.m., Ches Crosbie wrote:

Michael, I think you can see from Shawn's message below what changes to the Summons at appendix C he wishes. Would you be able to make suitable changes and send us a draft? Much obliged.

From: Shawn Buckley <shawn@buckleyandco.ca>

Date: Friday, February 10, 2023 at 12:05 AM

To: Andrej Litvinjenko <a.litvinjenko@gmail.com>, Ches Crosbie <chescrosbie@chescrosbie.ca>

Cc: D.S. Andersson (Protonmail) <chezdale@protonmail.com>

Subject: Re: Email call for witnesses

Andrej

I am including Ches.

The Legal Committee reviewed the Rules yesterday. The Rules contain a Summons for public officials. We are going to tweak the Summons so that it makes it clear the officials can attend virtually and that we are running for a couple of months. If they cannot attend at the one in their province or region, they can attend a later one. That should deal with any objection by officials they were not given enough time.

Our plan is to have the Rules finished by Sunday. We can then send out the Summons for the public health officials in the provinces and the federal one. We are also compiling a few other lists. So they should go next week.

All the best.

Shawn

On 09/02/2023 5:37 p.m., Andrej Litvinjenko wrote:

Will do tomorrow.

Has the invite to public officials been finalized, is there a set ETA?

Thank you,
Andrej

On Thu, Feb 9, 2023 at 7:33 PM Shawn Buckley <shawn@buckleyandco.ca> wrote:

Andrej

At the Legal/Witness Committee meeting this afternoon we decided it would be a good idea to send out a call for witnesses for the Maritimes and Quebec. Below is the text of a proposed email.

If you could send the email out it would be appreciated.

All the best.

Shawn.

SUBJECT: Exciting News about the Nova Scotia and Quebec Hearings - and if you want to be a witness apply now!

Hello NCI Supporters

We are excited about the first two hearing venues for the National Citizens Inquiry. The Inquiry will start in Turo Nova Scotia from March 16 to 18. The Inquiry will then move to Montreal on March 23 to 25. This is history in the making. Never in Canada have citizens banded together to run a formal inquiry into government conduct. For more information visit our website at <https://nationalcitizensinquiry.ca/>. Be sure to **sign the petition to show public support for the Inquiry.**

We are working on selecting and scheduling our witnesses for the Turo and Montreal hearings. If you are in the Maritimes or Quebec and have not yet applied to be a witness, please fill in our witness forms at <https://nationalcitizensinquiry.ca/witnesses/>.

Also, **please share this with your network who may not know about the NCI.** We want everyone to participate in this fact finding mission. Let them know that we are a citizen run and funded independent Inquiry into how all levels of government handled the covid crisis. We aim to find out what really happened, and then to make positive recommendation on how we can do things better in the future.

Thank you for your support. Together we can make history!

The NCI Team.

--

Andrej Litvinjenko, JD, MA (Economics), MA (Poli Sci)
613-709-9443

Persistence.

--
PLEASE NOTE THAT OUR MAILING ADDRESS HAS CHANGED *Subject to solicitor-client privilege* Power concedes nothing without a demand. It never did and it never will. Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them. Frederick Douglass (1818-1895), author, former slave.

--

PLEASE NOTE THAT OUR MAILING ADDRESS HAS CHANGED *Subject to solicitor-client privilege*
Power concedes nothing without a demand. It never did and it never will. Find out just what any
people will quietly submit to and you have found out the exact measure of injustice and wrong
which will be imposed upon them. Frederick Douglass (1818-1895), author, former slave.

Attachments:

Amended No.. 2 2023.02.07 Preliminary Draft Rules of Practice and
Procedure.docx

126 KB

NATIONAL CITIZENS INQUIRY

Rules of Practice and Procedure

Introduction

Canada's federal and provincial governments' COVID-19 policies were unprecedented. These interventions into Canadians' lives, families, businesses, and communities were, and to great extent remain, significant. These interventions impacted the physical and mental health, civil liberties and fundamental freedoms, jobs and livelihoods, and overall social and economic wellbeing of nearly all Canadians.

These circumstances demand a comprehensive, transparent, and objective national inquiry into the appropriateness and efficacy of these interventions, and to determine what lessons can be learned for the future. Such an inquiry cannot be commissioned or conducted impartially by our governments as it is their responses and actions to the COVID-19 which would be under investigation.

The National Citizen's Inquiry ("Inquiry") is a citizen-led and citizen-funded initiative that is completely independent from government and operates without legal compulsion or coercion. Legally, it is organized as a non-profit corporation with a Board of Directors to manage financial and compliance issues; however, the Inquiry is led by a Support Group and Commissioners.

The Support Group is an all-volunteer citizen committee represented across Canada by Regional Subcommittees. Its role is primarily administrative and logistical. It drafted the Inquiry's Terms of Reference ("Terms of Reference) and these Rules of Practice and Procedure (the "Rules") and appointed the Commissioners. The Support Group will continue in its role in running the administration of the Inquiry, and as necessary adjusting the Rules to ensure the Inquiry responds to the demands of Canadians to have a fair and inquiry. The Commissioners have the role, independent of the Support Group of running the Inquiry hearings, approaching all evidence with an open mind, and independently finding facts and making recommendations.

The Inquiry's Commissioners are selected for objectivity, independence, and competence. They will select their own Chairperson and direct Commission counsel. They have the power to direct the Inquiry, to decide any procedural or substantive question that arises, and to produce interim or final reports and recommendations.

RULES OF PRACTICE AND PROCEDURE

General

1. Subject to the Terms of Reference **and the Rules**, the conduct of, and procedure to be followed at, the Inquiry is under the control and at the discretion of the Commissioners.
2. **If the Commissioners believe a change in these Rules is necessary, they are to request the change in writing to the Support Group. During an actual hearing day, the Commissioners may deviate from a Rule as they deem necessary to ensure that the Inquiry is complete, fair and timely.**
3. The Commissioners may make such orders or give such directions as they consider proper to maintain order and to prevent the abuse of the Inquiry's process.
4. In the computation of time under these Rules, except where a contrary intention appears,
 - a. time will be computed using Eastern Standard Time, except that the time of any event during a hearing or within the 72 hours preceding a scheduled hearing will be computed according to the prevailing time zone in the location of the hearing;
 - b. where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, even if the words "at least" are used;
 - c. where a period of seven days or less is prescribed, holidays shall not be counted; and
 - d. where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.
5. For the purpose of these Rules, the Commissioners will have discretion to determine what constitutes "reasonable notice" or "at the earliest opportunity" in all of the circumstances.
6. **All Parties and their legal representatives are bound by the Rules. They may raise any issues of non-compliance with the Commissioners, if unresolved in consultation with Commission counsel. Witnesses and attendees are bound by the Rules, to the extent applicable.**
7. The Commissioners shall deal with a breach of these Rules as they sees fit including, but not restricted to,
 - a. revoking the standing of a Party;

