

Calling Off the Rescue: Now Recovery (9:30 a.m. to 7:30 p.m. on June 25)

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The morning of June 25 brought with it increased concern for the safety of the workers in the “hot zone.” The building showed ominous signs of potentially imminent collapse. This led to a series of decisions which, by mid-afternoon, resulted in the rescue being called off. In this chapter, I explain how those decisions were made and highlight some things that could have been done differently. I note, in particular, that if more attention had been paid to planning the emergency response, the decision to abandon the rescue might not have been made so quickly, and might have been a decision to merely retreat, regroup, and reassess.

9:30 a.m.: Devices are made to measure the movement of the structure

James Cranford, engineer with HUSAR/TF3, testified that, when he returned to the site at about 9:30 a.m. on June 25, he spoke to Capt. Tony Comella, the team leader, who wanted him to determine, as they had discussed the previous evening, how much stress was on the beams supporting the escalator and whether they could be shored from below. Capt. Comella asked if it would be useful to know if the building was moving. Mr. Cranford agreed and thought it would be ideal if any movement could be confirmed by some sort of measurement device. They did not have a more detailed discussion, and Mr. Cranford gave no specific advice about how to construct a measuring device. He did tell Capt. Comella that it would be helpful to know if the top of the escalator was moving.¹

Capt. Comella arranged for measuring devices to be made. One device consisted of simple blocks of wood, one resting on the floor tile immediately next to the top of the escalator and the other resting on the steel plate at the top of the escalator. They were built flush with each other. If there was movement, it would be shown by a height differential between the pieces of wood. The blocks were not glued or attached to the floor or the plate.² The other device was installed on the ground floor, on the south side of the escalator (the opposite side from the rubble pile). It consisted of two posts, one extending from the ground up and the other extending down from the beam supporting the escalator. The two posts came in contact with each other, and a board behind them had lines marked in one-inch increments. If the beam moved vertically, the relative positions of the two posts changed.³

Although Mr. Cranford had advised Capt. Comella that it would be useful to install a measuring device, his examination of the device at the top of the stairs (the only device he testified he knew of) was from a distance of 50 or 60 feet. He did not know whether the blocks of wood had been flush when it was installed, and so he could not tell if the device showed any movement between the time of installation and his later observation.⁴

He recalled being asked about the effect of movement on the structure, and that he had advised that movement, in general, was a warning sign. If there was ongoing movement, it was an especially strong warning sign. By the morning of June 25, no additional loads were being applied to the structure, so any movement was caused by the existing load and meant that the steel within the structure had exceeded its capacity and started to fail. The deflection, or movement, of the beam was a warning sign. At some point the steel would fail and, depending on where the failure occurred, it could be catastrophic and sudden. He testified that it was impossible to predict when the failure would occur. He recalled giving this advice, but not to whom he gave it, other than to say that he did not recall speaking to Roger Jeffreys, provincial engineer with the Ministry of Labour (MOL).⁵

By the morning of June 25, no additional loads were being applied to the structure, so any movement was caused by the existing load and meant that the steel within the structure had exceeded its capacity and started to fail.

10 a.m.: Workers are ordered off site until engineering assessment complete

At 10 a.m., Sgt. Jamie Gillespie of the OPP UCRT (Urban Search and Rescue and Chemical, Biological, Radiological, Nuclear and Explosive Response Team) met with Capt. Comella and Cmdr. Michael McCallion, site commander, HUSAR/TF3, after the UCRT and HUSAR/TF3 members had left the rubble pile. Capt. Comella and Cmdr. McCallion told him that they would not allow any workers to return to the rubble pile until an engineering assessment had been done of the continued movement of the building and its effect on the workers' safety. Sgt. Gillespie's notes state: "I told them that will not leave unless they promised me to put full day resources at gaining access to viable person. Promise of this given by both Comella and McCallion." He testified that this reflected

utter defeat. We had come very close to successfully accessing the person and we had to stop, and it was very hard to deal with. So, I basically just asked them to make sure they put everything they had towards getting to that person.⁶

Sgt. Gillespie testified that this decision was imposed on him by Capt. Comella and Cmdr. McCallion. He was emotional about the decision and told his men at the briefing at 5 p.m. that day that he had heatedly objected to it. He testified that it was a hard decision because he was caught between wanting to get to the trapped person as quickly as possible and weighing that against the danger to the team.⁷

Cmdr. McCallion recalled this discussion and had recorded it in his notebook, at 10:30 a.m., which he testified was the time he had written it:

Call from Comella to see him with OPPTL [OPP team leader] on 3rd floor roof. Met and advised the escalator section is moving away from the building ... Concerns the instability of the site is increasing. Comella to meet with MOL/HUSAR engineer to discuss. Measurements to be obtained.⁸

Cmdr. McCallion believed that Capt. Comella had called the work stoppage because of what he suspected was happening to the building. He also recalled that Sgt. Gillespie wanted assurances that the operation was going to be continued. At that time, no device had been installed to measure the movement of the beam supporting the escalator and the concrete piled on top of it.⁹

Don Sorel of HUSAR/TF3 testified that he and the other riggers were pulled out between 9 and 10 a.m. on orders from Cmdr. McCallion and the rigging operations came to a halt. He did not understand that operations were stopped at that time – he thought that "they wanted to have a second look and we needed a rest." He recalled that, when he received these orders, it was as part of a conversation involving him, Cmdr. McCallion, Sgt. Gillespie, OPP Cst. Patrick Waddick, and OPP Cst. Ryan Cox. The OPP personnel were lobbying to stay longer.¹⁰

10:45 a.m. – 11 a.m.: Staff Insp. William Neadles and Community Control Group are advised of work stoppage

Cmdr. McCallion testified that he called Staff Insp. William Neadles, site commander. He was asked if Staff Insp. Neadles had said, in response, "Pull the guys out." He did not recall receiving those instructions. His notes record the following at 10:45 a.m., immediately after the discussion between him, Capt. Comella, and Sgt. Gillespie:

B. Neadles advised of situation. Possibility of having to stop OPS [operations] if instability increases.¹¹

This evidence is consistent with that of Elliot Lake Fire Chief Paul Officer, who had made an entry in his notes compiled after the event, that at approximately 10:55 a.m. “HUSAR IC updated on rescue, advises the escalator still shifting.”¹² This note does not appear in the notes made by his scribe, Natalie Quinn, so the timing is not precise. Chief Officer testified that this note referred to a conversation he had with Staff Insp. Neadles before the Community Control Group (CCG) meeting to discuss the press conference. When specifically asked, he could not recall whether he was told at that time, or at the CCG shortly after, that personnel had been pulled out.¹³

Staff Insp. Neadles testified that he spoke to Cmdr. McCallion while he was on his way to a meeting of the CCG to prepare for the scheduled noon press conference. He recalled that Cmdr. McCallion told him that they had seen some minor movement. He initially testified that he had not been told that operations had in fact stopped. He was then shown the notes taken during the CCG meeting which started at 11:06 a.m. and recorded:

HUSR [*sic*] – Pulled person[n]el out – need to reassess – escalator unstable – to support escalator estimate 2 days – can not work ar[d] [around] Escalator – to go in the north end – based on still on rescue due to sonar hit this am.¹⁴

Staff Insp. Neadles then recalled he had relayed to the CCG what Cmdr. McCallion had told him (and not information obtained from another source after he spoke with Cmdr. McCallion), but he could not recall if he had been told that some people had actually been removed from the site.¹⁵

Clearly the group had been told that some personnel had been pulled out, that it was unsafe to work around the escalator, and that the operation was still being seen as a rescue as a result of the positive LifeLocator signal received at 5:30 a.m. that day. The evidence of Sgt. Gillespie and Cmdr. McCallion confirms that a work stoppage had been ordered. I conclude that this information was passed to Staff Insp. Neadles by Cmdr. McCallion in the 10:45 a.m. phone call.

10:54 a.m.: Dr. Michael Feldman advises HUSAR/TF3 leadership they cannot assume any trapped victims have died until 27 more hours have passed

At 10:54 a.m., Dr. Michael Feldman, the HUSAR/TF3 team doctor, sent an email to Capt. Comella and Cmdr. McCallion, asking them to share it with Staff Insp. Neadles, whose email address he did not have:

A rule of thumb is that a trapped person can survive 3 days without water. However, a resourceful, uninjured person trapped with some supplies (e.g. a food court) can survive much longer.

I doubt anyone in that rubble is uninjured, and although the puddles indicate there may be access to rainwater/spilled water/drinks present in the food court. Also, I am advised by the local emergency physician that one of the people suspected by local medical authorities to be in the collapse is diabetic and is less likely to survive due to dehydration.

If there are no more Delsar indications/sounds/signs of life detected 72 hours after the collapse (tomorrow afternoon), it will be acceptable medically to consider this a body recovery operation after that point.

...

Any communication with the public or media should **acknowledge there are rare exceptions (“miracles”)** to the 3 day rule of thumb and that we remain prepared to find and treat patients.

Hope this helps with planning.¹⁶ [Emphasis in original.]

Dr. Feldman testified that this opinion was based on his knowledge as an emergency room physician, his training at the disaster medical specialist course, his reading of some of the literature about the kinds of things that one may encounter, and his inspection of the rubble pile. He sent it in order to provide information he thought the team might need for planning. He had not been asked by anybody to provide such an opinion.¹⁷

The reference in the email to “Delsar indications” referred to a device consisting of microphones and amplification equipment that he understood the HUSAR/TF3 team would be using to listen for sounds of life. He was aware at the time he sent the email that the team was using listening devices and that they believed they had heard sounds from the rubble pile.¹⁸

Cmdr. McCallion testified that he sent this email to Staff Insp. Needles on June 25, but, although they did discuss the likelihood of anyone being alive, they did not have discussions “specific to the email.” Cmdr. McCallion is a paramedic. He testified that he thought the chances of someone surviving were very remote, based on the evidence of the structural collapse, the state of the pile, the compacting of the different slabs, and his own medical opinion.¹⁹ I note that Dr. Feldman had seen the site and the state of the pile as well.²⁰

Staff Insp. Needles testified that he received Dr. Feldman’s email sometime later on June 25. He also testified that he had a face-to-face conversation with Dr. Feldman on Sunday afternoon or Monday morning in the tent, during which the doctor told him that he did not believe that there was anyone alive. He testified:

he [Dr. Feldman] didn’t believe that there was much viability going forward of any of the victims surviving ...

...

He really felt that there was no chance of anyone surviving that, and that even if they had survived the initial, that if they were crushed under that rubble, that even once you pulled the rubble off, it would be a very slim chance of survival after that even then.²¹

Staff Insp. Needles was asked if it was safe to assume that, prior to the rescue being called off, he would have read Dr. Feldman’s email. He replied, “Whether I would have read the entire thing, I would like to think I did, but I can’t guarantee that I did.” It was his evidence that he did not speak to Dr. Feldman to tell him about the LifeLocator soundings, and he did not know if anyone else had done so. He also testified that:

I knew in my head that this was going to be a very difficult situation for anyone to survive, but my heart was telling me that I still need to go forward with continuing this and not just saying this is – I have no medical proof. I have no medical background other than to go with what the doctor has told me [that there was no chance of anyone surviving] and – but I’m still moving forward to say that I do believe that there was a viable sign of life at 04:00, and that is the last I can go from that.²²

Dr. Feldman’s evidence contradicted Staff Insp. Needles. He testified that he was not asked for, and did not give any other advice, about what chances there were of a survivor. When advised of Staff Insp. Needles’s evidence that he had told him that he did not believe that there was much likelihood going forward of any of the victims surviving and no real chance of anyone having survived the collapse, Dr. Feldman testified that he did not recall any such conversation. He did recall conversations in the command tent when Staff Insp. Needles was present when he spoke with paramedics about how to be prepared for life-threatening complications, but that such complications were to be expected and they were preparing to treat them if encountered.²³

Dr. Feldman also gave evidence about “crush syndrome,” which describes the condition sometimes caused when parts of the body are crushed after a structural collapse, causing muscle breakdown and the release of potentially toxic muscle cell components and electrolytes into the circulatory system. It can cause local tissue injury, organ dysfunction, and metabolic abnormalities. Experience with earthquakes that caused major structural damage has shown that the incidence of crush syndrome is 2 to 15 percent, with approximately 50 percent of those with the syndrome developing acute renal (kidney) failure. When a part of the body that has been crushed is released, the formerly trapped person may go into shock, potentially causing lethal cardiac arrhythmias and the release of toxins leading to kidney failure.²⁴

Dr. Feldman testified that he had studied this syndrome and it was part of his training when working with HUSAR/TF3. It is treatable. It can be detected by cardiac monitoring of those rescued, and treated by injecting sodium bicarbonate and dextrose and administering fluids intravenously that contain saline and sodium bicarbonate. Dr. Feldman instructed the paramedics on the team about how to mix an infusion for this treatment and how to monitor the patients for arrhythmias. This was information he expected to be part of the general understanding of a medical technician trained for a response to structural collapse.²⁵

Dr. Feldman was told that Staff Insp. Neadles had testified that he had told him that even if someone had survived under the rubble, once the pressure was released and the rubble was pulled off, there would be a very slim chance of survival. Dr. Feldman testified that he did not believe he would have said that. He said he would have made the paramedics aware, and probably Staff Insp. Neadles as well, that there are life-threatening complications to removing a heavy weight off a patient who has been crushed and that they were anticipating and preparing to treat that. He would not, he said, have estimated the probability of survival after removing a piece of concrete. That requires an individual assessment of the patient, based on their vital signs and clinical state. It was a risk that he was expected – and prepared – to deal with.²⁶

I accept Dr. Feldman’s evidence. He sent the email Monday morning containing his opinion that it would not be acceptable medically to consider the operation a recovery rather than a rescue until Tuesday afternoon. That clearly was his opinion at the time. If he had earlier given contradictory information to Staff Insp. Neadles, I expect that he would have said so. His opinion as to the appropriate treatment is consistent with the publication from the United States Centers for Disease Control, a recognized authority on public health issues, identified as such by Dr. Feldman, and well known to all. Staff Insp. Neadles told the CCG meeting at 8:30 a.m., and (as described below) the noon press conference, that the rescuers had positive signs of life from the LifeLocator device, and Dr. Feldman did not suggest that there was any reason to doubt the accuracy of those signs. I conclude that Dr. Feldman did not tell Staff Insp. Neadles, at any time, that any persons trapped in the rubble were probably dead by Monday. Nor did he tell him that, even if a victim had survived, there would be only a slim chance of survival after he or she was released from the rubble. The information available to Staff Insp. Neadles on June 25 was that he could not safely assume that Ms. Aylwin, the woman trapped under the rubble at the site of the signs of life, was dead.

Dr. Feldman sent the email Monday morning containing his opinion that it would not be acceptable medically to consider the operation a recovery rather than a rescue until Tuesday afternoon.