- b. imposing restrictions on the further participation in or attendance at (including exclusion from) the hearings by any Party, legal representative, individual, or member of the media;
 - c. an adverse inference against the Party or summons recipient;
 - d. issuing a charge of misconduct under Rule 26; or
 - e. making findings about a Party or summons recipient in an interim or final report.
8. In these Rules,
- “holiday” means “holiday” as defined in s. 35 of the *Interpretation Act*, R.S.C., 1985, c. I-21.
 -
 - “persons” refers to individuals, organizations, governments, agencies, institutions, associations or any other entity;
 - “Party” refers to a person who has been granted standing to participate in the Inquiry pursuant to the Rules of Standing and Funding; and
 - “documents” is intended to have a broad meaning, and includes all technical, corporate, financial, economic and legal information and documentation, financial projection and budgets, plans, reports, opinions, models, photographs, recordings, personal training materials, memoranda, notes, data, analysis, minutes, briefing materials, submissions, correspondence, records, sound recordings, videotapes, films, charts, graphs, maps, surveys, books of account, social media content, or any other notes or communications in writing, and data and information in electronic form, any data and information recorded or stored by means of any device.
 - “Commission counsel” means counsel for the Commission appointed by the Support Group to act as Commission counsel;
 - “Support Group” means the collection of individuals forming the Support Group which started and manages both the National Citizens’ Inquiry and the non-profit corporation started for the management of National Citizens’ Inquiry funds.
 - The terms “Commission” and “Inquiry” are interchangeable and refer to the same thing.
 - “Commission website” means the website of the National Citizens’ Inquiry or any other website set up by the Support Group as the Commission website.

9. The conduct of the Public Hearings and these Rules are informed by the following Procedural Principles:
 - **Proportionality:** The Inquiry will allocate investigative and hearing time in proportion to the importance and relevance of the issue to the Inquiry's mandate and the time available to fulfill that mandate so as to ensure that all relevant issues are fully addressed and reported on;
 - **Transparency:** The Inquiry proceedings and processes must be as open and available to the public as is reasonably possible, consistent with the requirements of national security and other applicable confidentiality and privileges;
 - **Fairness:** The Inquiry must balance the interests of the public to be informed with the rights of those involved to be treated fairly;
 - **Timeliness:** The Inquiry must proceed in a timely fashion to engender public confidence and ensure that its work remains relevant; and
 - **Expedition:** The Inquiry is operating under a strict deadline and must conduct its work accordingly.
10. Parties and their legal representatives, as well as those otherwise taking part in the Public Hearings shall conduct themselves, and discharge their responsibilities under the Rules, in accordance with the Procedural Principles.

Investigation

11. The Inquiry will commence with a preliminary investigation by Commission counsel. The goal of the investigation is, in part, to identify the core or background facts and to identify witnesses.
12. The investigation will consist primarily of document review, engagement with interested persons, and interviews by Commission counsel and staff **including volunteers**.

Standing

13. The Commissioners will retain and direct Commission Counsel to ensure the orderly conduct of the Inquiry. Commission Counsel have standing at the Inquiry and have the primary responsibility of representing the public interest throughout the Inquiry, including the responsibility of ensuring that all matters that bear upon the public interest are brought to the Commissioners' attention. Together, the Commissioners and Commission Counsel constitute the Commission.
14. Applicants may seek standing at the Inquiry by submitting an application form with any supporting materials, in electronic format, with the Commission on or before **April 15, 2023**, or at the discretion of the Commission, on any other date.
15. Application forms can be found in Appendix A.
16. Completed application forms for standing must include the following information:

- a. The Applicant's name, address, telephone number, and email address;
 - b. The name(s) of the legal representative(s), if any, representing the Applicant, together with the legal representative(s)'s address, telephone number, and email address;
 - c. The substantial and direct nature of the Applicant's interest in the subject matter of the Inquiry, why the Applicant wishes standing, and how the Applicant's participation would provide the necessary contributions to the Inquiry, having specific regard to the Terms of Reference; and
 - d. Whether the Applicant is seeking full standing or standing on one or more specific issues as outlined in the Terms of Reference.
17. The Commissioners will make decisions about participation in the Inquiry's proceedings based on the completed application forms and supporting documentation. Should oral submissions be required for any Applicant, which will be determined by the Commissioners, the Commissioners will communicate an appropriate time and format. **The Support Group has standing to make representations to the Commisisoners concerning standing applications**
18. Supporting documentation shall be limited to 10 pages.
19. Standing will be granted in the discretion of the Commissioners, in accordance with the Terms of Reference and the desirability of a transparent, fair and timely proceeding. The Commissioners will consider, among other things, the following criteria:
 - a. whether an Applicant has a substantial and direct interest in the subject matter of the Inquiry;
 - b. whether an Applicant's participation would provide necessary contributions to the conduct of the Inquiry; and
 - c. whether an Applicant's participation would contribute to the openness and fairness of the Inquiry.
20. The Commissioners may determine the manner and scope of the participation of Applicants granted standing, as well as their rights and responsibilities.
21. The Commissioners may direct that a number of applicants share participation with those with whom they have a common interest.
22. Those granted standing will be designated as "Parties" before the Inquiry.
23. The Commissioners may decide, in their discretion, that one or more Applicants for standing will have more limited rights of participation than others. They may also decide that two or more Applicants for standing will be required to participate as a group and be required to exercise their rights of participation jointly.
24. From time to time, the Commissioners may, at their discretion, modify, rescind or grant standing.

25. Any material or information filed in support of an Applicant's standing application may be available to the public on the Inquiry's website or cited in a publicly available document, such as a decision on standing.

Notice to Persons Charged

26. No report shall be made against any person until reasonable notice has been given to the person of the charge of misconduct alleged against him and the person has been allowed full opportunity to be heard in person or by counsel.
27. Notice of a charge of misconduct may be issued in the form attached as Appendix B with appropriate changes and delivered as directed by the Commissioners.

Summonses and Requests

28. The Commissioners may issue a summons in the form attached as Appendix C with appropriate changes.
29. A summons may be served by **email, registered mail, personal service, regular mail, or any other** means approved by the Commissioners.
30. If there is any doubt about whether service was effective, the Commissioners may make an appropriate order.

Document Production

31. Subject to Rules 32, 33, and 37, within 10 days of receiving a summons or being granted standing, any Party or recipient of a summons must produce copies of all documents in their possession or under their control relevant to the subject-matter of the Inquiry.
32. The Commission may request from a Party or require from a recipient of a summons to produce only certain categories or types of documents. In that case, the Party or summons recipient shall only provide the Commission with the categories or types of documents specifically requested, and these shall be organized and provided in batches according to document category or type, as set out in the Commission's request. The Party or recipient of a summons shall comply with the Commission production request within 10 days.
33. The Commission may require a Party or recipient of a summons to first provide a list of categories or types of documents in that person's possession or control relevant to the subject-matter of the Inquiry prior to producing any documents. The Commission may then request some or all of the categories or types of documents for production. The Party or summons recipient shall only provide the Commission with the categories or types of documents specifically requested, and these shall be organized and provided in batches according to document category or type, as set out in the Commission's request. Where a Party or a recipient of a summons is required to first provide a list as set out above, it shall be produced within 5 days. The documents themselves outlined in the Commission's subsequent request shall be produced within 5 days of the request.

34. At the earliest opportunity, each Party or summons recipient must certify in writing that its document production obligations, as outlined in these Rules, have been complied with. If the Party or summons recipient is an organization, the person with authority to certify on behalf of the organization must certify in writing that the organization has complied with its document production obligations, as outlined in these Rules. Document production is an ongoing obligation. If additional documents are discovered or obtained subsequent to initial production, they must be disclosed as soon as possible after they are discovered or obtained.
35. Upon the request of Commission counsel, Parties and summons recipients shall provide relevant documents in the format and manner requested. Parties and summons recipients will preserve originals of relevant documents until such time as the Commissioners have fulfilled their mandate or have ordered otherwise.
36. Production to the Commission will not be treated as a waiver of any objection to its disclosure, use, or admission into evidence.
37. If a Party or summons recipient objects to the production of any document, or part thereof, or to disclosure to Parties of any document, or part thereof, the following procedures will apply:
 - a. The Party or summons recipient shall, within 10 days, deliver to Commission counsel a written objection describing the nature and scope of the objection along with any appropriate supporting material, such as an affidavit or authorities;
 - b. Commission counsel shall review the objection and determine whether they intend to seek access to the document(s);
 - c. If Commission counsel **does** seek access to the document(s), the list and any further material filed by the Party or summons recipient, including submissions, shall, if the objecting Party or recipient consents, be submitted forthwith, together with written submissions on behalf of Commission counsel, to the Commissioners or, at the Commissioners' option, to another adjudicator designated by the Commissioners, for determination. If the Commissioners or designated adjudicator are unable to make a determination based on the record before them, they may request further information about the disputed document(s);
 - d. If the objection is dismissed, the document(s) shall be produced to Commission counsel forthwith and, subject to relevance and any conditions imposed by the Commissioners or designated adjudicator, may be used by the Commission and Parties in the inquiry.
38. Except as agreed with Commission counsel, documents shall be produced to the Commission in unredacted form. Persons producing documents will be given an opportunity to redact irrelevant personal information before the Commission shares those documents with Parties or the public.
39. Where a person producing a document has redacted personal information pursuant to Rule 38, and Commission counsel disagree that the information is irrelevant

personal information, the following procedures will apply:

- a. Commission counsel shall identify for the producing party the redaction or categories of redactions that it does not accept and direct them to produce a version of the document without that redaction or categories of redactions. Commission counsel may also explain the relevance of the redacted information;
 - b. Within two days, the person producing the document shall either comply with the direction of Commission counsel by producing a new version of the document with the redactions identified by Commission counsel removed or else inform Commission counsel that they intend to challenge Commission Counsel's direction before the Commissioners;
 - c. A party seeking to challenge a direction of Commission counsel shall, within three days of informing Commission counsel of this, bring an application to the Commissioners for an order under Rule 104(a) to redact irrelevant personal information in the document. The requirement under rules 92 and 93 for Parties to be provided with copies of applications and to have the right to respond do not apply to an application under this rule;
 - d. The application shall include both a redacted and unredacted version of the document at issue and, where the producing party is aware of it, the contact information of the person whose personal information is implicated by the redactions, or their counsel;
 - e. The Commissioners may notify a third party of the application and permit them to file submissions;
 - f. The application shall be heard in writing unless the Commissioners direct otherwise;
 - g. With the agreement of the producing party, the application may be heard and determined by another adjudicator designated by the Commissioners.
40. A Party may bring an application to challenge a redaction to a document that has been made on the basis of irrelevant personal information. Rules 92 and 93 shall not apply to such an application unless the Commissioners direct otherwise. On receipt of an application, the Commissioners may make directions as to how the application shall be determined. The Commissioners may summarily dismiss an application under this rule if they are satisfied that redacted information is clearly irrelevant personal information.
41. Documents received from a Party or any other organization or individual shall be treated as confidential by the Commission unless and until they are made part of the public record or the Commissioners otherwise declare. This does not preclude Commission counsel from producing a document to a proposed witness prior to the witness giving their testimony, as part of the investigation being conducted, or

pursuant to Rules 85 and 86.

42. Legal representatives to the Parties and witnesses will be provided with relevant documents and information, including statements of anticipated evidence, only upon entering into the written Confidentiality Undertaking at Appendix D to these Rules.
43. Legal representatives are entitled to provide those documents or information to their clients only on terms consistent with the undertakings given, and after the clients have entered into the written Confidentiality Undertaking at Appendix E to the same effect.
44. Parties and witnesses who are unrepresented will be provided with documents and information, including statements of anticipated evidence, only upon entering into the written Confidentiality Undertaking at Appendix F to these Rules.
45. Each person who has entered into a written undertaking in the form set out at Appendix D, Appendix E or Appendix F shall comply with its terms.
46. These undertakings will be of no force regarding any document or information once it has become an exhibit. The Commissioners may, upon application, release any Party in whole or in part from the provisions of the undertaking in respect of any particular document or other information.
47. If a party believes that a document that has been shared with them pursuant to these rules contains either privileged information or irrelevant personal information that they believe should be redacted, they shall notify Commission counsel immediately. The Commissioners may make directions on how to address this issue, including but not limited to directing the notifying party to comply with the procedures set out in Rules 37 or 38. A document that is subject to notice under this rule shall not be made public until the issue respecting privilege or personal information is resolved, unless the Commissioners direct otherwise.
48. The Commissioners may require documents provided to Parties, and all copies made, be returned to the Commission if not tendered in evidence. Alternatively, the Commission may require the destruction of those documents, and all copies made, such destruction to be proven by certificate of destruction. Any confidentiality undertaking or request for deletion provided for in these Rules is limited by any requirement to retain or disclose records and information as may be provided for by law.
49. The Commission may, at any time and at its discretion, request further disclosure from any Party or summons recipient and that request shall be complied with within the time specified by Commission counsel.