Noon: The device shows movement, and Capt. Comella decides to have rescuers removed from the site without waiting for Mr. Cranford's engineering assessment

Capt. Martin McRae testified that he had not detected any movement while carrying out approximately hourly inspections of both the measuring devices at the top of the escalator and the one on the ground floor. He observed the upper level device from outside the penthouse on the roof, at a distance of 50 or 60 feet, and consequently could not get a close view of it. He was able to get quite close to the ground floor device. His notes, recorded in the HUSAR/TF3 compilation of notes, indicate that he checked the upper device at 11:45 a.m. and there was no movement. The notes also indicate that he measured the upper device at 1:06 p.m. and 2:20 p.m., and the lower device at 12:47 p.m. and 2:09 p.m., and no movement was shown.²⁷

At approximately noon, before Mr. Cranford had completed his calculation of the load being supported by the beam, Capt. Comella testified, with his memory assisted by his notes, that he inspected the upper-level device from inside the elevator lobby (much closer than Capt. McRae) and noticed that it had moved approximately 2 millimetres. After checking with Capt. McRae, he was told that the movement had occurred in the last 20 minutes. His note indicated that he had inspected it with an engineer.²⁸

Mr. Jeffreys recalled inspecting it just before lunch, and testified that he had done so with Capt. Comella and Mr. Cranford. (Mr. Cranford testified that he did not inspect the measuring device.²⁹) Mr. Jeffreys's recollection

was that it had moved more than 2 millimetres – probably about $\frac{1}{2}$ to $\frac{3}{4}$ of an inch. He took a photograph of the device at that time from a distance of about 5 or 6 feet, and it showed a differential of somewhere between a quarter and a third of the edge of a two-by-four, which is $1\frac{1}{2}$ inches thick. He had been told that the blocks were flush when the device was first set up. The photograph can be seen at figure 2.5.1. Mr. Jeffreys also testified that he told Capt. Comella at the time, and Mr. Cranford subsequently, that it was very significant and indicative of a potential collapse of the area.³⁰

I have reviewed the evidence of Mr. Jeffreys and the photograph he took, in an attempt to reconcile the difference between his evidence that the block had moved $\frac{1}{2}$ to $\frac{3}{4}$ of an inch, Capt. Comella's evidence that it had moved 2 millimetres, and Capt. McRae's evidence that it had not moved at

all. Capt. McRae observed the blocks from a distance, and a small movement may have been difficult to discern. Mr. Jeffreys's evidence was, to a large extent, affected by the photograph he had taken. That photograph clearly shows a differential in height between the two blocks which, from Capt. McRae's evidence, were flush when the device was first constructed. The size of the blocks, however, and therefore the amount of the height differential, is difficult to determine. Capt. Comella's evidence was based on a note which was not contemporaneous. His conclusion that the movement had occurred in the previous 20 minutes was based on Capt. McRae advising him that, when he had inspected the device, he had detected no movement. Since Capt. McRae never detected



Figure 2.5.1 Measuring device at top of stairs

Source Exhibit 6226

any movement, even over the next two hours, his failure to notice movement 20 minutes before cannot be the basis of a conclusion that the movement had happened in that period of time. All I can safely conclude is that there was a height differential between the two blocks which indicated to both Capt. Comella and Mr. Jeffreys at noon that the escalator structure had moved. That caused Mr. Jeffreys to advise Capt. Comella that the structure was very unsafe.

At 12:05 p.m., as recorded in the HUSAR/TF3 notes, Capt. Comella asked Capt. McRae and Capt. Chuck Guy to have all the rescuers leave the rubble pile while he had the engineers determine, based on the movement, the extent of the stress on the escalator. This decision was made before he had any calculations from Mr. Cranford. He testified that his primary concern was about a possible secondary collapse of the whole building – as he put it, “Certainly we had rescuers in harm’s way but we would have leveled a lot more – we would have created a lot more damage if the building had catastrophically failed with us in it ...” He confirmed that he had no input from engineers before making this decision.³¹

Capt. Comella testified that, after he ordered the workers to leave the pile, he spoke with Cmdr. McCallion and told him they had to think of the mission as either a rescue or a recovery. His evidence was that, if they were going to continue it as a rescue, they would have to bring in some heavier equipment to remove the “obstacle” of the escalator. But if it was going to be a recovery, the local demolition crews would be able to do the work. He testified that the “heavier equipment” he was thinking of was the Priestly demolition equipment, which would be ordered later that evening after Premier Dalton McGuinty spoke to Staff Insp. Neadles and others, but that he did not mention that name to Cmdr. McCallion.³² Both Cmdr. McCallion and Staff Insp. Neadles denied having received any such suggestion.³³ I have difficulty accepting Capt. Comella’s evidence on this point. Had such a suggestion been made, I would have expected some reference to it in the evidence of some other witness.

12:05 p.m.: Press conference – public advised that the situation is dangerous, but still signs of life and new approach being taken

A press conference was held at 12:05 p.m., the precise time at which Capt. Comella ordered all rescuers to leave the rubble pile. The transcript shows that Staff Insp. Neadles told the public and press:

The Toronto Heavy Urban Search-and-Rescue team assisted by the OPP and the Elliot Lake fire service has been diligently working through the night. Since our last night, we managed to, with the assistance of the large crane operators, remove the damaged I-beam that had collapsed within the structure ... This morning around 4 o’clock, the OPP utilized a piece of equipment that they have to again determine that there was signs of life from the one same location that we had indicated yesterday. And again, we’re still diligently working as fast as we can towards that person. Unfortunately, we’ve probably had a setback in that the structure, after some of the weight has been removed from some of the other parts that had fallen and a beam had been removed, is still shifting and is still unstable. It has become more unstable for us. The escalator inside is now shifting and we’ve had to remove our crews to reassess our entry point. That’s not to say we have stopped working. We have now gone back to the other avenue from the north to now come back from that entrance to now start shoring and putting up weight posts and supporting the roof above to keep moving toward that void where that person was located this morning. So we’re still working that way. We will not be able to use the crane as much as we did because that area that they were lifting and removing large slabs from is now a no-go situation for us to be there. We’re still scared of it. It even has the potential of falling down. We put on some technical equipment to try and assess how much movement there is in that a [sic] of the building. But it is still very unstable and

very unsafe and we have to be very careful with every move that we make within that structure. We are still moving forward. That rescue. Now, to give you a time frame, I just can't do that because now we're reassessing the whole operation and moving forward in what was now a different direction. And so we don't have a time frame on when we might be able to make contact with anybody there.

...

Q. You said that there were signs of life this morning. What signs of life?

... [Staff Insp. Needles]: Well, the piece of equipment that the OPP has is called a life detector – and it has the capability to – it is sort of x-ray machine that can look through the concrete slabs and can determine on the machine whether there is someone breathing within that structure or within that void. And they did come up with that positive sign again.

...

Q. ... Are there any confirmations of fatalities at this point (inaudible)? Were there any other?

... [Staff Insp. Needles]: There was one other fatality within the structure that we confirmed.

Q. Is there any identification at this point?

... [Staff Insp. Needles]: No, at this point, there is only the sighting of the arm and the leg. We have no other signs. We have not gone anywhere near that victim at this time as we are focusing on the rescue of the other one first.

...

Q. My question is about the individual who at 4 a.m. was once again – there were signs of life shown. Can you clarify if that is the same person or came from the same area from the tapping? And follow-up, is that the person who is believed to be trapped under the car? Again, is it the tapping person? ...

... [Staff Insp. Needles]: The answer to the question is "yes." That's the same person. That's the only person we've actually had contact with, on the site. So it would be the same person who was tapping. The same person who has been, there has been hits by our search dogs. That is the only person we've had contact with.³⁴

Staff Insp. Needles testified that, when he made these statements, the shifting of the building had required the operations around the escalator to stop. The plan had moved from a crane operation to remove the debris to a shoring operation along the perimeter of the collapse zone. At some point in time they would have to determine how to move from the perimeter of the pile to the area where the victim was located. And nobody knew how that would be done.³⁵

Staff Insp. Needles could not recall who provided him with the information about the OPP's use of the LifeLocator device, although he testified that it was not someone from the OPP. He candidly testified that "I'm not aware of anything in relation to that LifeLocator."³⁶ He did not take any steps to question the validity of the results, nor did he instruct anyone on his team to confirm their validity.³⁷

Cmdr. McCallion testified that he provided Staff Insp. Needles with the results of the LifeLocator device that he reported at the press conference. Cmdr. McCallion received news of the device's results from Capt. Comella, who advised him that the machine had given an indication of breathing that would have placed the victim below the surface of the floor. This apparent impossibility was explained to Cmdr. McCallion as being a result of the device's margin of error. He did not make any inquiries to verify the accuracy of the result or to question the explanation relating to the margin of error.³⁸ Like Staff Insp. Needles, he also candidly admitted: "I'm not familiar at all with this LifeLocator device."³⁹

In light of Staff Insp. Needles's admitted ignorance of the LifeLocator device as well as the identity of the person who provided him with the results, I have serious reservations about the wisdom of the decision to have reported – unequivocally and without qualification – the readings at the press conference. This had the effect of raising the hopes of the community and the victims' family members, perhaps without any real basis. In his testimony, Chief Officer aptly articulated the detrimental impact of the release of such information:

- Q. Right. What I am asking you is did you have any misgivings about the accuracy of the results of the LifeLocator?
- A. Only the fact that it was new and it was one, one piece. I don't know enough about the equipment to determine how accurate it is, and this is back to exactly what do you release and don't release. In hindsight, I would say no, we probably should not have communicated that.
- Q. And if you say we shouldn't have released it, why is that?
- A. Because the accuracy of it. Somewhere through I will say the TF-3 I got a little bit of impression that the confidence level wasn't really high on it, and I don't know if that was on the equipment or on different conflicting information that they might be receiving. But I don't have enough detail to answer that solid for you.
- Q. But this is information that was given to you prior to –
- A. Yes.
- Q. – the press conference?
- A. So you take it for what it is, and that is why it is there.
- Q. And I gather the misgivings would be based on the fact that you don't want to, without good reason, raise people's hopes?
- A. Absolutely. I mean, and that is the problem. It gets very difficult to – and especially in my case, I'm not an expert on these equipment, so you can only go with what comes to you. Mr. Needles would have a better understanding of it, but I'm sure the operators of that equipment when it comes to you take that information for what it is ...⁴⁰

Early afternoon: Decision is made to cease all operations

1:30 p.m.: Mr. Cranford determines a beam is significantly overloaded and can, with significant problems, be partially supported by wood shores

At approximately 10 a.m., Mr. Cranford began to calculate the load that was being supported by the beam under the escalator. He proceeded on the assumption that the beam was also supporting the hollow core slabs from the parking deck and the second floor of the Mall, together with the topping on the slabs, and any other material, such as furniture and signs, that had been on the slabs before the collapse. He assumed that each of these materials would have a standard weight, using ordinary design assumptions. He then calculated the amount of force on the beam in kilonewtons per metre.* Since the escalator was on an angle, the weight which was sitting on it produced a force both vertically (downwards) and horizontally (north, toward the rubble pile and collapse zone) which would both have to be resisted by the beam. Mr. Cranford calculated that there was a downward force of 110 kilonewtons per metre and a horizontal force of 94 kilonewtons per metre acting on the beam.⁴¹

.....

* A kilonewton is a measure of force.

Mr. Cranford was able to calculate the amount of the load using standard design assumptions, paper and pencil, and a calculator which he purchased from the drugstore across the street from the Mall. He was not asked to bring a computer (or anything else) with him when he was called out. As a result, he was not able to determine the ability of the beam to support the load. Had he had a computer with the appropriate software loaded into it, he could have made this calculation himself, and it would have been easier and quicker. Instead, he had to telephone the information to colleagues at his firm who, despite being very experienced in using the necessary software, had not witnessed the specific situation and had to have it explained.⁴²

Mr. Cranford sent his initial calculations of the force being supported by the beam to his office at approximately 11:30 a.m. He received results at approximately 12:30 p.m., made some revisions and sent them back to the office at 1:15 p.m., and received the updated results at 1:30 p.m.⁴³ He was told that the beam was supporting 4.28 times the load it would theoretically be able to carry. He testified that a simple analogy would be that, if the beam was originally designed to hold 100 pounds, it was now supporting 428 pounds. The analogy is not quite correct because there were different types of forces involved – horizontal, vertical, shears, bending moment – all of which contribute in different ways. But one conclusion was apparent: If it failed as a result of these forces, the result would be catastrophic.⁴⁴

To determine if shoring was a feasible option, Mr. Cranford then calculated what shoring would be required to prevent failure. Two options for shoring material were available on site: 6-inch square wooden posts; and hollow structural section steel posts, both 5 inches square and 4 inches square, each with a ¼-inch-thick steel.⁴⁵ His initial calculation was made assuming that 6-inch square wooden posts would be used, since that was the preferred material used by HUSAR/TF3. He determined that, in order to provide enough support to the escalator, he would need to use 11 posts on each side of the escalator. While it was theoretically possible to have placed those posts in that space, they would have occupied almost the entire width of the hall on each side – with room for only 4 or 5 inches between each post.⁴⁶

Before 2 p.m.: Staff Insp. Neadles orders that all responders be withdrawn from the building

It is clear that before 2 p.m. on June 25 a decision was made that all responders should leave the building and operations stop. The evidence of how and when that occurred, and who was consulted or took part in the decision, is contradictory.

Staff Insp. Neadles's evidence: his decision, based on meeting with Cmdr. McCallion, Capt. Comella, Mr. Cranford, and Mr. Jeffreys

Staff Insp. Neadles testified that Cmdr. McCallion called him shortly after the noon press conference and asked him to come back to the site. Cmdr. McCallion told him that Capt. Comella had advised him that the measuring device had shown that the building had moved and that it was now unsafe for the teams to be inside. Staff Insp. Neadles testified that he then returned to the command tent and spoke initially to Cmdr. McCallion, and then to Capt. Comella, Mr. Cranford, and Mr. Jeffreys, who he described as the "engineering brain trust that had been working collectively over the last several hours." This conversation, which he said was "concentrated [and] very focused," took place in the command tent. He testified that he was certain that Mr. Cranford was there, and that the last thing he recalled him saying was that he had to "get back in touch with Toronto to confirm his numbers." He did not believe that Chief Officer was present.⁴⁷

Staff Insp. Neadles testified that Capt. Comella started the conversation in the meeting in the command tent by saying that the mechanism he had put in place had shifted significantly and, based on what the engineers had said, the escalator with the concrete on top was overstressed and subject to failure (“the number at that point in time that I recall was just over 100-and-some-per cent stressed”), with the risk of collapse being almost imminent. The recommendation to him was that they remove all the workers from the building. Capt. Comella was the spokesperson:

[He] was making his point very well and succinct to me that it was – it had moved, and drastically, significantly, I’m not sure of the term, but it was now in a position that it was at risk of falling, not only falling down but moving, falling, which was more significant for us was falling forward. He put it in that downward, forward motion.⁴⁸

Staff Insp. Neadles asked the engineers if they agreed and they all said yes. This was a short conversation, maybe two to three minutes from start to finish.⁴⁹ Staff Insp. Neadles testified:

With the recommendation that came from Tony [Comella] and the information I had received from Mike [McCallion], I then made the decision that the building was an unsafe work zone for our members to be conducting our operation and then ordered that all members be withdrawn from the building. They had already been pulled out, but then I went one step further to say that we will not be at this point in time going back in.⁵⁰

As I describe below, Staff Insp. Neadles sent an email to Carol-Lynn Chambers, manager, Emergency Planning, Office of the Fire Marshal, asking her to call him as soon as possible for an update. He testified that he sent this email approximately 30 minutes after making the decision to withdraw all members from the building. During this time, he was involved in conversations with Cmdr. McCallion and others, and Capt. Comella and the group “went off and somewhere else.” If his memory is correct, he made the decision at approximately 1:30 p.m. It was certainly made before 2 p.m.⁵¹

Staff Insp. Neadles testified that, when he made the decision, he “had no further indication from Comella or the engineers that there was a viable option at that point.”⁵² He described the decision he made as being to suspend the rescue, and not stop it, because “I did not have the understanding of how to go forward from there. But we weren’t giving up hope of how we were going to do that.”⁵³

Fire Chief Paul Officer’s evidence: decision made by unified command at a meeting with Staff Insp. Neadles, Cmdr. McCallion, Capt. Comella, Mr. Jeffreys, and Bob Thorpe; MOL to order site closed

Chief Officer gave different evidence. His scribe made the following notes on June 25:

1328 hrs – HUSAR [sic] Bill informed confirmed scene movement & scene completely unsafe ppl ordered off scene
1329 hrs back to scene
1332 hrs chief joined a consult group w[ith] unified command⁵⁴

His own notes, compiled some days after the event with the assistance of the scribe’s notes and his review of the recordings of audio transmissions by the firefighters, state:

Approx 13:28 HUSAR Bill informs Fire Chief that the building has significant movement. The scene is completely unsafe and all personal [sic] are ordered out of hot zone.