Witness Interviews

50. Commission counsel, and persons under the direction of Commission counsel, may interview people who have information or documents relevant to the subject-matter of the Inquiry. People who are interviewed are

entitled, but not required, to have a legal representative present.

Public Hearings

51. Public Hearings will be convened anywhere in Canada as the **Support Group** may determine to address issues related to the Inquiry. Hearings may proceed virtually or in hybrid form, with details to follow.
52. **The Support Group will, in consultation with the Commissioners, set the dates, hours and place of the Public Hearings.**
53. The Commissioners may receive any evidence or information that they consider reliable and helpful in fulfilling their mandate whether or not such evidence or information might otherwise be admissible in a court of law. The strict rules of evidence will not apply to determine the admissibility of evidence at the Inquiry.
54. The Commission may rely on representative witnesses on behalf of institutions. A representative witness is typically a senior official of an institution, and/or an expert in the subject area and procedures, designated to appear on behalf of their institution.
55. Commission counsel may call witnesses or experts, who may, among other things, support, challenge, comment upon or supplement **any documents provided to the Commission under the Rules including Overview Reports.**
56. Parties may also propose witnesses or experts to be called to support, challenge, comment upon or supplement **any documents provided to the Commission under the Rules including Overview Reports** in ways that are likely to significantly contribute to an understanding of the issues relevant to this Inquiry.
57. Evidence may be received at the Inquiry from one or more panels of expert witnesses.
58. The Commissioners are committed to hearing evidence in a process that is public to the greatest extent possible.
59. Applications may also be made for a grant of confidentiality. The procedure that will govern orders for a grant of personal confidentiality is addressed in the section on “Personal Confidentiality of Witnesses”.
60. **Subject to Support Group resources, Public Hearings will be webcast. A webcast of all Public Hearings will be posted to the Commission website and Public Hearings will be transcribed. Public Hearings will be accessible simultaneously in both official languages.**

Overview Reports

61. Commission counsel may prepare Overview Reports, which may contain summaries of core or background facts, together with attributed sources. The source documents may be appended to, and form part of, the Overview Reports. Overview Reports allow facts to be placed in evidence without requiring such core or background facts or relevant documents to be presented orally by a witness during

a public hearing. Overview Reports may be presented by various methods, including audiovisual presentation. Overview Reports may include summaries or reproductions of a wide range of documents, including relevant statutory or regulatory provisions and frameworks, existing policies, procedures and practices, organizational charts and descriptions, chronologies, and any other information or documents within the definition of these Rules.

62. Commission counsel will provide an opportunity to the Parties, in advance of the filing of Overview Reports as evidence, to comment on the accuracy of the Overview Reports within a time specified by Commission counsel after consultation with the Parties, and Commission counsel may modify the Overview Reports in response.
63. The Overview Reports may be used to assist in identifying the issues that are relevant to this Inquiry, to make findings of fact and to enable recommendations to be made by the Commission.
64. Once final, Overview Reports can be entered into evidence without the necessity of being introduced into evidence through oral testimony of a witness.
65. After being entered into evidence, Overview Reports will be posted on the Commission website.

Witness Evidence

66. Subject to applicable privileges and immunities, all Parties and persons shall cooperate fully with the Commission and shall make available all documents and witnesses relevant to the mandate of the Commission.
67. Witnesses who testify will give their evidence at a hearing under oath or upon affirmation, and may swear or affirm on an eagle feather.
68. Commission counsel may issue and serve a summons upon each witness before he or she testifies. Witnesses may be called more than once.
69. Commission counsel and a witness or their legal representative may prepare an affidavit of the witness's evidence. A witness affidavit may include the witness's answers to written questions from Commission counsel. At the Commissioners' discretion, the affidavit can be admitted into evidence in place of part or all of the individual's oral testimony. **Witnesses can also adopt written evidence that is not in affidavit form as true while appearing under oath at the Commission.**
70. At the Commissioners' discretion, all or part of a witness's interview transcript, a witness's interview summary or, if adopted by the witness as accurate, the statement of anticipated evidence may be admitted into evidence in lieu of that witness's oral evidence. Parties may request that the witness be called for the purpose of cross-examination, however, the witness may not be cross-examined on the statement of anticipated evidence or their interview summary except with leave of the Commissioners, as provided in Rule 88. Commission counsel may also call the witness to testify, and may seek to supplement or have the witness comment upon the witness interview transcript, statement of anticipated evidence or interview

summary.

71. Commission Counsel can enter sworn evidence from other proceedings, whether in Canada or in other countries, as sworn evidence before the Commission.
72. At the request of Commission counsel, Parties may prepare Institutional Reports, which may be admitted into evidence if adopted by a representative witness as accurate, or earlier, if admitted into evidence in accordance with Commission's procedures for admitting documents.
73. Witnesses who are not represented by the legal representative of a Party are entitled to have their own representative present while they testify. The legal representative for a witness will have standing for the purpose of that witness's testimony to make any objections considered appropriate and for other purposes set out in these Rules.
74. Parties must advise Commission counsel of the names, addresses and telephone numbers of all witnesses they wish to have called and provide summaries of the information the witnesses may have.
75. If special arrangements are desired by a witness in order to facilitate their testimony, a request for accommodation shall be made to the Commission sufficiently in advance of the witness's scheduled appearance to reasonably facilitate such requests. While the Commission will make reasonable efforts to accommodate such requests, the Commissioners retain the ultimate discretion as to whether, and to what extent, such requests will be accommodated.

Rules of Examination

76. In the ordinary course Commission counsel, or counsel appointed by Commission counsel, will call and question witnesses who testify at the Inquiry.
77. The legal representative for a Party may apply to the Commissioners to lead a particular witness's evidence in-chief. If the representative is granted the right to do so, examination shall be confined to the normal rules governing the examination of one's own witness in court proceedings, unless otherwise directed by the Commissioners. In addition, prior to that witness's evidence in chief, the witness's legal representative shall provide the Parties and Commission counsel with reasonable notice of the areas to be covered in the witness's anticipated evidence in chief and a list of the documents associated with that evidence.
78. Commission counsel, or counsel appointed by Commission counsel, have discretion to refuse to call or present evidence.
79. The order of examination in the ordinary course will be as follows:
 - a. Commission counsel will lead the evidence from the witness. Except as otherwise directed by the Commissioner, Commission counsel are entitled to ask both leading and non-leading questions;
 - b. Parties will then have an opportunity to cross-examine the witness to the extent

- of their interest. The order of cross-examination will be determined by the Parties and, if they are unable to reach agreement, by the Commissioner;
- c. After cross-examinations, the legal representative for a witness may then examine the witness. Except as otherwise directed by the Commissioner, the legal representative for the witness may only ask non-leading questions;
 - d. Commission counsel will have the right to re-examine.
80. If a representative for a witness intends to adduce evidence in chief not adduced by Commission counsel, the representative will examine the witness immediately following Commission counsel, and then will have a right to re-examine the witness following questioning by the other Parties.
81. The Commissioners may direct any legal representative whose client shares a commonality of interest with the witness only to adduce evidence through non-leading questions.
82. After a witness has been sworn or affirmed at the commencement of giving evidence, no legal representative other than Commission counsel may speak to a witness about the evidence that he or she has given until the evidence of such witness is complete except with the permission of the Commissioners. Commission counsel may not speak to any witness about his or her evidence while the witness is being cross-examined by others but may speak to the witness after cross-examination and before any re-examination.
83. In keeping with the Commission's urgency and the principles of expedition and timeliness, the Commissioners will set time allocations for the conduct of examinations and cross-examinations.
84. When Commission counsel indicate that they have called the witnesses whom they intend to call in relation to a particular issue, a Party may then apply to the Commissioners for leave to call a witness whom the Party believes has evidence relevant to that issue. If the Commissioners are satisfied that the evidence of the witness should be received, Commission counsel shall call the witness, subject to Rules 76 and 77.
85. Subject to the Commissioners' discretion, Commission counsel may choose to call witnesses, whether on factual or policy issues, in panels, if doing so would not detract from the Commissioners' ability to make relevant findings of fact or policy recommendations.

Use of Documents at Hearings

86. In advance of the testimony of a witness, Commission counsel shall provide the Parties, with reasonable notice, a list of the documents associated with the witness's anticipated evidence in chief. When possible, in advance of a witness's testimony, Commission counsel shall provide the Parties with an anticipated evidence statement, or a witness interview summary or affidavit.
87. Parties shall provide Commission counsel with any documents that they intend to file as exhibits or otherwise refer to during the hearings at the earliest opportunity,

and in any event shall provide such documents to Commission counsel no later than two days before the document will be referred to or filed, other than those documents for which notice has previously been provided pursuant to Rule 86.

88. Before using a document for purposes of cross-examination, legal representatives shall provide a copy to the witness and to all Parties having an interest in the subject-matter of the proposed evidence not later than two days prior to the commencement of that witness's testimony.
89. Neither Parties nor Commission counsel will be entitled to cross-examine a witness on any "will-say statement" (anticipated evidence statement or witness interview summary) that may be provided except with leave of the Commissioners.
90. The Commissioners may grant the legal representative for a Party or witness leave to introduce a document to a witness at any point during the hearing upon such terms as are just and fair.
91. Commission counsel may introduce any document to a witness at any point during the hearing without the need for leave to do so.

Applications

92. A person may apply to the Commissioners for an order by:
 1. Preparing an application in writing;
 2. Attaching to the application any supporting materials; and
 3. Delivering the application and supporting materials to the Commission by email at **ADDRESS TO BE INSERTED**.
93. Unless the Commissioners otherwise direct, the Commission shall promptly deliver the application and supporting materials to each other Party.
94. Parties are entitled to respond to an application if their grant of standing identifies them as having an interest in the subject matter of the application.
95. Commission counsel may provide the Commissioners with any submissions or materials Commission counsel consider relevant and necessary to the proper resolution of the application. Due to time constraints, if there is an oral hearing on the application, Commission counsel need not file responding materials prior to the hearing of the application but should, as much as is practicable, advise the Parties of Commission counsel's position on each application in advance of the hearing of the application.
96. The Commissioners will determine the schedule for the filing of submissions and materials and for the hearing of oral argument, if any. Applications will be dealt with primarily in writing.
97. Commission counsel, and each Party authorized to do so, may make submissions to the Commissioners as permitted by the Commissioners.

98. The Commissioners may make an order or direction based on the written material filed or, at their discretion, after hearing oral argument.
99. Subject to any order from the Commissioners, submissions will be posted to the Commission website.
100. All application materials shall be served by email.
101. If a Party has a legal representative, service on the Party shall be by email to its legal representative. If a Party does not have a legal representative, service on the Party shall be by email to the Party's designated contact person.
102. Application materials to be provided to, or served on, the Commission shall be delivered electronically no later than 8:00 p.m. on the specified date, to **INSERT EMAIL ADDRESS**.

Government Confidentiality

103. On the application of any federal, provincial, or Indigenous government Party, the Commissioners may issue guidance concerning the treatment of information or documents that constitute a confidence of a federal or provincial Cabinet or an Indigenous government; information that could be injurious to a government's intergovernmental or international relations, defence, or security; or information that should not be disclosed on the basis on the grounds of a specified public interest.

Personal Confidentiality of Witnesses

104. In exceptional circumstances, a witness's personal private interests may require the Commissioners, in the exercise of their discretion, to deviate from the general principle that all information relating to that witness be disclosed to the public, either through testimony or through documents made available.
105. In the exercise of the Commissioners' discretion, they may, among other measures:
 - a. Direct or permit the redaction of irrelevant personal information from otherwise public documents;
 - b. Direct the extent to which such information should be referred to in testimony;
 - c. Direct that a witness not be identified in the public records and transcripts of the hearing except by non-identifying initials, and that the public transcripts and public documents be redacted to exclude any identifying details;
 - d. Permit a witness to swear an oath or affirm to tell the truth using non-identifying initials;
 - e. Use non-identifying initials and exclude any identifying details in his report; and
 - f. Hold an *in camera* hearing, as a last resort, in circumstances in which the desirability of avoiding disclosure outweighs the desirability of adhering to the

general principle that hearings should be open to the public.