Approx. 13:33 Command meeting to discuss building movement. Fire Chief, HUSAR IC and command staff, MOL, OFM staff.⁵⁵

Chief Officer testified that the notation at 1:28 p.m. (1328 hrs) was when he got the “quick version.”⁵⁶ In his evidence, Staff Insp. Needles testified that the personnel were ordered out of more than just the “hot zone” – they were required to leave the building completely.⁵⁷ Chief Officer testified that after he had received this information, he went to the command meeting at 1:33 p.m., together with Staff Insp. Needles, Cmdr. McCallion, Capt. Comella, someone from the MOL (“I think it was Roger Jeffreys, if I remember correctly”), and an individual, probably Robert Thorpe, from the Office of the Fire Marshal. He testified:

This was follow-up from the movement being monitored. The engineers were involved. The Ministry of Labour engineer was involved. The building was continually shifting, and when I say “the building”, the escalator, the escalator stairs. There is two escalators on the top floor and one below and a staircase on the – as well in there. It was continuing to move. They were monitoring it. The engineers determined that the beam that was supporting that escalator was, I can’t remember exactly, I think they said 300 per cent overcapacity. They had no idea of why it was still standing.

I was advised that the MOL, Ministry of Labour, Mr. Jeffreys was so concerned that they would place an order on to not permit people to enter the building.

...

So the engineers and through Bill they explained the situation. It was overcapacity. When it did come down, it would come down and it would be I think they used the word “catastrophic” and there would be absolutely no warning. ... when the engineers came to Bill Needles in charge of the rescue sector, he took that advice and determined that he would have to pull the crews.

That information comes to me, and you don’t have a whole lot of choice in this matter and I had to follow in line with that.⁵⁸

Staff Insp. Needles could not recall such a meeting. When he was shown the notes of Chief Officer and his scribe, he testified that they may have been referring to what they heard when they were in the vicinity of his conversation with Capt. Comella and the two engineers. He then testified that they may have been referring to something that happened after that conversation, when he had “many conversations with many people.” He also said that he may have had such a meeting between 1:33 p.m. and 1:50 p.m., which is the time when Mr. Thorpe indicated in a later email (described below) that the decision was made to terminate the rescue.⁵⁹

Mr. Jeffreys’s and MOL witnesses’ evidence: no such meeting, no such order

The Ministry of Labour witnesses were unanimous in denying they were present at such a meeting or issuing such an order. Mr. Jeffreys testified: “I could categorically tell you that I was never at a command meeting. Any meeting that I attended, I documented.”⁶⁰ He recalled meeting with Mr. Cranford at 2 p.m. in the tent together with Brian Sanders, the engineer employed by the ministry. He testified that Mr. Cranford had his Toronto office run some calculations, and that the load being supported was 428 percent of the design load,* so he was extremely concerned. Mr. Jeffreys did not believe that Capt. Comella was there at the beginning of the discussion, but he joined them at some point and they spoke to him about the issue. Mr. Jeffreys testified that it was his opinion at the time that the building would fail, although he could not say when the failure would occur. He said:

I told Mr. Comella that I don’t understand why, at this point, it hasn’t failed and that the area around the structure at that point in time was – posed an extreme risk. That was my words to him “extreme risk.”⁶¹

.....

* Mr. Jeffreys explained the difference between a member’s “design load” and “capacity.” Some witnesses testified that they had been told that the beam was just over 100 percent over capacity, and others that it was at 428 percent of its design load. A structure is typically designed to support a load which is only one half of its actual capacity, to build in a “safety factor.” A beam which could support 200 pounds is therefore designed to support 100 pounds – which is its “design load.” If it is supporting 400 pounds, it can be described as supporting 400 percent of its design load. Since its actual capacity is twice its design load, that beam is described as having a capacity to support 200 pounds. If it is supporting 400 pounds, it is supporting twice its capacity, or 100 percent in excess of its capacity.

Mr. Jeffreys testified that, although he had told Capt. Comella that this was an extremely high-risk area, he had never told him that it or any area was too dangerous to enter. Nor had he or, to his knowledge, anyone from the MOL, ordered or recommended on June 25 that work stop in any area. He did not tell anyone that steel posts would not safely shore up the beam under the escalator. Nor did he know that workers had pulled out of the area at that time.⁶²

Mr. Sanders, the MOL engineer who had come to the Mall to assist in the investigation of possible offences under the *Occupational Health and Safety Act*, testified that Mr. Jeffreys asked him to speak with Mr. Cranford. Only the three of them were present during the discussion. Mr. Cranford told them that the beam supporting the escalator was 428 percent stressed, and the ones parallel to it were 137 percent stressed. He understood that to mean that they would ultimately fail. He testified that he was certain that this discussion took place just before 2 p.m. because, immediately after, he was told to go over to the beam that had been cut down the previous night and was being photographed by the OPP identification officer. He had the officer stop photographing the beam so he could look at his camera to see the pictures that had already been taken, and subsequently noticed that there were no photographs (which were time-stamped) of the beam taken between 2 p.m. and 2:08 p.m., which must have been while he was reviewing the first set of pictures.⁶³ This evidence is inconsistent with Mr. Cranford having been the “MOL engineer” present at a command meeting at 1:33 p.m.

Mr. Cranford told them that the beam supporting the escalator was 428 percent stressed, and the ones parallel to it were 137 percent stressed. He understood that to mean that they would ultimately fail.

Donald Jones, the MOL inspector, testified that he never attended a meeting in the command tent. He never issued a verbal order and was not aware of any verbal order being issued by any of the MOL employees on the site. He testified that, if either Michel Lacroix (also an MOL inspector) or Mr. Jeffreys had issued an order, they would have told him because he was the lead inspector. He issued a written order later on June 25, which I describe below.⁶⁴ Mr. Lacroix testified that he had no discussions with Mr. Jones, Mr. Sanders, Mr. Jeffreys, or anybody else about an order that the MOL could place on the building. He said that he “barely saw” Chief Officer.⁶⁵

Cmdr. McCallion’s evidence: initial decision based on Capt. Comella’s recommendation, confirmed by Staff Insp. Neadles, before hearing from the engineers; subsequent decision made by Staff Insp. Neadles, with no input from the engineers

Cmdr. McCallion testified, with his memory assisted by his notes, that at approximately 1:20 p.m. he met Capt. Comella at the command tent in the parking lot on the south side of the Mall. Capt. Comella told him that the building was continuing to move and was unsafe and that teams should not be allowed inside. Cmdr. McCallion spoke to Staff Insp. Neadles and told him this and that the building was unsafe. His note at “1320” reads in part:

Comella confirms building is continuing to move – Bldg unsafe. – Teams should not be inside pile. Notify B. Neadles that teams need to be removed from pile Bldg unsafe – Agreed!⁶⁶

Cmdr. McCallion testified that, during this conversation, Staff Insp. Neadles asked that the dogs and the LifeLocator device be used again to get an update on the status of the two victims.⁶⁷ After he spoke to Staff Insp. Neadles, Cmdr. McCallion was in the command tent with Capt. Comella, and there were no engineers present. He then telephoned Sgt. Gillespie and asked to meet him on the north side of the building. He and

Capt. Comella walked around the building and were joined by Mr. Cranford either during the walk or after they arrived. They met Sgt. Gillespie on the north side.⁶⁸

Cmdr. McCallion testified that during the walk over, or shortly after they arrived, he discussed the status of the building with Capt. Comella and Mr. Cranford. Capt. Comella said that the building was moving and that the escalator section was unsafe and was 110 percent above its fail-safe capacity. Mr. Cranford reiterated Capt. Comella's statements. Cmdr. McCallion's notebook records the following at approximately 2:00 p.m.:

Advised by Comella/Engineer – I beam supporting escalator is 110% beyond fail safe limit. Not even sure why bldg. still standing – will fail [without] warning⁶⁹

Sgt. Gillespie testified, corroborated by his contemporaneous notes, that at 1:15 p.m. on June 25 he met with Cmdr. McCallion and Capt. Comella at the Hotel entrance on the north side of the Mall building. They told him that the site had been assessed by two MOL engineers and the HUSAR/TF3 engineer and that it was “far too dangerous to enter” and that the MOL had stopped the rescue, based on the information that the beam was overloaded. He had made a note which said: “No further access to collapse area allowed per MOL. All operations to cease shortly. Too dangerous to shore stair beam pillars, etc.” Sgt. Gillespie testified that he had made the last reference because Cmdr. McCallion had told him that, given the forces acting on the beam, there was no guarantee that, even if they had installed steel shores, it would have been sufficient.⁷⁰

Cmdr. McCallion testified that, when they met Sgt. Gillespie, who was with another officer, they were joined by Sgt. Scott Fowlds, the HUSAR/TF3 canine officer. He and Capt. Comella told them that “the engineers” had discussed the building and felt it was unsafe to continue the operation as it currently stood. He told Sgt. Gillespie that nobody was going to be allowed back in the building. This was confirmed by his (Cmdr. McCallion's) note: “Team pulled from pile – Meet with OPP TL [team leader]/HUSAR TL – STOP WORK.” He denied telling Sgt. Gillespie that the work was stopped as a result of the MOL issuing a stop-work order; it was his evidence that he merely said that the MOL was part of the engineering group which had discussed the building.⁷¹

Mr. Cranford's evidence: his calculations discussed with Capt. Comella, Mr. Jeffreys, Mr. Sanders, and Sgt. Gillespie; no discussion with or advice directly to Staff Insp. Neadles or Cmdr. McCallion

Mr. Cranford testified that he discussed his initial calculation, which he had received back from his Toronto office, with Capt. Comella, Sgt. Gillespie, and Cst. Waddick at approximately 1:35 p.m. The time was recorded in his notes prepared after he returned to Toronto.* Mr. Cranford testified that he told Capt. Comella that it was possible to put in sufficient shoring to support the vertical load but that, if the load continued to move laterally toward the collapse zone, the shores would not be nearly as effective. Furthermore, the posts would have had to be installed on a sound surface clear of debris, and the number of shores required meant that essentially all the rubble would have had to be cleared out on either side of the escalator. Mr. Cranford testified that Capt. Comella was concerned, after hearing his conclusion, about the amount of effort, time, and work – and the number of people working under the escalator – that would be required to install the system.⁷²

Mr. Cranford testified that he spoke to Mr. Jeffreys, Mr. Sanders, Sgt. Gillespie,[†] and Cst. Cox about his initial calculation of the load supported by the beam, but did not recall speaking to them, or Mr. Sanders, about his

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* Mr. Cranford testified that his notes were “reasonably accurate ... maybe within a half an hour.”: Cranford testimony, September 9, 2013, pp. 24809–10.

† Sgt. Gillespie testified that he did not speak to Mr. Cranford on June 25, and had no idea what his opinion was on whether it was safe to continue to work: September 4, 2013, pp. 23880–1.

wood-shoring calculation. Mr. Cranford did not recall speaking to Staff Insp. Neadles or Cmdr. McCallion about his calculations.⁷³ He testified that he “very rarely” dealt directly with Staff Insp. Neadles, and that neither he nor Cmdr. McCallion ever asked him directly for advice during his time in Elliot Lake, although both were present in a few conversations that he had with other members of HUSAR/TF3.⁷⁴

Mr. Cranford testified that:

- It was not his opinion at any point in time that the building was ready to collapse completely and he never said that to any member of HUSAR/TF3 or UCRT.
- He did say that one particular area was at risk of failure due to the stress levels (although he did not know when that would happen).
- He never told anyone that it was unsafe to proceed further without a different approach, although he had said that, if the steel in the beam were to fail, it would likely be a catastrophic failure.⁷⁵

Capt. Comella’s evidence: no recollection of decision to remove teams from the pile, or of speaking to Staff Insp. Neadles, Sgt. Gillespie, Mr. Cranford, Mr. Jeffreys, or Cmdr. McCallion about it; he was waiting for decision

Capt. Comella’s evidence about the situation was confusing. He was read Cmdr. McCallion’s notes about the meeting at 1:20 p.m. that indicate that Capt. Comella told him that the building was unsafe and the teams had to be removed from the pile. He then testified that he had no direct recollection of that particular conversation, although he did recall talking about the stress on the beam because it was “just so over-stressed that it could fail at any second” and that “we couldn’t work inside until we had removed that – that issue.”⁷⁶

When asked whether he was present when Mr. Cranford presented the results of his calculations on the beam, he said that he learned of the calculations at a meeting either inside or outside of the command tent.⁷⁷ He was specifically asked if each of Mr. Cranford and Mr. Jeffreys was present at that meeting, and his answer was the same for both: “I don’t have a clear recollection of that.”⁷⁸ He was asked if Staff Insp. Neadles was at the meeting, and responded: “I’m not a hundred per cent sure he was there.”⁷⁹ Nor did he know if Cmdr. McCallion was present.⁸⁰ He also testified that he did not recall having a conversation with Staff Insp. Neadles between 12:05 p.m. and 3:05 p.m. when Staff Insp. Neadles announced at the CCG meeting that the rescue was over, although, “if he was present at the command tent when the engineer was talking about how over-stressed the beam was, I may have talked to him briefly.”⁸¹ He testified:

The only thing that sticks in my mind about that meeting is that they had done – the engineers had done some work and some modeling; and the beam was, like, over 400 per cent – some number over 400 per cent – and that shocked me.

I think once I heard that I was – we started talking about – I think I talked to James about, is it possible to – is it – what is the likelihood that we could actually shore this? Is it – is it possible to shore this? We have been working on that question. Let’s revisit it one more time.