106. If the Commissioners have exercised their discretion pursuant to Rule c), no photographic or other reproduction of the witness that might lead to his or her identification shall be made at any time and there shall be no publication of information that might lead to the identification of the witness.
107. All media representatives shall be deemed to undertake to adhere to the rules respecting personal confidentiality as set out herein. A breach of these rules by a media representative shall be dealt with by the Commissioners as they sees fit.

Access to Evidence

108. All evidence shall be categorized and marked P for public proceedings and C for *in camera* proceedings.
109. **Subject to Support Group resources, unless the Commissioners otherwise order, a video of all public proceedings, a list of P exhibits of the public proceedings and a summary of the C proceedings, will be available on the Commission website. Prior to a summary of C proceedings being available on the Commission website, the Party to the *in camera* hearing will be permitted to review the contents of that summary.**
110. Only those persons authorized by the Commission, in writing, shall have access to C transcripts and exhibits.

Quorum for hearings

111. For all in person public hearings, subject to Rules 112 and 113, the quorum is the number of Commissioners appointed by the Support Group prior to the first in person hearing scheduled for March 16, 2023.
112. If a Commissioner is unable to attend an in person public hearing in person, that Commissioner may attend the hearing virtually.
113. Providing there is a minimum of three Commissioners attending an in person public hearing, the proceeding can continue. In such an event the Commissioner(s) who could not attend must watch the video of any proceedings missed and read any documents entered.
114. The Commission has the discretion to hold virtual hearings in addition to in person public hearings scheduled by the Support Group where necessary to accommodate a witness that cannot testify at a in person public hearing date. The Support Group may direct the Commission to hold virtual hearings for any purpose necessary to advance the purpose of the Commission.
115. Voir dres for the qualification of experts may be held virtually in front of a single Commissioner. Qualification voir dres may occur before or after the witness testifies at in person public hearings.

116. Evidence of lay witnesses that is necessary to support the credibility of their testimony at in person public hearings, such as medical background, may be held virtually in front of a single Commissioner. This may occur before or after the witness testifies at in person public hearings.

Testimony before a single Commissioner

117. Recognizing that one of the purposes of the National Citizens' Inquiry is for the voices of citizens to be heard, a single Commissioner may hear evidence of a witness. Subject to Support Group resources, this evidence is also to be posted to the Commission website.
118. Subject to Rule 119, evidence taken before a single Commissioner is not to be relied upon by the Commission for making its findings or making recommendations.
119. If all Commissioners watch the video of the evidence of a witness taken before a single Commissioner, the evidence can be used for all purposes by the Commission.

Review of Commission Reports

120. The Commissioners are encouraged, at their discretion, to have all reports reviewed by counsel prior to public release.

Insert Letterhead

APPENDIX A

Application for Standing

NATIONAL CITIZENS' INQUIRY

Application to Participate

All Applicants seeking standing must use this form and may file supporting materials related to the topics set out below. All applications, along with any supporting materials, must be sent via email to EMAIL no later than **April 15, 2023**, or on any other date with leave of the Commissioners.

The Inquiry's Rules of Procedure and Terms of Reference can be accessed at <https://nationalcitizensinquiry.ca/>.

1. The Applicant

a. Individual (if applicable)

- i. Name:
- ii. Email address:
- iii. Mailing address:
- iv. Telephone number:

b. Organization, government, agency, institution, association or other entity (if applicable)

- i. Name:
- ii. Contact person (name and position)
- iii. Email address:
- iv. Mailing address:
- v. Telephone number:

c. Legal representative (if applicable)

- i. Representative's name:
- ii. Firm:
- iii. Email address:
- iv. Mailing address:

v. Telephone number:

2. Standing to Participate

a. Participation is based on the following criteria:

- (i) A substantial and direct interest in the subject matter of the Inquiry;
- (ii) The Applicant's participation would provide necessary contributions or otherwise further the conduct of the Inquiry; and
- (iii) The Applicant's participation would contribute to the openness and fairness of the Inquiry.

In relation to (i) above, please specify the nature of the Applicant's "substantial and direct interest" in the subject matter of the Inquiry, with reference, where applicable, to the Terms of Reference.

Also address whether the Applicant seeks standing in relation to the fact-finding and/or policy-related functions of the Inquiry, and identify those factual, legal or policy issues falling within the Inquiry's mandate that the Applicant wishes to address as a Party.

With respect to (ii) and (iii) above, please explain how these criteria are met, to the extent it is not already been addressed in relation to (i).

b. Is the Applicant willing to share a single grant of standing with others with whom the Applicant shares a common interest? Check one box only.

Yes No

Please explain your answer in the box below and indicate whether the Applicant formed or have attempted to form a group or coalition with others of similar interests.

c. Please indicate if the Applicant is seeking standing only on one or more of the following issues:

TO DISCUSS

1. other aspects of the Commission's [Terms of Reference](#) (please specify).

Please explain in the box below.

c. If granted standing, how would the Applicant like to contribute to the Inquiry's work, in light of the scope and nature of the Applicant's interest? Please check all that apply:

- By producing factual documents relevant to the Inquiry's mandate
 - By creating or participating in the creation of factual summaries to be introduced into evidence
 - By identifying, tendering or representing witnesses who may testify on factual issues
 - By examining or cross-examining witnesses
 - By making submissions on factual issues and related evidentiary issues
 - By creating or producing policy papers to the Inquiry relevant to its policy-related function
 - By participating in policy roundtables or discussions
 - By making submissions on policy-related issues
 - Other (Specify):
-

- d. Please list and provide any documentation or other evidence you would like the Commissioners to consider below and attach copies of all supporting materials to the application. **Please note there is a 10-page limit for supporting documents.**

I hereby certify and declare that the information set out by me in this document is true and correct to the best of my knowledge and belief.

Date: _____

Signature: _____

APPENDIX B

Notice of a Charge of Misconduct

TO _____

The National Citizens Inquiry is a citizen-led and citizen-funded inquiry into Canada's response to Covid-19. The Inquiry is independent of government and operates without legal compulsion or coercion.

TAKE NOTICE that the National Citizens Inquiry *may* make a finding of misconduct against you in their report. This does not necessarily mean that a finding of misconduct will be made against you, but the Inquiry is required as a matter of fairness to send this notice if such a finding might be made. The substance of the charge of misconduct is set out in the attachment to this letter.

The Inquiry's Rules of Procedure state that the Commissioners will not make a report of misconduct against any person unless that person has had reasonable notice of the substance of the alleged misconduct and a full opportunity to be heard. Having received this notice, you have an opportunity to respond to the charge in person or by counsel during the Inquiry. A copy of the Rules can be obtained from our website at <https://nationalcitizensinquiry.ca/> or by contacting our office. Do not hesitate to contact me regarding any questions you may have on the application of the Rules of Procedure.