But then the common sense of it is: How would we put the people in there to shore it. So, it didn’t take long for us to kind of realize that we couldn’t risk the lives of all the rescuers to be underneath this escalator for such a time as required to shore it.⁸²

Capt. Comella was asked if he was present when Cmdr. McCallion told Sgt. Gillespie that the operation had been shut down, and he testified: "No, I was not present for that." He was then told that Sgt. Gillespie had testified that he (Capt. Comella) had been present when Cmdr. McCallion told him that the operation had been shut down by the MOL, and he answered: "I don't have a recollection of that. Not at all. Not at all."⁸³

Capt. Comella was then asked what he learned about the decision made as a result of the information about the building and the stress on the beam. He answered:

I don't believe that I was told necessarily anything about it. I was waiting for a decision to come back, whether this was going to be continuing as a rescue or a recovery, and I remember taking steps in the meantime. We couldn't work inside the hot zone, but there was still work to do.⁸⁴

Sgt. Gillespie is told that no workers will be allowed in the building, even if signs of life continue

Sgt. Gillespie testified that, at the same meeting when he was told that the engineers had determined the site was too dangerous to enter, Cmdr. McCallion asked him to send in the UCRT canine units and use the LifeLocator. However, when specifically asked by Sgt. Gillespie, Cmdr. McCallion said that even if signs of life were detected, he would not allow the rescue to be continued. Sgt. Gillespie responded that he would not send his people into harm's way to find out if somebody was alive and then not be able to do anything about it. His notebook corroborated this evidence.⁸⁵

Cmdr. McCallion also recalled the discussion about using the LifeLocator or canine units to determine if there were any live victims in the pile. He had expected that the dogs would be able to be used without the handler being in the building and that the LifeLocator could be used by lowering the operator with a crane. Sgt. Gillespie asked if they would be going back in if they found signs of life. Cmdr. McCallion testified:

And I said, "Not at this time. We're not going back in there. No-one's going back in for now, but we want – Bill wants an accounting of what this current status of the victims were."

Essentially, it's an assessment of – of – it's a – as part of a Site Commander you're doing a complete assessment of the site. The site has now changed because of the ... dynamic change in the load on the escalator column. So, in making your next decisions, to me, knowing the status of the victims is part of that decision-making tree.⁸⁶

Mr. Sorel is told to return to Toronto

Mr. Sorel testified that between 11:30 a.m. and 1:30 p.m., he was on his way to the washroom and ran into Staff Insp. Neadles, Cmdr. McCallion, and Capt. Comella. Staff Insp. Neadles informed him that rescue operations had come to a halt, and said "You won't be going back in that building to do any more rigging." On his way back from the washroom, Mr. Sorel asked if he could be released to go back to Toronto, and Staff Insp. Neadles agreed to release him if he kept his cell phone on and close by. He then returned to Toronto.⁸⁷ I note that Staff Insp. Neadles had been in the CCG meeting which started at 11:06 a.m., preparing for the noon press conference. I conclude that this exchange occurred after the press conference and, assuming Mr. Sorel's time estimate is correct, before 1:30 p.m.

Conclusions about decisions between 1:20 p.m. and 2 p.m.

The evidence does not permit me to be certain about all the important facts concerning the decisions made between approximately 1:20 p.m. and 2 p.m. Few documents were created contemporaneously with the events recorded. Those that do exist – such as Cmdr. McCallion’s notes and Chief Officer’s scribe’s notes – are contradictory. Witnesses do not agree on important points, such as when decisions were made, who was present or contributed to the decisions being made, and even what decision was made. When decisions were made, they were not recorded or communicated in a consistent manner, or sometimes not at all.

I am able to safely conclude, on the balance of probabilities, the following:

- Shortly before 1:30 p.m., Cmdr. McCallion telephoned Staff Insp. Neadles and told him that the building was continuing to move, was unsafe, and the teams should be removed; Staff Insp. Neadles agreed (this is recorded in Cmdr. McCallion’s notebook and was confirmed by Staff Insp. Neadles).
- At approximately 1:30 p.m. or shortly thereafter, Mr. Cranford determined, with the assistance of his Toronto office, that the beam supporting the escalator was significantly overstressed and was supporting approximately 428 percent of its design weight, a figure that could be expressed as just over 100 percent over capacity (this is set out in Mr. Cranford’s contemporaneous calculations, his after-the-fact chronology, and confirmed in his testimony).
- Between 1:30 and 2 p.m., that calculation was made known to Cmdr. McCallion (as recorded in his notebook beside the notation “~ [approximately] 1400”), Mr. Jeffreys, and Mr. Sanders (as testified to by both of them and Mr. Cranford), and Capt. Comella (as testified to by Mr. Cranford; Capt. Comella’s evidence confirmed he learned of the calculation, although he could not recall who told him).
- Mr. Jeffreys told Capt. Comella that the site posed an extreme risk and that he did not know why it had not yet failed; Mr. Cranford told Capt. Comella that the area around the escalators was at risk of failure and, if it failed, it would likely be a catastrophic failure, and this was relayed to Cmdr. McCallion and Staff Insp. Neadles (because it was important information that Capt. Comella thought should be communicated, and because Cmdr. McCallion’s notes confirm that he was told by Capt. Comella that the building was unsafe and he passed this information on to Staff Insp. Neadles).
- That calculation was relayed to Staff Insp. Neadles at or about the same time (because either Cmdr. McCallion or Capt. Comella would have considered it important information that he ought to know, and he testified that he did know it).
- Chief Officer learned that the beam was significantly overstressed so that the building was unsafe and all personnel had to leave (because his notes and his scribe’s notes record that information).
- Although a number of people believed that the MOL had issued an order requiring that the rescue be stopped, no such order was made (all the MOL witnesses denied making any such order, and no witness testified that they had done so).
- Sgt. Gillespie was asked, at Staff Insp. Neadles’s request, to send in a UCRT dog or the LifeLocator device to attempt to detect a sign of life; he was told that, even if signs of life were detected on the rubble pile, no members would be allowed to attempt a rescue (he and Cmdr. McCallion both testified to this, and it was recorded in his notes).
- Mr. Sorel was told he could return to Toronto.
- Staff Insp. Neadles did decide that the building was unsafe and ordered all workers withdrawn (he testified to this, and it is corroborated by the request and instructions given to Sgt. Gillespie and Mr. Sorel).

There are a number of factual issues that I cannot determine. In particular:

- I cannot conclude that Staff Insp. Neadles spoke to any engineers between 1:20 p.m. and 2 p.m. Both Mr. Jeffreys and Mr. Cranford denied speaking to him, and Mr. Jeffreys denied being present at any command meeting. Although Chief Officer testified that he was present at a command meeting where Mr. Jeffreys gave advice, Staff Insp. Neadles could not recall such a meeting. Nor does a contemporaneous document record that he spoke with either of them.
- I cannot conclude that there was a “command meeting” attended by Chief Officer, Staff Insp. Neadles, Cmdr. McCallion, Capt. Comella, Mr. Jeffreys, and Mr. Thorpe. Although Chief Officer’s scribe’s notes record him joining a “consult group w unified command” and he testified to such a meeting, no other witnesses confirmed that evidence and some denied that such a meeting took place.

I should add that the decision to order all members out of the building, given the information available, was reasonable. The engineering opinions, I have concluded, were probably provided to Capt. Comella, Cmdr. McCallion, and Staff Insp. Neadles and were more than sufficient to determine that, until the building was made more secure, workers would be exposed to significant risk of injury and death.

I should add that the decision to order all members out of the building, given the information available, was reasonable. The engineering opinions, I have concluded, were probably provided to Capt. Comella, Cmdr. McCallion, and Staff Insp. Neadles and were more than sufficient to determine that, until the building was made more secure, workers would be exposed to significant risk of injury and death. The pictures at figure 2.5.2 show very clearly the amount of concrete that was sitting on the escalator, at an angle inclined toward the rubble pile where the rigging work was being carried out. If the beam supporting the escalator had collapsed, that concrete, weighing several tons, would have been propelled toward the rubble pile.

After the decision was made to pull the workers out, and after their removal, further consultation should have taken place to determine that all possible solutions were considered and evaluated before a final decision to end the rescue was made. As will be seen, that did not happen.



Figure 2.5.2 Concrete on the escalator

Source Exhibit 9279; Exhibit 7024

Families are spoken to inappropriately by Insp. Percy Jollymore

On the previous day, Insp. Percy Jollymore had apologized to Robin Kerr of Victim Services of Algoma because the OPP had not provided regular updates to the families. He said he would ensure that someone went to the Collins Hall to provide information to the families as the rescue operations unfolded.⁸⁸ Insp. Jollymore testified that he had made a commitment that he would try to be at the Collins Hall before every press release so that the families would have advance information about what the media was going to hear.⁸⁹ The commitment was not honoured.

Ms. Kerr telephoned the OPP Communications Centre sometime after 6:30 that morning and spoke with an officer who told her that they had no information to share. She requested that someone come to the Hall and speak with the families because they needed to know what was happening. The next information the families received was by way of the media reporting about the noon press conference. That was how they learned that there had been signs of life that morning and that someone might still be alive. Ms. Kerr again went to the OPP detachment and asked that someone come and speak with the families. She was told that the inspector was busy at the press conference, which was his first priority, and that he would attend when he was able to do so.⁹⁰

Insp. Jollymore explained his absence by saying that the CCG meeting had been immediately followed by a press release, and he had no time to go to the Collins Hall.⁹¹ Insp. Jollymore did go to the Hall, with Mayor Hamilton, after the press conference. Darrin Latulippe, Doloris Perizzolo's son-in-law, described this visit, which he said was at 1:00 or 1:30, this way:

[We] asked Inspector Jollymore if there was any more information and, you know what I mean, it was not as per se, a heated, but it was vocal – we wanted to know what's happening and his basic response was, and I still remember to this day, there were several people that heard it: "I don't really have to be here. I'm doing you a favour by being here." And I thought, "you're doing me a favour? Don't do me any favours, pal. Go away then. If you didn't want to give me any more information."

He said those were his exact words and that there were probably 35 people that heard it.⁹²

Ms. Kerr's notes record this:

2:00 p.m. – Insp. Jollimore [*sic*] came to speak to families – first time anyone attended in 7½ hours. Insp. Jollimore was very aggressive when he came in. Stated he didn't have to come and speak to families that this was a polite gesture on his part. Informed families they had heard breathing at 4:00 a.m. but no other changes at this time. Still working on removing the rubble – there is 6 feet of rubble that needs to be moved.

Families very upset that police do not feel they should have information before media. Insp. Jollimore stated that he has always attended the hall AFTER speaking to media and that if they had any news where family needed to be informed first that he would be sure to do that.⁹³

Ms. Kerr confirmed the accuracy of her note and testified that Insp. Jollymore told them that "his attendance was out of the kindness of his heart. He did not have to come and speak to them. It was not his role, and he was doing that to be polite."⁹⁴

Insp. Jollymore testified that he did not recall making the statement Mr. Latulippe testified to, but he did recall having some exchanges with him. When Ms. Kerr's notes were read to him, he testified that he did "use some words to those effect" but that he did not agree with her that they were not supporting the family. He admitted that the "substance of the conversation" was that he was making a polite gesture to the families by going to the Hall. He did not recall telling Mr. Latulippe that he was doing him a favour.⁹⁵

I accept the evidence of Mr. Latulippe and Ms. Kerr, as corroborated by Ms. Kerr's notes. It was quite inappropriate for Insp. Jollymore to have told the families, who were understandably fearful, stressed, and anxious for news of

their loved ones, that he was doing them a “favour” or “being polite” by speaking with them. It was not a favour and it was not a matter of being polite. It was his duty. He ought to have discharged that duty. He did not do so.

Ms. Kerr spoke of what happens when the police do not keep victims’ families continually updated about their progress in such a situation:

The victims of these – of any crime, starts to feel disassociated from the police and unrespected, and their views are not taken into consideration, and they really need to have that rapport, a uniformed officer or officer with his or her badge at least showing so that they show know [*sic*] that their thoughts, feelings are taking into consideration and that they are involved in whatever the investigation or process may be.

...

Q. And in the absence of that sort of update or information, what happens?

A. The turmoil grows, and speculation rises, and we had individuals from the community coming in and starting to spread what could have been rumours. We didn’t know. So we worked at our utmost to try and stop that because we didn’t want rumours and speculation spreading throughout the hall.

And without information, you begin to think the worst instead of what may be the outcome.

So it is very, very important that the victims are involved and always brought up to date in what is occurring.⁹⁶

I agree entirely with Ms. Kerr. Regular and timely communications with the victims’ families is not only the right thing to do from a humanitarian perspective; it is the right thing to do to ensure that misinformation and its inevitable consequences do not spread.

2 p.m.: Fire Department and HUSAR/TF3 are told building completely unsafe and no options available

Chief Officer’s scribe’s notes record the period after the “unified command” meeting at 1:32 p.m. on June 25:

1349 hrs ELFD crew & HUSR [*sic*] called to info group

1400 hrs Above informed all HUSR equipment hydraulic will be removed from area, Crews to go in or remove hydraulics & tools, then area will be reassessed. Significant movement demands reassmt [*sic*]. The beam are 100% over stressed building now completely unsafe for rescue operations. No options are available to secure the area. Reassessment measures will commence. HUSR or ELFD crew as support to reassess area & ops.⁹⁷

Chief Officer arrived toward the end of the meeting. He testified that he understood that Staff Insp. Needles relayed the same information on the reasoning behind the decision that nobody would be allowed to remain in the building – that the conditions were too extreme and that they could not enter. He was asked about the reference to “reassessment” and testified:

That was to try and drive forward – as you can see by the timelines, they are very tight here. There was discussion on how this was going to move forward communication-wise because it would not be very long that the public would become aware of the change taking place on the site, and not just the public but consideration to the families on the change.

And then also discussion started taking place on next steps and the legalities of moving it forward. All efforts at this point were driven strictly on rescue. The conditions of the building were now to the point where they are hampering a rescue to be able to take place, and as it says, the TF-3 felt they exhausted all their options.

Q. And were they offering up any hope of continuing in some other fashion?

A. No. There wasn’t really – I don’t think there was any other options.⁹⁸

Shortly after 2 p.m.: Rescue changes to a recovery – the team sees no options (and none are sought)

At 2 p.m., Staff Insp. Needles emailed Ms. Chambers and others at the Office of the Fire Marshal, asking that he be called “asap” for the next update.

At 2:15 p.m., Mr. Thorpe sent an email to a number of employees at the Office of the Fire Marshal, including Ms. Chambers:

As of 13:50 hours [1:50 p.m.] the HUSAR lead, in consultation with both engineers have determined that the building will be deemed closed by the MOL, when the rescue operation is terminated and changed to recovery. [sic] due to the shifting of the escalator and the load that is situated on it. The current load is above 100 percent above its rated capacity. Continuation of rescue and stabilization in the south portion has now been suspended. Measuring equipment in place shows movement of the escalator is continuing and team lead has pulled out all members at the present time.

The MOL engineer has notified his office that this building may soon be ordered closed. This is confirmed by the team engineer.

Simply put by all intense [sic] and purposes, the rescue operation will cease, then the building will be methodically demolished.

This will then move this to a recovery operation.

It has been requested that this operation remain confidential until such time ... that the families are made aware.

NOTE: THIS IS NOT YET CONFIRMED, but will advise as soon as the change to recovery is announced by the Fire Chief.⁹⁹

Mr. Thorpe did not testify. Staff Insp. Needles testified that he did not speak to Mr. Thorpe and that he recalled no conversations about the MOL around that time. He did not believe that the MOL shut the rescue down and he did not tell Mr. Thorpe that the building would be “deemed closed by the MOL.”¹⁰⁰

At 2:16 p.m., Ms. Chambers sent an email to Mr. Thorpe and another employee of the Office of the Fire Marshal, saying that Staff Insp. Needles had just called her.¹⁰¹ Staff Insp. Needles testified that he told Ms. Chambers that he had authorized the stopping of the operations.

At 2:22 p.m., Ms. Chambers sent an email to a number of officials in the Office of the Fire Marshal. She wrote:

HUSAR lead Needles reports they are having to stand down due to structural failure. Other options explored but not viable. Will be changing from RESCUE to RECOVERY mode. See details below as Bob Thorpe confirms from scene. There will be a press conference scheduled TBA.¹⁰²

Ms. Chambers testified that she spoke to Staff Insp. Needles at 2:05 p.m. She described the conversation in this way:

He said, “The engineers are telling me I have to get my people out. The escalator is moving. I can’t risk leaving them in there.

I said, “Have you looked at other options?”

He said, “I have nothing right now. We’re going to continue to work on the exterior, but we don’t currently have a plan.”¹⁰³

Staff Insp. Needles testified, when asked about Ms. Chambers’s email, that it was not unreasonable to say that they “may have had that conversation” in which he told her that it would be changing from a rescue to a recovery.¹⁰⁴ He acknowledged that, when a rescue transitions to a recovery, the rescue is over.¹⁰⁵

It is clear to me that, by this point in time, Staff Insp. Needles had made the decision that the rescue was over. Staff Insp. Needles could not, however, explain why Ms. Chambers reported that he had told her that “other options explored but not viable.”¹⁰⁶ It seems clear that no other options were explored.

Staff Insp. Needles testified that his original decision to stop the rescue had been made as a result of the conversation he described with Mr. Jeffreys, Mr. Cranford, Capt. Comella, and Cmdr. McCallion. Between that meeting and the time he spoke with Ms. Chambers, he said that he was probably having other conversations, but he could not recall any specifics. He did not believe that he informed Chief Officer during that time period, although he must have, if the scribe’s notes are correct about the timing and content of the meetings at 1:32 p.m. and 2 p.m. and if Chief Officer’s evidence is accurate.¹⁰⁷

Staff Insp. Needles testified that he did not enter the Mall building on June 25 before calling off the rescue or at any time after making the decision and going to the CCG meeting at 3 p.m.¹⁰⁸ Nor could he recall asking anybody if they had any other options about how to deal with the situation between making the decision and speaking to Ms. Chambers. He solicited no opinions from people in Elliot Lake or elsewhere.¹⁰⁹ He acknowledged that he had the opportunity to talk to his team members before going to the CCG meeting, but said the topic of what the next steps might be did not “present itself as a conversation.”¹¹⁰ He agreed that at this time he had no options, he was not considering any, and to his knowledge, neither was anybody on his team.¹¹¹

Dave Selvers of Millenium Crane testified that he was not asked whether he could assist in dealing with the structural instability of the escalator. It was his evidence that, if he had been asked, he had some ideas using his crane and assorted equipment that might have helped.

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Cmdr. McCallion testified that he was present at a later meeting – shortly after 2 p.m. – with Staff Insp. Needles and perhaps Capt. Comella, in the command tent, when they discussed what steps to take next. It was his evidence that Mr. Jeffreys and Mr. Cranford were not present. He testified that he was not part of a meeting that included Staff Insp. Needles and both engineers. He could not recall if Chief Officer was at the meeting. He testified that he knew Chief Officer “would have been part of the conversation,” although he did not know if that was at the command tent or

later. They discussed the necessity of the engineers doing a re-evaluation of the scene to let them know what the next steps were. When asked what the decision was at that meeting, he testified, “There was nothing to decide on at that point. We weren’t sure where we were going to go from there.” He testified:

Q. Who spoke to the engineers?

A. Tony would have – to have that discussion with the engineers.

Q. And what would – and what was – you don’t even know if Tony was in a meeting. So how do you –

A. Tony – probably would have been expressed to Tony at some point or – I mean, this whole – the whole piece of the engineer of the work stoppage and the reasons for it was based on what the engineers had told us. It – it makes sense that they – that they – that they’re working on the solutions as to what that’s – the next steps would be.

Q. You’re talking about it makes sense. They probably this. What we’re trying to find out is the what.

A. When –

Q. What happened here?

A. I don’t know. I –

- Q. Was James – was James Cranford summoned, “Come and explain this to us.”?
- A. At that time, no.
- Q. Okay.
- A. Not that I remember.
- Q. Was Roger Jeffreys summoned?
- A. No.
- Q. “Come and explain this to us.”
- A. No, not that I recall.
- Q. Okay. You say “probably asked Tony” to do what?
- A. Come up with that, the next solution. What – what are our options?
- Q. And what did he come up with?
- A. That was what they had they weren’t – they hadn’t come back to us with options yet. There were no options.
- Q. Between – there were no options?
- A. No, there was no options presented to us at that point.
- Q. Between two o’clock and three o’clock, when the CCG meeting took place ... you had solicited options, correct?
- A. Yes.
- Q. Had you been presented any options?
- A. No.
- Q. Had anybody said to you, “We do not have any options.”?
- A. No.
- Q. Who would – who was asked to provide options? Who specifically was asked to provide options?
- A. That would have been the engineering group, through Tony.
- Q. But you weren’t there?
- A. But I wasn’t there for that, no.
- Q. And the engineering group would be what? I mean, you’re all in the same proximity. What was preventing you guys from getting them in the command tent and saying, “Explain this to us.”?
- A. Well, I think Bill – you’d have to talk to Bill. But I believe Bill’s priority was to get to the council meeting at three o’clock and explain to them what was currently happening, that we had stopped our – we suspended our operation at that point and that our – our ability to go forward with what we had wasn’t going to allow it if the building – as the building had indicated it was moving toward us.
- ...
- Q. And so in plain English, the decision that Mr. Neadles came to was the rescue was over, fair?
- A. Yes, fair.¹¹³

Cmdr. McCallion also testified that he did not learn that Staff Insp. Neadles had decided that the rescue was over until he told him on the walk to city hall from the command tent just before the 3 p.m. CCG meeting.¹¹⁴ In fact, the decision was made approximately an hour earlier. I see no reason for such an important decision to have been made so hastily.

2:20 p.m.: HUSAR/TF3 members engage in “make-work”

Capt. Comella testified that, after the workers had been ordered out of the building, “everybody was on standby” and he was waiting to be advised whether it was a rescue or a recovery.¹¹⁵ He explained that he and the members of HUSAR/TF3 were doing as much as they could on the outside, waiting for a decision. At 2:20 p.m., he asked Capt. Guy to “secure the loading dock with a raker to enhance our safe access point” on the north side of the building.¹¹⁶ He acknowledged that this work was completely unnecessary because this part of the building had never been identified as subject to collapse. Capt. Comella admitted that the original intention of this work was to keep the men busy while decisions were contemplated. It had no functional purpose other than public relations because, if people got the sense that the rescue was over, it could be a real problem.¹¹⁷

2:30 p.m.: Mr. Cranford determines that stabilization may be possible but does not tell HUSAR/TF3

After providing Capt. Comella with his calculations about the load supported by the beam, Mr. Cranford considered whether the steel posts which were on the site could be used to shore up the load on the escalator. He calculated that one steel post on either side of the escalator would be sufficient to support the vertical load. This calculation was done approximately 20 to 30 minutes after he spoke to Capt. Comella about the use of wooden posts. Although steel posts, like wooden posts, must be installed on a stable floor, the floor area required was not much bigger than the post itself, which is 5 inches square. Mr. Cranford did not look at the area around the escalator to determine whether sufficient space could be cleared. Although he believed he told someone that he had concluded that one steel post on either side would support the vertical load, he could not recall whom he spoke to. He explained that, by the time he had done these calculations, which was at approximately 2:30 p.m., he was asked to join a number of workers on the north side of the Mall and he did not believe anyone was still in the building. He testified that, at that time,

there was a lot more going on around the site. That is when we started hearing that people weren't going to be allowed back in and that there was a news conference coming up, and they were going to announce something. But at the time I did not – I didn't know what was happening, but there were not – I couldn't really find anyone to speak to. Things were moving quickly.¹¹⁸

Mr. Cranford testified that he considered a number of other ways of supporting the beam under the escalator and preventing horizontal movement. In addition to the wood and steel posts, he considered the installation of a strut from the beam across the collapse zone to the columns opposite the escalator to the north; installing angled tension braces welded to the web of the beam and connected to the next row of columns to the southeast and southwest; and inserting additional beams parallel to the escalator trusses with brackets to fit on the overstressed beam. Each of these was discussed at some point with Capt. Comella and discarded because of concerns about its effectiveness or the safety of the workers doing the installation.¹¹⁹

Mr. Cranford also considered another option which he concluded would be safest and easiest. Compression struts – lengths of steel – could have been attached to the beam which ran in an east–west direction south of the escalator (beam F207, see fig. 2.5.3) and run north, on either side of the escalator, to the columns which were beside the escalator partway down its length (the intersections of beams A207 and B206 on the west side of the escalator, and beams C226 and F208 on the east side). They would have been attached to the columns by welding or some other means. That would have prevented the escalator from moving horizontally forward (north) because it would have been anchored or tied back to the beam behind it. If, in addition, one steel post

had been installed on either side of the escalator, thereby preventing downward movement, the beam would have been fully supported. Mr. Cranford testified that this option would have required workers to work under the escalator, but not “right at the edge.” The concrete hanging down in front of the beam would not have interfered with this option. The two approaches, working together, would have, from an engineering perspective, removed the safety issues that were causing concern.¹²⁰

He recalled discussing this with Capt. Comella “later in the afternoon” when he said that it was an option very likely to deal successfully with the horizontal forces. He did not, however, recall discussing with anyone his conclusion that steel shoring would be an option to deal with the vertical forces. When asked why he did not explain these things to Capt. Comella or others more forcefully, he testified:

Well, I mean, we had discussed it and we – I had laid out sort of what we have talked about here, what the options were and what they could do, and then based on that information, Mr. Comella made his decisions or whoever received the information made their decisions, and then I – I mean, I wasn’t told to what extent the input I had provided was used, and so that – I mean, I didn’t – I didn’t come back to them and search them out. But I was under the impression that they knew my opinion, and they had already taken it into consideration.¹²¹

Capt. Comella’s memory was weak about his various conversations with Mr. Cranford. He did recall discussing shoring the escalator with him but could not say when. He recalled that vertical shoring would have been inadequate because of the possible horizontal movement, and recalled a discussion at some point about stabilizing the horizontal movement requiring either working on top of the pile where the victims may have been located or working on the slope on the escalator which may have caused the concrete to slide off. He did recall discussing steel posts, but testified that HUSAR/TF3 preferred wooden posts to steel posts because wooden posts make an audible crack when they break, which serves as a warning sign.¹²² Staff Insp. Needles testified that the HUSAR/TF3 team had no experience working with steel shores and is not trained to construct them. He was not aware that steel had been ordered to the site.¹²³

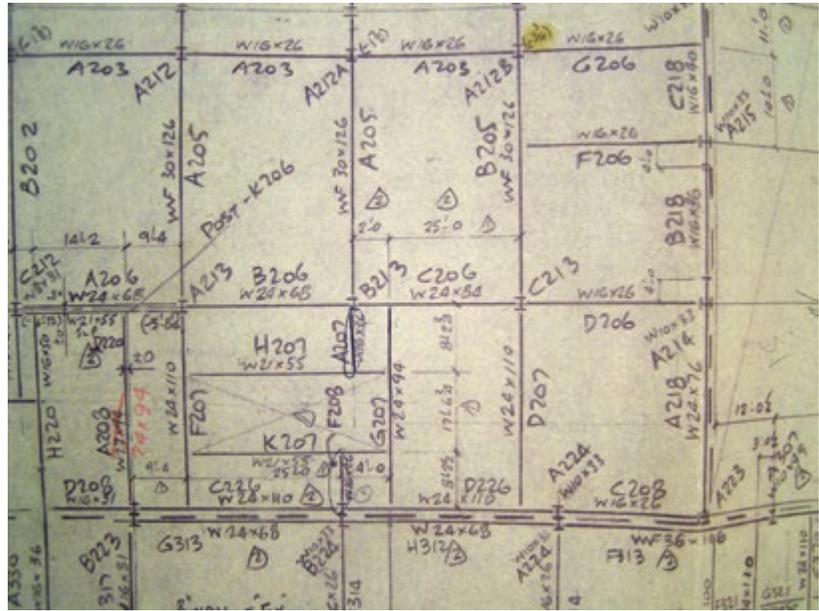


Figure 2.5.3 Beam F207

Source Exhibit 9279

Conclusion: Decision to stop the rescue is made without further consultation with Mr. Cranford or Mr. Jeffreys

Mr. Cranford's evidence was that he did not complete his calculations leading to his conclusion that the combination of two steel posts and compression struts was a feasible option until approximately 2:30 p.m. That time is consistent with his evidence that, when he had finished, the news had already circulated that rescuers were not allowed back into the building and a press conference was coming up. The decision that the building was going to remain closed to workers was circulated widely by 2 p.m., as indicated by

- The email from Mr. Thorpe at 2:15 p.m. stating that the HUSAR/TF3 lead had determined at 1:50 p.m. that the building would be deemed closed and the rescue changed to a recovery.
- The email from Staff Insp. Neadles to Ms. Chambers at 2 p.m. asking her to call him "asap".
- Ms. Chambers's subsequent telephone call to Staff Insp. Neadles at a time estimated by her to be 2:05 p.m., confirmed by her email at 2:22 p.m. in which she advised that the operation had changed from a rescue to a recovery.
- The notes by Chief Officer's scribe indicating that at 2 p.m. the Elliot Lake Fire Department and the HUSAR/TF3 personnel were advised that all HUSAR/TF3 hydraulic equipment would be removed from the area, that the building was completely unsafe, and that there were no options to secure the area.

The evidence of Staff Insp. Neadles and Cmdr. McCallion makes clear that they received no input from engineers (or anyone else) about options between the time that Staff Insp. Neadles announced that the workers would not be going back into the building and the CCG meeting at 3 p.m. The decision to move to a recovery, and its tacit admission that if anyone was alive under the rubble they could not be saved, was made without anyone asking Mr. Cranford whether he had been able to come up with a viable plan to make the building safe.

That decision was also made without further consultation with Dr. Feldman, who had told Cmdr. McCallion and Capt. Comella (and, indirectly, Staff Insp. Neadles) by email a few hours before at 10:54 a.m. that they could not safely assume that a person caught under the rubble was not still alive until 2 p.m. the following day. Had Dr. Feldman been consulted, he would also have had an opportunity to dispel the incorrect information apparently circulating that a person trapped under the rubble was likely to die quickly after a weight pinning the person down was removed.