It is possible that during the course of the Inquiry, the Commission, through its counsel, may modify the particulars of the substance of the alleged misconduct as circumstances change or as new information or evidence becomes available.

Yours very truly,

NAME

Commission Counsel

Encl.

APPENDIX C

Summons

TO _____

You are hereby summoned to attend before the National Citizens Inquiry at (location) on (date) and to remain there until the examination is finished or the Commissioners order.

Please note that the Inquiry will be conducting hearings for several months. Witnesses can also attend virtually. If you are not able to attend on the Summons date, please email Commission counsel at.....[email] to arrange a time when you can attend. Please also note that the Commission has the discretion to schedule a virtual hearing for the purpose of accommodating a witness such as yourself who may not be able to attend any of the scheduled hearing dates.

The National Citizens Inquiry is a citizen-led and citizen-funded inquiry into Canada's response to Covid-19. Its Rules of Procedure and Terms of Reference are available at <https://nationalcitizensinquiry.ca/>.

The Inquiry is independent of government and operates without legal compulsion or coercion. A failure to comply with this Summons or with the Inquiry's Rules of Procedure cannot lead to civil or criminal liability, but it could result in the Commissioners making a finding of misconduct against you.

The Inquiry's Rules of Procedure require you to produce copies of all documents in your possession or under your control relevant to the subject-matter of the Inquiry within 10 days of receiving this summons. If you object to producing documents, the Inquiry's Rules of Procedure require you to deliver to Commission Counsel at [INSERT EMAIL] within 10 days a written objection describing the nature and scope of your objection along with any appropriate supporting material, such as an affidavit or authorities.

If you have questions about this summons or about the application of the Rules of Procedure, please contact the Inquiry's Commission Counsel at [INSERT EMAIL].

Dated at _____

Signatures

The Commissioners

APPENDIX D

Confidentiality Undertaking for Legal Representatives to Parties, Potential Witnesses and Experts in the National Citizens Inquiry

For the purpose of this Undertaking, the term “document” is intended to have a broad meaning, and includes any and all documents and information in connection with the proceedings of the National Citizens Inquiry (the “Inquiry”), including without limitation, any and all technical, corporate, financial, economic and legal information and documentation, financial projection and budgets, plans, reports, opinions, models, photographs, recordings, personal training materials, memoranda, notes, data, analysis, minutes, briefing materials, submissions, correspondence, records, sound recordings, videotapes, films, charts, graphs, maps, surveys, books of account, social media content, or any other notes or communications in writing, and data and information in electronic form, any data and information recorded or stored by means of any device and any other information pertaining to the Inquiry, irrespective of whether such information or documentation has been identified as confidential, and includes all other material prepared containing or based, in whole or in part, on any information included in the foregoing, including any anticipated evidence statements, witness interview summaries statements or Overview Reports prepared by Commission counsel.

I, _____, undertake to the Commission that any and all documents which are produced to me in connection with the Inquiry’s proceedings will not be used by me for any purpose other than those proceedings, with the exception of any documents which are otherwise publicly available. I further undertake that I will not disclose any such documents to anyone for whom I do not act or who has not been retained as an expert for the purposes of the Inquiry. In respect of anyone for whom I act, or any witness, or any expert retained for the purposes of the Inquiry, I further undertake that I will only disclose such documents upon the individual in question giving the written undertaking annexed as Appendix “C” to these Rules.

I understand that this undertaking has no force or effect with respect to any document which has become part of the public proceedings of the Inquiry, or to the extent that the Commissioners have provided a written release to me from the undertaking with respect to any document. For greater certainty, a document is only part of the Public Hearings once the document is made an exhibit at the Inquiry. In addition, this undertaking and any requests for deletion are limited by any requirement to retain or disclose records and information as may be provided for by law.

With respect to those documents which remain subject to this undertaking at the end of the Inquiry, I undertake to either destroy those documents, and provide a certificate of destruction to the Commission, or to return those documents to the Commission for destruction. I further undertake to collect for destruction such documents from anyone to whom I have disclosed any documents which were produced to me in connection with the Commission’s proceedings.

I understand that a breach of any of the provisions of this Undertaking is a breach of an order made by the Commission, and of the Rules of Practice and Procedure.

_____ Signature

_____ Witness

_____ Date

_____ Date

APPENDIX E

**Confidentiality Undertaking for Represented Parties, Potential Witnesses, and Experts
in the National Citizens Inquiry**

For the purpose of this Undertaking, the term “document” is intended to have a broad meaning, and includes any and all documents and information in connection with the proceedings of the National Citizens Inquiry (the “Inquiry”), including without limitation, any and all technical, corporate, financial, economic and legal information and documentation, financial projection and budgets, plans, reports, opinions, models, photographs, recordings, personal training materials, memoranda, notes, data, analysis, minutes, briefing materials, submissions, correspondence, records, sound recordings, videotapes, films, charts, graphs, maps, surveys, books of account, social media content, or any other notes or communications in writing, and data and information in electronic form, any data and information recorded or stored by means of any device and any other information pertaining to the Inquiry, irrespective of whether such information or documentation has been identified as confidential, and includes all other material prepared containing or based, in whole or in part, on any information included in the foregoing, including any anticipated evidence statements, witness interview summaries statements or Overview Reports prepared by Commission counsel.

I, _____, undertake to the Commission that any and all documents which are produced to me in connection with the Inquiry’s proceedings will not be used by me for any purpose other than those proceedings, with the exception of any documents which are otherwise publicly available. I further undertake that I will not disclose any such documents to anyone.

I understand that this undertaking has no force or effect with respect to any document which has become part of the Public Hearings of the Inquiry, or to the extent that the Commissioners have provided a written release to me from the undertaking with respect to any document. For greater certainty, a document is only part of the Public Hearings once the document is made an exhibit at the Inquiry. In addition, this undertaking and any requests for deletion are limited by any requirement to retain or disclose records and information as may be provided for by law.

With respect to those documents that remain subject to this undertaking at the end of the Inquiry, I further understand that such documents will be collected from me by the person who disclosed them to me: my legal representative, if applicable, or Commission counsel or a person designated by Commission counsel, as the case may be.

I understand that a breach of any of the provisions of this Undertaking is a breach of an order made by the Commission, and of the Rules of Practice and Procedure.