This lack of consultation was the result, in my view, of a failure to have a clear chain of command and decision-making structure, a clear plan, and clear (and required) communications both up and down that chain of command. Without those elements, it is very difficult, if not impossible, to ensure that decisions are made in a timely manner, with all essential information available to the decision-maker.

3 p.m. CCG meeting

Staff Insp. Neadles announces the rescue is over

As I noted earlier, at the 8:30 a.m. CCG meeting, Staff Insp. Neadles delivered optimistic news: the rescuers thought they had detected signs of life in the pile. At the next CCG meeting at 3:00 p.m., slightly more than six hours later, he delivered the devastating news that he had decided that the rescue was over because of the safety concerns associated with sending men to work on the pile. The clear implication of this news was that the decision had been made with the knowledge that there might be a survivor in the rubble pile.

The message he brought to the CCG meeting was stark: the rescue was over! There was no equivocation or qualification to it that could offer hope of any sort for a positive ending to this tragedy.¹²⁴ He explained to the CCG members the reason for the decision, including the fact that the beam supporting the escalator could give way at any time which created an unacceptable risk to the safety of the workers.¹²⁵ Staff Insp. Neadles concluded his remarks by declaring that the rescue would now be classified as a recovery and that he was turning the operation back to the jurisdiction of the Elliot Lake Fire Department.¹²⁶

The news was totally unexpected. Mr. Jeffreys, who had been observing the suspected movement of the building, was “stunned.”¹²⁷ Mayor Hamilton was “shocked”; he had been expecting good news.¹²⁸ Natalie Bray described the mood as very sombre after Staff Insp. Neadles delivered the news.¹²⁹ Chief Officer, who had earlier been privy to the decisions, said the news knocked the air out of everybody.¹³⁰

Staff Insp. Neadles’s statement to the CCG was, I find, problematic in several respects. Firstly, as he acknowledged during his testimony, the decision to convert a rescue into a recovery was not his to make. It was the incident commander, Chief Officer, who had the authority to decide when the rescue became a recovery.¹³¹

Secondly, Staff Insp. Neadles was also incorrect in stating that he was turning the jurisdiction back to the Elliot Lake Fire Department; the jurisdiction over this operation had never left it, because Chief Officer was the incident commander. For his part, Chief Officer candidly admitted that he misunderstood the chain of command.¹³² He was not aware that, under proper implementation of the Incident Management System (IMS), Staff Insp. Neadles reported to him.¹³³

Staff Insp. Neadles, at one point, testified that his decision was to suspend the rescue – not to stop it altogether.¹³⁴ I reject this characterization. His message was clear: the rescue operation was at an end. It was repeated on a number of occasions, most noticeably to the families of the victims less than one hour later and to the public and media at a press conference less than two hours later. If the rescue truly had been merely suspended at that time, he would have said so. I find it incredible that he would make such a devastating and demoralizing announcement if he did not believe it to be true.

As Staff Insp. Neadles acknowledged himself, there was nothing preventing him from telling the CCG meeting attendees that they had hit a snag, or that they were going to step back to consider other options and get back to them later, if that had been the case.¹³⁵

Staff Insp. Neadles makes a poor choice to attend the CCG meeting

Staff Insp. Neadles acknowledged that he did not have any time limit by which he had to make a decision about the course of action to take.¹³⁶ It is not as though the CCG meeting served as a deadline for any decision. Staff Insp. Neadles could have used that period of time to consider alternative plans of attack. However, he chose to go to the 3:00 p.m. CCG meeting even though it would have been acceptable to decline to attend.¹³⁷

It certainly seems to me that he made a poor choice in electing to attend the CCG meeting rather than to devote time to exploring options. To his credit, Staff Insp. Neadles acknowledged this point in his evidence before me.¹³⁸

The message Staff Insp. Neadles brought to the CCG meeting was stark: the rescue was over! There was no equivocation or qualification to it that could offer hope of any sort for a positive ending to this tragedy. He explained to the CCG members the reason for the decision, including the fact that the beam supporting the escalator could give way at any time which created an unacceptable risk to the safety of the workers.

Serious confusion about the MOL's role and actions

Mr. Jeffreys was the next to speak at the CCG meeting. He explained that there had been movement detected with respect to the stairway and escalator; that neither he nor Mr. Cranford could understand why the structure that was supporting the escalator was bowed because of the weight. He said as well that, when the beam collapsed, it would do so "catastrophically."¹³⁹ Ms. Bray noted that he concluded by stating that there was an "MOL stop order so no one can enter." There was considerable confusion about the timing and what effect this order would have on the rescue/recovery operation.

Mr. Jeffreys said that his statement was made in the course of answering questions about whether people who had property in the Mall would be permitted to retrieve it. The order he was referring to would prevent that from happening. He said he made it clear that any order would be issued later and would be directed to the owner of the building. He testified that the order he mentioned would not have interfered with the recovery or rescue workers.¹⁴⁰

Although the restrictive nature of the order he referred to may have been clear to Mr. Jeffreys, it was far from clear to others in the room. Chief Officer believed the order prevented anyone from entering the building, which would include rescuers.

Although the restrictive nature of the order he referred to may have been clear to Mr. Jeffreys, it was far from clear to others in the room. Chief Officer believed the order prevented anyone from entering the building, which would include rescuers. He said that he was given this information at the command meeting he attended at approximately 1:30 p.m. that day.¹⁴¹ He understood that the order Mr. Jeffreys referred to was already in effect. Chief Officer thought that the order had been made verbally and that the ministry personnel were just waiting for the paperwork.

Chief Officer was mistaken about the order, both in its timing and scope.

There was no order in existence, verbal or otherwise, at that time. The order that was eventually drafted was only served on the Mall manager the next day. That order specifically exempted the activities associated with the rescue/recovery operations.¹⁴²

However, Chief Officer was not the only person whose understanding of the MOL order differed from that of Mr. Jeffreys. Robert deBortoli, the chief administrative officer of the City of Elliot Lake, thought it was clear that the order, when issued, would prevent everyone, including responders, from entering the Mall.¹⁴³ Mayor Hamilton as well said it was quite clear that the order the MOL would issue would prevent anyone from entering. However, it was his recollection that those words were spoken by Mr. Jones, not Mr. Jeffreys. Mayor Hamilton thought the order was already in place.¹⁴⁴ Ms. Bray thought that the order would apply to everyone including rescuers. Furthermore, she believed that everyone in the room held a similar view.¹⁴⁵

Mr. Jones was the other MOL representative at the CCG meeting. Like Mr. Jeffreys, he was not aware that the rescue had been called off until he heard it at the meeting.¹⁴⁶ He was the one who ultimately drafted the order later that evening.¹⁴⁷ At no time did he even contemplate making an order that would stop the rescue.¹⁴⁸ He agreed that it was Mr. Jeffreys who spoke about the order from the MOL. He did not know, however, what order Mr. Jeffreys was referring to.¹⁴⁹

It is difficult to reconcile Mr. Jeffreys's statement that, at the CCG meeting, he made it clear that the proposed order would have no effect on the rescue or recovery efforts when some attendees clearly understood the opposite. Suffice it to say that his efforts at clarity failed. However, the fact that some – including a number of decision-makers within the CCG – thought the order prevented any rescue efforts from continuing did not change the reality of the situation. There was never an order that interfered in any way with the rescue. More specifically, as Staff Insp. Neadles said, the MOL did not shut down the rescue.

It seems that – even within the MOL itself – there was unclear and imprecise language used in connection with the order that the ministry would issue in respect of the Mall. At 5:24 p.m., Mr. Jeffreys requested that Mr. Sanders send an email to Gabriel Mansour, the MOL provincial coordinator and also a structural engineer, to provide him with an update. After summarizing the load calculations that Mr. Cranford had made about the precariousness of the overstressed beam, Mr. Sanders wrote the following:

HUSAR has pulled all of their team out of the collapse area and are not planning to send them back in. No one is in the building at this time Roger and I have had numerous meetings on site with the HUSAR staff, especially with James Cranford, their structural engineer, and Tony Comella in regards to the safety of all on site.

In respect to the rest of the building, there are numerous signs of rust and fatigue throughout the building (many reports and indications of water damage), hence our determination in shutting down the whole facility until an engineer can determine that it is safe to be in, or determines complete demolition of the structure. Either way, a report from an engineer will be required before we will let them proceed further.¹⁵⁰

A plain reading of this email would indicate that Mr. Sanders was under the impression that the MOL was preventing the HUSAR/TF3 forces from proceeding further. However, in his examination by Commission counsel, Mr. Sanders explained it differently:

Q. ... Who was the “them” you were writing about in the last sentence?

A. As I indicated earlier, that’s the owner. The order that did get written was to the owner as all orders get written.

...

Q. – you’ll agree with me that nowhere in your letter do you make any reference to the owner?

A. That’s correct.

Q. And what you reference to, in terms of workers, is the HUSAR workers. And particularly, in the – fourth last line in the third paragraph you write: “HUSAR has pulled all of their team out of the collapse area and are not planning to send them back in.” And then in the next paragraph you write: “Either way, a report from an engineer will be required before we will let them proceed further.” But it’s your evidence that the “them” in the fourth paragraph is referring to the owner, not to the HUSAR people?

A. That’s correct.

Q. And did you ever hear any discussion before you wrote this letter, about the Ministry of Labour issuing an order which would prohibit anybody from entering the entire site?

A. I did not, no. That never – never came up.

...

Q. But my question to you, sir, was: When Mr. Jeffreys spoke to you and told you what you needed to know to write this letter, did he say that the order that Mr. Jones was going to issue was going to apply to everybody or that it was going to apply to –

A. He –

Q. – everybody except the rescue or recovery workers?

A. He didn’t indicate. He didn’t – he didn’t – he didn’t say. He just said that a requirement order would be issued on the remainder of the building. So ...

Q. Did he say “on the remainder of the building”?

A. Just as I wrote here, “in respect to the rest of the building,” he said on the remainder of the buildings from what we had seen.

- Q. Did he mention anything about whether the order that was going to be written would apply to rescue or recovery workers?
- A. No.
- Q. And it was your understanding at the time, as you've told us, that the Ministry of Labour powers existed even in respect of workers undertaking a rescue; right?
- A. That's correct.¹⁵¹

The lack of clarity evident even in the MOL's internal communications reflects the more widespread confusion and uncertainty which affected many people's perceptions of the reason the rescue was called off – and the MOL's role in it.

The decision to stop the rescue is communicated

To the families – in a less-than-sensitive manner

It was agreed at the CCG meeting that Mayor Hamilton, Insp. Jollymore, and Staff Insp. Neadles would go to the Collins Hall to notify the families that the rescue was over.¹⁵² Taking this step was yet further indication that, at that point, the response leaders considered that the rescue operation was at an end.

Insp. Jollymore had given an update to the families earlier in the afternoon at the Collins Hall. He indicated that he would be back around 4:30 p.m. to provide a further update. After the earlier update, Mr. Latulippe went home to have a shower. He had just gotten out when he received a phone call from his wife, who said he had to come back to the Hall, which he promptly did.¹⁵³

Teresa Perizzolo had remained behind when Mr. Latulippe, as well as the Aylwin family, had left the Hall to get cleaned up. In their absence, she received the news that the rescue was over. She testified that Staff Insp. Neadles told her: "It is not a recovery anymore; it has now become a demo. We're going to demo the Mall and that's the way we're going to recover the bodies." Staff Insp. Neadles and Insp. Jollymore started to leave the area. She collapsed to the floor.¹⁵⁴

Mr. Latulippe went straight to his wife when he got to the Collins Hall. She implored him to do something, saying, "You have to do something to make them stop." She told him that they were giving up.¹⁵⁵ He left Ms. Perizzolo. He saw and heard Mrs. Aylwin scream and collapse into a chair. Both he and Mr. Aylwin approached Staff Insp. Neadles and Insp. Jollymore looking for answers. Staff Insp. Neadles said that the Mall was going to be turned over to the owner and that they were leaving. Mr. Latulippe recalled him saying, "We have to turn the Mall over to the Mall owner. He has to get an MOL-approved demolition recovery team. They're going to knock the Mall down and try to find the remains." Staff Insp. Neadles acknowledged that there were still signs of life but the building was too unstable. Mr. Latulippe and Mr. Aylwin both offered to sign whatever was needed to let them go in to get the victims out. They were told that was not an option. Mr. Aylwin suggested mine rescuers could go in. He was told no one was going in. With that, Staff Insp. Neadles and Insp. Jollymore left.¹⁵⁶

In the discussion, which became a heated argument, Mr. Latulippe and Mr. Aylwin had tried to tell them the victims were still alive but they did not seem to care. At this point, Mr. Latulippe and Mr. Aylwin refused to accept that the rescuers were just going to leave the victims there and that there was only one way to get them out.¹⁵⁷ Mr. Aylwin testified that the mayor, Insp. Jollymore, and Staff Insp. Neadles were present when he and Mr. Latulippe were told "they were stopping the search because the building was unsafe and they were packing up and going home."¹⁵⁸ Mr. Latulippe and Mr. Aylwin both testified that there was no alternative plan. The rescue, they were told, was finished.¹⁵⁹

Mrs. Aylwin testified that she, her husband, and her son came back to the Collins Hall after Gary Gendron, her daughter's fiancé, called asking them to come back quickly as there had been some changes to their understanding of the status of the rescue operation. As she entered the Hall, a woman offered her condolences to Mrs. Aylwin. The announcement about stopping had already been made in their absence.¹⁶⁰

Given that a number of the victims' family members were absent from the Collins Hall when Staff Insp. Needles, Mayor Hamilton, and Insp. Jollymore arrived there, it would appear that no one thought to call the Collins Hall to ensure that the family members were actually there to receive this tragic news.

Staff Insp. Needles acknowledged that he told the families that the rescue was over. When he said it was over, that is what he believed.¹⁶¹ He agreed that he said the rescue was over but denied telling Ms. Perizzolo that the building was going to be torn down or demolished to dig the victims out. He explained that he did not believe that at that time he knew the building would be torn down and the bodies recovered in that way.

However, the minutes of the 3:00 p.m. CCG meeting confirm that these very issues were discussed. The notes record "Recovery will not proceed until owner provides structural engineering report indicating how to safely take down the bld to recover. Will request one week."¹⁶² In addition, Staff Insp. Needles spoke at the press conference shortly after this conversation and stated that a demolition company would be involved in the recovery of bodies. Consequently, his rationale for denying the use of those words to the families is not convincing. I accept that he did tell Ms. Perizzolo about demolition being the process that would recover the bodies. I find further support for this when I consider that he could not deny having told Mr. Latulippe words to the effect that the building would be torn down and that is how bodies would be recovered.¹⁶³

Staff Insp. Needles was unable to deny that he told Mr. Aylwin that they were packing up and going home. He said only that he did not believe that he said those words. I accept that he did give Mr. Aylwin that very message. By this point, since he had turned the operation over to the Elliot Lake Fire Department, there would not appear to be any further need for HUSAR/TF3. As well, Staff Insp. Needles acknowledged that he had no authority to continue if it was going to be a demolition. To stay on, he would need further approval.¹⁶⁴ I am inclined to the view that, as things appeared to him at that time, he thought that HUSAR/TF3 would be packing up and going home.

Insp. Jollymore said that he travelled to the Collins Hall with the mayor¹⁶⁵ and would have met Staff Insp. Needles there.¹⁶⁶ He believed that the families were not notified in advance of the group's attendance. On arrival, he was informed that some family members were present, others were not. The news was given to those present and they waited for five to 10 minutes for more family to show up and then repeated the news to newcomers.¹⁶⁷ Insp. Jollymore did not know the identities of the family members so he had asked that they identify themselves before he spoke with them.¹⁶⁸

Mayor Hamilton stated that he had asked Staff Insp. Needles to attend so that the families would be able to have their specific questions answered.¹⁶⁹ He acknowledged that addressing the families when members were missing was not the best decision.¹⁷⁰

Ms. Kerr testified that the families were given this information in the same room as members of the general public. She had been asked by Staff Sgt. Dan Esposto of the OPP to have a room available in which police could speak to the family privately, but there was no room which would have accommodated all the family members. This was unfortunate because it required these people to learn of the fate of their loved ones in a public forum.¹⁷¹

Given that a number of the victims' family members were absent from the Collins Hall when Staff Insp. Needles, Mayor Hamilton, and Insp. Jollymore arrived there, it would appear that no one thought to call the Collins Hall to ensure that the family members were actually there to receive this tragic news.

To the OPP UCRT members – with an expression of frustration

As previously mentioned, Sgt. Gillespie had been told at about 1:30 p.m. that the MOL had stopped the rescue on account of the instability of the building.¹⁷² He had gone back to his hotel to sleep and he returned to the site at about 4 p.m.¹⁷³ He said that a debriefing of most of the HUSAR/TF3 team was taking place in the command tent. He stood at the doorway and listened. He learned that HUSAR/TF3 would be leaving shortly. He heard some members objecting to the fact that the rescue was over.¹⁷⁴

He returned to the Hampton Inn and briefed his men just before 5 p.m. He told them what he had learned at 1:30 p.m. and the information he had overheard at the debrief shortly before. He said that he had been advised by Cmdr. McCallion that the MOL had made an order at 1:15 p.m. that day, prohibiting entry to the building due to the overloading of the beam under the escalator; he believed that no further rescue operations would be allowed and that no efforts by either HUSAR/TF3 or UCRT would be permitted. He said that Capt. Comella had advised him that the beam was 468 percent overloaded and should have failed already.¹⁷⁵ His notes of this briefing contain the following:

No OPP incident command throughout this entire event visible at the scene. Not personally observed OPP IC Percy Jollymore since arrival of my crew at this location. Operating under this command of TF3 – No S/Sgt – or FSB [Field Support Bureau] inspector here – I am running OPP UCRT tactical operations and cannot do this at night shift and attend day command meetings. I trust that what their command is effectively running this tactical portion of the incident and I and my crew are under their direction. I made the decision to abide by this chain of command as there is no other at this time. I heatedly objected to these decisions but respect chain of command. Advised my crew of this at the parking lot of Hampton [Inn]. Advised to eat and attend site for further direction but that TF3 is leaving post dinner.¹⁷⁶

His crew was upset at the news that the rescue was over. He compared the sense of deflation they felt to tripping and falling 100 metres short of the finish line in a marathon.¹⁷⁷

In his evidence, Sgt. Gillespie stated that the reference in his notes that he “heatedly objected to these decisions” did not refer to the decision to stop the rescue but rather to Cmdr. McCallion’s accusations that the rigging was carried out in an unsafe manner.¹⁷⁸ I have difficulty accepting anything except the plain meaning emanating from his notes. They clearly record his frustration at having to accept direction from HUSAR/TF3 in circumstances where there has been no input from the OPP.

To the public – the 5 p.m. press conference

At 5 p.m., the public was informed that the rescue effort was over. Staff Insp. Neadles gave the following reason for stopping the rescue:

So what the engineer believed would be, when that escalator fall [*sic*], the beams would come down with it. We don’t know, can’t say, it might bring the exterior down, but what may have been attached to that beam, may have brought the interior structure down, putting the workers at risk. Um, it was a position, um, that unfortunately I am able to make and, therefore, I had to remove the members of the team and the OPP from the structure.¹⁷⁹

He continued his statement by explaining what he expected to happen as a consequence of stopping the rescue:

Having done that, uh, that then turns the facility back to the local authorities and, uh, and that’s when the Ministry of Labour becomes actively involved in the position and the Ministry of Labour then, will now put an order on the building for that the owner must now hire an engineering firm to come up with a, a plan that’s approved by the Ministry to, uh, to des-, have the destruction of that area, taking into

consideration that there are still two bodies in that building. Um, the demolition company that may, may, that would be hired certainly would have to put into the plan on how they would deal with the integrity of a very respectful removal of the deceased that are within that building currently.¹⁸⁰

He explained that he was not able to use either the dogs or the OPP LifeLocator to determine if there were still signs of life. To do either would involve risking the lives of searchers because of the precarious state of the building.¹⁸¹ He concluded his statement by saying:

So, um, our team is, is certainly not happy. I'm not happy. Nobody is happy that we have to, have to stop work, but that's unfortunate, unfortunately the way that we've had to, we've had to end this situation. Now, um, uh, I have turned, from what my position is, I've turned the, the, uh, scene back over to the local authorities to now go forward.¹⁸²

During the question and answer portion of the press conference, the following exchange took place:

Al Sweeney: Hi, Al Sweeney from CHCH in Hamilton. Um, I just want to get it clear that the OPP found sounds of life in the building this morning. What's happened to that person? Can you say?

Bill [Neadles]: Um, that person is still there. We, I don't know the condition of that individual.

Al Sweeney: But you, but you feel you have to call off the search now, uh, because of the safety issues?

Bill [Neadles]: Because of the safety, yes.¹⁸³

This exchange made it clear that the search was being called off with the knowledge that there may still be a living person in the pile. This fact was certainly not lost on those in attendance, as the following statement illustrates:

My name is Carol Finch. And I do not know the people that are still in there, but I want to know how are we going to deal with the one that may still be alive? Um, what are we going to do? We can't just let them die. We need some sort of, and I do understand, yes, that the building is compromised and we can't afford to lose anybody else, but no one has spoken to the one that may still be alive.¹⁸⁴

Staff Insp. Neadles's response was a frank admission of defeat:

I, I understand that it's, it's not an easy process, and let me tell you, it's not an easy decision. I don't have the wherewithal to go any further on the rescue mission. Um, neither I have the training nor the equipment, even if it was brought in, the integrity of the building would not allow a safe, direct access to it. I really can't give you the answer you're looking for other than to say we are unable to continue and, respectfully, that is the only legal option that I have.¹⁸⁵

Further, another member of the public implored: "If there is a possibility that there is one person living, we cannot let them lay there and die!" This same member of the public raised the possibility that Ontario Mine Rescue might be able to do the job that HUSAR/TF3 could not.

Later on, Mayor Hamilton, Mr. deBortoli, and Chief Officer all said that following the press conference the local authorities could meet to discuss options. However, none had any concrete ideas at that point. In answer to a question from a member of the public about whether the City would look into all possible solutions, including Mine Rescue, Mr. deBortoli said:

Yes, we will ... explore all available options. ... [O]bviously we are not, not, uh prepared to quit on this either. ... [B]ut again, as Mr. Neadles has referred to, there are, there are certain limits and legalities that we have to be respectful of and ... you know we can't ... be putting more lives at risk unnecessarily...¹⁸⁶

The public, as might be expected, was outraged at the news.

The community reacts with frustration

Following the conclusion of the 5:00 p.m. press conference, the community of Elliot Lake reacted with understandable frustration at what it had been told. A crowd of people, which seemed to grow rapidly, gathered outside city hall and around the Mall perimeter shortly after the press conference. As described by Mr. deBortoli, the townspeople had the impression “things were coming to an end” and they were not happy about it.¹⁸⁷

MPP Michael Mantha did not attend the 5:00 p.m. press conference. He had remained in the vicinity of city hall with 70 or 80 community members. After the news from the conference filtered out, the townspeople reacted with outrage. Mr. Mantha described the scene:

What happened is I remained in behind which would be the City building, and there was a large group of people that were – that had gathered there, and I am not sure how to explain this other than you – it was so toxic, the environment that was going on there, because of the announce [*sic*] to cancel the rescue efforts. There was no other way that I can describe that as toxic. I – it concerned me, but I knew that it had to be – we had to deal with it because what I was seeing is community members that were willing to take matters into their own hands. And I was concerned that we were going to get a group of individuals that were actually going to rush the barricades that were there and go into the mall and get that family member.¹⁸⁸

Mr. Mantha further described that some of the townspeople were attempting to offer waivers of liability to entice the government or OPP to allow them to access the site:

It had come to a point where they were starting to write petitions and prepare release forms, releasing the government of any responsibilities or the OPP for permitting them to go onto the site. It was very concerning, and just the amount of frustration that was there really, really scared me that more community members were going to put themselves potentially in harm's way.¹⁸⁹

Mr. Mantha advised Mayor Hamilton that there needed to be increased police presence at the Mall to control the crowds that were forming.¹⁹⁰

Mr. Latulippe described the attitude of the people that had gathered around the Mall as being “irate.” He remembered that people were shouting, “Don’t let them die. Don’t let them die.”¹⁹¹ Mr. Gendron described the community as “devastated” by the news that the rescue had been called off.¹⁹²

After the press conference, Sgt. Fowlds noticed a group of people approaching the Mall looking upset.¹⁹³ He described one of the men in the group as looking distressed. Sgt. Fowlds approached the group to show that the rescuers were also upset at not being able to continue the rescue:

I could – walking towards him, I could see the veins in his neck bulging, and he was constantly making fists. With just the rest of the policing experience I have, that’s not a good sign. I approached the group. There was some other people who were with me from the task force. I’m not sure who they were. I had conversations with him. He was still upset, but he ended up walking away yelling and screaming at us. One of the ladies that was in the group came up to me and she said – and I’ll change her wording a bit. She basically said we didn’t care. We don’t – there’s nothing – we’re just there because we don’t care. I was wearing my sunglasses at the time. I took my sunglasses off and told her look in my eyes and tell me I didn’t care. I have no problem admitting I was crying at the time. I didn’t like the fact that we weren’t allowed in the building, and we had to stop what we were doing. Our idea was to go in and do our job, finish what we started, and hopefully come out with a good result at the end.¹⁹⁴

Insp. Jollymore reinforced the OPP presence at the perimeter of the Mall. He testified that his strategy was to engage in a dialogue with the crowd to disarm the situation as best he could:

I wanted the people to engage the crowd, to speak to them, to tell them we were doing the best we can at resolving this issue, and I wanted a dialogue. If we – I felt that they were upset, but they had the right to be upset. I just didn't want anybody hurt ...¹⁹⁵

The local OPP forces called on the UCRT members to assist with maintaining public order.¹⁹⁶ At 6:00 p.m., Sgt. Gillespie, now back at the Mall, updated his superior with the information that “there is a protest of the decision to stop working.”¹⁹⁷ The townspeople were gathering in the parking lot outside the OPP detachment, all along Ontario Street, and even in the wooded area to the west of the Mall.¹⁹⁸ The throng of people was so large that it seemed to Cst. Dan Bailey that “all the concerned people of the town had congregated” around the Mall.¹⁹⁹

Capt. Guy observed that some members of the crowd appeared very angry and were chanting at the rescue workers. He had not witnessed anything like that before.²⁰⁰ He testified that, at one point, Ms. Aylwin's father came up and expressed his concern about why the teams were not still attempting to rescue victims. He explained to Ms. Aylwin's father that he has children who expect him to come home also and that although the rescuers wanted to get in there and do the work, right now they were not allowed to. Ms. Aylwin's father shook his hand and thanked him and asked him to just try to get back in to continue the rescue.²⁰¹

At approximately 8:00 or 8:30 p.m., Ms. Kerr from Victim Services of Algoma contacted the OPP but was unable to speak to anyone in Elliot Lake. She then contacted city hall and was advised by Ms. Bray that there was an angry crowd outside city hall and the Mall and they were concerned that the crowd might move to the Collins Hall. There were concerns for the safety of the workers at the Mall. She was instructed to close the Hall for safety reasons. Ms. Kerr (with the assistance of City of Elliot Lake staff) shut down the Collins Hall at 9:00 p.m. No one from the general public was in the Hall at the time it closed.²⁰²

At approximately 9:09 p.m., members of the OPP detachment became aware of a possible “attack” on city hall to create a diversion for members of the community to enter the collapsed area and continue the rescue operation. The detachment asked the UCRT team what resources it could provide to create a perimeter defence around the building.²⁰³ The UCRT team had in fact been deployed to assist with scene security around the Mall and public order duty at 7:00 p.m. This duty continued until 2:00 a.m. on June 26.²⁰⁴

Ultimately, the townspeople of Elliot Lake did not storm the Mall. The OPP did not have to arrest anyone that evening at the Mall.²⁰⁵ The community reacted to the heart-wrenching news that the rescue had been stopped with a sense of outrage that was not unreasonable in the circumstances. Indeed, just hours before being told that the rescue was over – in the most recent update from the rescue leaders – the townspeople had been publicly advised of recent signs of life in the collapse zone. To be told in the next press conference that the rescue was ended came as shocking news to everybody – Elliot Lakers and outsiders alike.

Ultimately, the townspeople of Elliot Lake did not storm the Mall. The OPP did not have to arrest anyone that evening at the Mall. The community reacted to the heart-wrenching news that the rescue had been stopped with a sense of outrage that was not unreasonable in the circumstances.

After the cancellation of the rescue, options appear limited

With the rescue called off, major problems emerged for the City of Elliot Lake and other organizations still involved in the response. Not the least of these was that there was a manifestly hazardous shopping mall with victims trapped in it, one of whom was thought to be possibly alive. Unresolved questions included: how to access the victims, and how to deal with the unsafe building? These problems must have seemed all the more daunting considering the province's only heavy urban search and rescue team was about to leave town – apparently having run out of options.

Following the press conference, a group of key officials had an ad hoc meeting in a room in the Elliot Lake OPP detachment.²⁰⁶ The meeting included the following attendees:²⁰⁷

- Robert deBortoli and Bruce Ewald from the City of Elliot Lake;
- Fire Chief Paul Officer;
- Roger Jeffreys, Brian Sanders, and Donald Jones from the Ministry of Labour;
- Dave Howse from the Office of the Fire Marshal;
- Henry Alamenciak from Algoma Emergency Medical Services;
- Dr. Craig Muir, the regional coroner; and
- Det. Sgt. Ed Pellerin and Sgt. Adam Oprici from the OPP.

The primary purpose of the meeting was to answer the questions: who has the authority to tear down part of the Mall structure and how could the victims be removed in a dignified manner?²⁰⁸ Mr. Jeffreys described the meeting as an attempt to address the problems associated with trying to access bodies on private property.²⁰⁹ The group considered how to undertake a “controlled demolition” of the remaining structure.²¹⁰ The answers were far from clear – with each of the organizations appearing to lack direct authority to act in the circumstances.