_____ Signature _____ Witness
_____ Date _____ Date

APPENDIX F

Confidentiality Undertaking for Unrepresented Parties, Potential Witnesses, and Experts in the Public Order Emergency Commission

For the purpose of this Undertaking, the term “document” is intended to have a broad meaning, and includes any and all documents and information in connection with the proceedings of the National Citizens Inquiry (the “Inquiry”), including without limitation, any and all technical, corporate, financial, economic and legal information and documentation, financial projection and budgets, plans, reports, opinions, models, photographs, recordings, personal training materials, memoranda, notes, data, analysis, minutes, briefing materials, submissions, correspondence, records, sound recordings, videotapes, films, charts, graphs, maps, surveys, books of account, social media content, or any other notes or communications in writing, and data and information in electronic form, any data and information recorded or stored by means of any device and any other information pertaining to the Inquiry, irrespective of whether such information or documentation has been identified as confidential, and includes all other material prepared containing or based, in whole or in part, on any information included in the foregoing, including any anticipated evidence statements, witness interview summaries statements or Overview Reports prepared by Commission counsel.

I, _____, undertake to the Commission that any and all documents which are produced to me in connection with the Inquiry’s proceedings will not be used by me for any purpose other than those proceedings, with the exception of any documents which are otherwise publicly available. I further undertake that I will not disclose any such documents to anyone.

I understand that this undertaking has no force or effect with respect to any document which has become part of the Public Hearings of the Inquiry, or to the extent that the Commissioners have provided a written release to me from the undertaking with respect to any document. For greater certainty, a document is only part of the Public Hearings once the document is made an exhibit at the Inquiry. In addition, this undertaking and any requests for deletion are limited by any requirement to retain or disclose records and information as may be provided for by law.

With respect to those documents that remain subject to this undertaking at the end of the Inquiry, I further understand that such documents will be collected from me by the person who disclosed them to me: Commission counsel or a person designated by Commission counsel, as the case may be.

I understand that a breach of any of the provisions of this Undertaking is a breach of an order made by the Commission and of the Rules of Practice and Procedure.

_____ Signature _____ Witness

_____ Date _____ Date

Attachment 8

December 15, 2023 Email from David Ross



David Ross

Re: NCI Matters

To: Ches Crosbie, Cc: Ted Kuntz, Dale Andersson

December 15, 2023 at 9:45 AM



[Details](#)



Siri found new contact info David Ross david.ross@canadiancovidcarealliance.org

[add...](#)

Thanks Ted and Ches for your emails. Congratulations Ted on your appointment as Interim Chair, and I hope that your tenure will have a lot less challenges than did mine.

First off, please be assured of my continuing support of NCI so that an orderly and smooth transition can take place as soon as possible.

Secondly, I believe that maintaining my positions as Member of CEC/NCI, Treasurer and Director is essential to ensuring the most orderly, quickest and smoothest of transitions, so in this regard, I respectfully decline to resign any further positions, as I firmly believe all are essential to this end. You may assure the entire SG that I will continue, as I always have, to perform all my responsibilities with integrity and honesty.

Thirdly, to get the transition underway as quickly as possible, and as Chair, Ted, would you kindly provide me with your personal credit card information so that we can have Teresa, Garrett, Josiah and Dale replace my personal credit card information on our many payment files with yours? A "spare" Visa or MasterCard with a limit of at least \$10,000 would likely be sufficient, and of course it should go without saying that I will pay you for NCI expenses as quickly as I have paid myself (well, your/my credit card technically; I always pay off the statement electronically on or before the payment due date so no interest or other needless charges are incurred). On its own, NCI has zero trading accounts, and 100% of our usual expenses are paid by credit card. I believe that ALL of our ordinary operating expenses are currently charged to my credit card. This was by necessity more than design, as when we first started, someone needed to be the financial fiduciary for the organization, and that fell to me as the Treasurer (and Director). I will be of course more than happy to help transition all these things, including, for example, the Infomaniak base for our website and email systems (the price of that Swiss security is very personally demanding upon the main fiduciary for the organization). There are many tentacles in all of these systems, and I can assure you that a disorderly transition is not in anyone's best interests, and at the top of that list is the organization itself. Owing to my credit card billing cycle, please provide your credit card information to me no later than a week from today, that is, Friday Dec 22nd (and earlier would be even better).

Fourthly, and this also is essential to a proper legal transition to a new structure for NCI/CEC by the time our initial Annual General Meeting is required to be held on or about Feb 22, 2024, would you please make it an urgent priority for the SG to confirm the appointment of Andrej Litvinjenko and TAAG Law as NCI's corporate lawyers to guide the needed restructuring? I believe that Andrej and I are the only two in the entire organization who have intimate knowledge of our organization's setup, and currently identified gaps that need urgent attention. This was on our last SG agenda but we didn't get that far.

I think this is all that comes to mind initially, and I look forward to working with you, Andrej and all the rest of the team to make the transition as smooth and seamless as possible. Most sincerely,

Dave

David Ross FCPA FCA
Member, Director & Treasurer

Attachment 9

December 17, 2023 Email from David Ross

From: David Ross <david.ross@canadiancovidcarealliance.org>

Subject: Re: NCI matters

Date: December 17, 2023 at 2:27:41 PM MST

To: ryan@takeactioncanada.ca, Ted Kuntz <tedjkuntz@gmail.com>

Hi again gentlemen. Just thinking further about this, and especially Ryan's latest email. To be clear, I am NOT ok with my financial and personal identity remaining in place in any way, shape or form for NCI operations if I am not in operating management (which I am now already not in operating management). So, I think that Ted needs his own Infomaniak account so that mine can be closed (by you Ryan; I didn't have the technical smarts to open it, and I haven't gained them to close it!). Ryan, we would need you to supervise and execute all this so that nothing goes awry on transfer. Thanks both for your anticipated cooperation in this; my best to you both,

Dave

On Sun, 17 Dec 2023 at 17:07, David Ross <david.ross@canadiancovidcarealliance.org> wrote:

Thanks Ryan for your email.

Ryan, do you have any idea whether an Infomaniak account can be "transferred" from one person to another? My understanding was that establishing the Infomaniak account is predicated upon a person's identity and corresponding financial identity. If that is the case, then it would be better if Ted opened his own Infomaniak account, and then everything NCI transferred from my account to his. Then my Infomaniak account could be closed (it is used only for NCI), and this would result in a clean transfer, which would be necessary, as it would be inappropriate for me to still be on an NCI account.

Back over to you on this for your further comments. Best all,

Dave