Someone suggested that the MOL could issue an order requiring the City to tear the building down. Mr. Jeffreys advised the attendees that ordering demolition of a building was not in the MOL's mandate. He said: “[W]e just cannot order anybody to tear anything down. We don't order demolition. That's not us.”²¹¹

Mr. Jeffreys then suggested that the coroner must have such authority. Dr. Muir replied that he was not aware of anything under the coroner's governing legislation that would give such authority.²¹²

Mr. Ewald added that the City of Elliot Lake would have the authority to undertake the demolition of the building only if there was an emergency that was threatening human life. As the operating presumption at the time was that the victims trapped in the Mall were deceased, the City consequently lacked the authority.²¹³

Mr. Howse offered that the Office of the Fire Marshal would, similarly, only have the authority in the event of a threat to life or fire safety emergency. In his view, those conditions were not present.²¹⁴

As a result of those exchanges, the group was – to use Mr. Jeffreys's characterization – “at an impasse” as to how to proceed.²¹⁵ As described by Chief Officer, the group seemed to be frustrated by the “legal minutia” of attempting to move the operation forward.²¹⁶ Mr. Jeffreys indicated to the group that, from his perspective, “it looks like the one party that can move it forward is the owner, and the owner isn't sitting at the table here.”²¹⁷

The meeting ended without any decision or plan. At 6:15 p.m., there was a CCG meeting. The meeting opened with a comment that townspeople were “trying to crash the line” and that security would be “amped up” for the evening.²¹⁸ Later in the meeting, according to the meeting notes, the members of the CCG discussed, in general terms, options for dealing with the fatally compromised Mall. The following are comments attributed to

Mr. deBortoli: "work within the framework we have to do what we can to expeditiously as possible. Sequential approach to dismantling a portion of the mall as per engineer. Must work with the owner."²¹⁹

The question about who would have the authority to undertake a controlled demolition of the building to access the victims was considered again at a meeting of the CCG at 8:30 p.m. Ultimately, it was never resolved – it was moot after the operation resumed following the intervention of the premier of the province. I discuss these events in the next chapter of this Report.

Sgt. Phil Glavin raises with Staff Insp. Neadles the prospect of using Priestly

Sgt. Phil Glavin came back on duty at 6:00 p.m. unaware that the rescue had been called off. When he returned to the Mall, he was briefed by a superior officer within HUSAR/TF3 that the rescue was in a "full stop because it was unsafe."²²⁰ Sgt. Glavin was tasked with assembling a HUSAR/TF3 command tent and erecting lighting on the parking level that was closest to the main entrance of the Mall. Shortly thereafter, he went to a nearby church basement where dinner was being provided to HUSAR/TF3 team members – but Sgt. Glavin went to the church with a different objective in mind:

- A. I remember as soon as I got to the church I was on the hunt for Neadles.
- Q. And I gather you saw him there.
- A. Yes, I did.
- Q. And why don't you tell us about your conversation with him.
- A. I saw him. Everybody – emotions were running pretty high. There was a lot of teary eyes. Everyone was very upset because we – we wanted to continue working. I see, you know, my boss who I've known for a million years, I go up to him and I go, "I've got Plan B." And he goes, "Pardon?" And I said, "I've got another plan." And he goes, like, "Where were you two hours ago?" So we start talking and I start describing, with my arm up in the air, how this machine – the Priestly machine can reach and grab and surgically remove. And he – he's, you know, motioning me, keep on talking to me, keep on painting your picture, Philip, and I do. I tell him that, you know, this – it can sit far enough back from the building without causing any more vibration. It's got an extendable boom so it can reach out. It's got a surgical tip on the end of it, if you want to call it that, where it can pick up or it can nibble or it can shear. And I said, "Boss, this is – we're now here. We need this piece of equipment."
- Q. How did you know what the issue was? Like how did you know that the – what the reason for the stoppage was?
- A. We were told it was unsafe for us to be in there.
- Q. Right. But that can cover all sorts of things.
- A. Yes, it could. If it was because of secondary collapse, because the building was – because I knew the building was moving...
- Q. Did Staff Inspector Neadles... articulate what the problem was during your discussion at the church hall?
- A. I – I'm almost positive he said it was the secondary collapse. We're afraid of the mall coming in on top of the rescuers.
- Q. And did he isolate it more so that you knew specifically that the problem related to the beam that was supporting the escalator and the core slabs?
- A. The – the fear was that the escalator was going to slide forward; and if it came forward, that would have been on top of our second victim.²²¹

According to Staff Insp. Needles, this information from Sgt. Glavin was “the first indication, real indication of a go-forward plan.”²²² He testified that Sgt. Glavin explained that the Priestly operation had a piece of equipment which was equipped with a long articulating arm that could “potentially rectify the issue with the staircase and the slab of concrete that were on top of it.”²²³

Staff Insp. Needles instructed Sgt. Glavin to explore the viability of using the Priestly operation in Elliot Lake.²²⁴ Sgt. Glavin made a notation that he was “to lean forward re. options.”²²⁵ He testified that this meant he was to explore options related to Mr. Priestly – but that he should “not spend a dime” in doing so.²²⁶

Sgt. Glavin tried to reach Mr. Priestly but was unable to speak to him until 8 p.m. As I will explain in the next chapter, consideration of using Priestly Demolition at the collapse scene did not advance in any significant way until after Staff Insp. Needles had spoken to the premier at about 8:30 p.m. that evening.

HUSAR/TF3 prepares to leave

Staff Insp. Needles tells his members they are going home

After he left the press conference, Staff Insp. Needles briefed the members of HUSAR/TF3 at approximately 6:30 p.m. He advised the team that the Mall was too dangerous to send rescuers in.²²⁷

As previously mentioned, Sgt. Gillespie was standing at the entrance to the command tent and overheard the briefing. He recalled Staff Insp. Needles stating that the decision had been made that it was too dangerous to continue the rescue and “the decision to pack up and leave was being made.”²²⁸ Sgt. Gillespie was so convinced that the rescue was called off that he requested permission to stand down altogether and return to Bolton. His view was that “if there was nothing for us to do then there is no point in us being there.”²²⁹ This request was denied.²³⁰

Staff Insp. Needles could not recall whether he indicated that HUSAR/TF3 would be leaving Elliot Lake. He testified:

I might have said we were going home, but realistically with the Control Group going back to come up with their options, I knew I was going to wait until there was something either yes or no from them and I was then going to go and speak with some of my senior folks, Tony Comella and some others who may have been able to in that time formulate something.²³¹

In view of my earlier conclusion that Staff Insp. Needles did not have a “Plan B” in mind when he called off the rescue, I am of the view that he likely told his forces that HUSAR/TF3 would, in fact, be preparing to depart Elliot Lake. Sgt. Gillespie had a clear recollection of this fact, and Staff Insp. Needles did not dispute that he might have said it.*

Key personnel are sent packing

Capt. Comella told Mr. Cranford that he was no longer needed. At 7:15, Mr. Cranford and Dr. Feldman left together to drive back to Toronto. Later, I will describe Mr. Cranford’s offer to return to Elliot Lake.²³²

.....

* There is a discrepancy with respect to the timing of when Staff Insp. Needles may have briefed his forces about HUSAR/TF3 departing Elliot Lake. As I noted earlier, Sgt. Gillespie noted that he overheard Staff Insp. Needles make this comment at a debriefing before 5:00 p.m. Staff Insp. Needles and Mr. Cranford recalled a debriefing that took place after the 5:00 p.m. press conference. The exact timing of this briefing is, therefore, difficult to pin down. Nevertheless, this does not move me away from the conclusion that the comment was made after the stoppage of the rescue.

MPP Michael Mantha threatens to chain himself to the HUSAR/TF3 bus

Mr. Mantha had a discussion with Staff Insp. Neadles between 7 and 8 p.m. that left him with the clear impression that HUSAR/TF3 would soon be departing Elliot Lake. Staff Insp. Neadles indicated it could take seven to 14 days to access the bodies of the victims.²³³ Mr. Mantha testified:

I noticed that Mr. Neadles was there, and I asked him, "Can we have a discussion? I need to understand what is going on here." So I brought him outside, and I asked him, "What is going on? What is happening?" And he explained to me that, essentially, the decision had been made to halt the rescue efforts; that he had reached his mandate, or their group had reached their mandate. He made it a point to be very clear with me. He says, "Listen, these guys live for these types of things. It is not something that they wanted to do is to withdraw them from there. It is just – it is too unstable for us to proceed with any type of rescue effort right now at this point in time." And that they were – that they could not continue in a safe manner . . . And it is at that point in time that he had informed me that the decision that had been reached was a joint decision between the Ministry of Labour, who had their own engineers, along with HUSAR, who had engineers. And it was a joint decision that was reached where they couldn't safely do the rescue efforts. I said, "You need to understand how toxic that environment is there." And I said, what is happening? So what is going to happen with you?" "Well, we are still looking. We are still talking with the Fire Department as far as assessing what could be done or what can be done," he said. "But right now, we are in a stand-down position, and we are preparing – we are starting to pack our equipment." I said, "Well, how much time do I have? Like, when are you leaving?" I said, "You need – you really need to understand how bad this environment is." I said, "There is no way in hell" – I apologize about that – "there is no way that you are going to be leaving. If there is anybody that is going to pull those family members out, it has to be you guys. You need to understand the environment and the toxic environment that has been created in this community over the years with this particular mall and the mall owner. It can't be a blue crew. It can't be a pink crew that comes in there. It has to be you guys, and you guys have to get back in there. And there is no way in – there is no way that I am going to let you guys leave this town. I'm going to chain myself in front of your bus."²³⁴

The notion that HUSAR/TF3 expressly contemplated leaving Elliot Lake altogether is troubling. It demonstrates the depth of its failure even to consider an alternative plan of action. It also left the leaders of Elliot Lake with the highly unenviable prospect of having to consider their next options without the benefit of the province's leading heavy urban search and rescue expertise.

As I will explain in the next chapter, the decision to call off the rescue was reversed after the premier and senior provincial officials spoke with Staff Insp. Neadles and urged him to consider other options.

Notes

- ¹ Cranford testimony, September 9, 2013, pp. 24801–2; Exhibit No. 7545.
- ² Comella testimony, September 5, 2013, p. 24233; McRae testimony, September 25, 2013, p. 27247.
- ³ Guy testimony, September 24, 2013, pp. 27119–20; Comella testimony, September 5, 2013, pp. 24243–4.
- ⁴ Cranford testimony, September 9, 2013, pp. 24801–6.
- ⁵ Cranford testimony, September 9, 2013, pp. 24806–8.
- ⁶ Gillespie testimony, September 3, 2013, pp. 23705, 23708; Exhibit 6378, p. 023.
- ⁷ Gillespie testimony, September 3, 2013, pp. 23888–9.
- ⁸ Exhibit 6342, p. 026.
- ⁹ McCallion testimony, September 6, 2013, pp. 24573–6.
- ¹⁰ Sorel testimony, October 1, 2013, pp. 27584–8.
- ¹¹ McCallion testimony, September 6, 2013, pp. 24575–6; Exhibit 6342, p. 027.
- ¹² Exhibit 8025, p. 6.
- ¹³ Officer testimony, August 22, 2013, pp. 21772–3.
- ¹⁴ Neadles testimony, September 11, 2013, pp. 25396–7; Exhibit 6336, p. 1984.
- ¹⁵ Neadles testimony, September 11, 2013, pp. 25403–4.
- ¹⁶ Exhibit 6942.
- ¹⁷ Feldman testimony, September 18, 2013, p. 26031.
- ¹⁸ Feldman testimony, September 18, 2013, pp. 26031–2.
- ¹⁹ McCallion testimony, September 6, 2013, pp. 24628–32.
- ²⁰ Feldman testimony, September 18, 2013, pp. 26020–1.
- ²¹ Neadles testimony, September 11, 2013, pp. 25406–8.
- ²² Neadles testimony, September 11, 2013, pp. 25409–11.
- ²³ Feldman testimony, September 18, 2103, pp. 26032–3.
- ²⁴ Feldman testimony, September 18, 2013, pp. 26034–8; Exhibit 9591.
- ²⁵ Feldman testimony, September 18, 2013, pp. 26038–41.
- ²⁶ Feldman testimony, September 18, 2013, pp. 26041–2.
- ²⁷ McRae testimony, September 25, 2013, pp. 27248–50; Exhibit 6393, p. 1865; Exhibit 7542, pp. 1850–2.
- ²⁸ Comella testimony, September 5, 2013, pp. 24245–6; Exhibit 6393, p. 1865.
- ²⁹ Cranford testimony, September 9, 2013, pp. 24805–6.
- ³⁰ Jeffreys testimony, October 3, 2013, pp. 28124–30; Exhibit 6226, p. 028, top photo.
- ³¹ Comella testimony, September 5, 2013, pp. 24247–8, 24301; Exhibit 6393, p. 1865.
- ³² Comella testimony, September 5, 2013, pp. 24251–5.
- ³³ McCallion testimony, September 6, 2013, p. 24598; Neadles testimony, September 11, 2013, p. 25498.
- ³⁴ Exhibit 6962.
- ³⁵ Neadles testimony, September 11, 2013, pp. 25416–17.
- ³⁶ Neadles testimony, September 11, 2013, pp. 25370–1.
- ³⁷ Neadles testimony, September 11, 2013, p. 25373.
- ³⁸ McCallion testimony, September 6, 2013, pp. 24536–8.
- ³⁹ McCallion testimony, September 6, 2013, pp. 24539–40.
- ⁴⁰ Officer testimony, August 22, 2013, pp. 21779–81.
- ⁴¹ Cranford testimony, September 9, 2013, pp. 24816–23; Exhibit 7800.
- ⁴² Cranford testimony, September 9, 2013, pp. 24810–12.
- ⁴³ Cranford testimony, September 9, 2013, pp. 24808–9; Exhibit 7545, p. 01.
- ⁴⁴ Cranford testimony, September 9, 2013, pp. 24823–5; Exhibit 7800, p. 003.
- ⁴⁵ Cranford testimony, September 9, 2013, p. 24799.
- ⁴⁶ Cranford testimony, September 9, 2103, pp. 24827, 24835.
- ⁴⁷ Neadles testimony, September 11, 2013, pp. 25420–4.
- ⁴⁸ Neadles testimony, September 11, 2013, pp. 24527–30.
- ⁴⁹ Neadles testimony, September 11, 2013, pp. 25430–1.
- ⁵⁰ Neadles testimony, September 11, 2013, pp. 25431–2.
- ⁵¹ Neadles testimony, September 11, 2013, pp. 25436–7; Exhibit 7104.
- ⁵² Neadles testimony, September 11, 2013, p. 25440.
- ⁵³ Neadles testimony, September 11, 2013, p. 25442.
- ⁵⁴ Exhibit 6336, p. 1988.
- ⁵⁵ Exhibit 8025, p. 6.
- ⁵⁶ Officer testimony, August 22, 2013, pp. 21785–6.
- ⁵⁷ Neadles testimony, September 11, 2013, p. 25458.
- ⁵⁸ Officer testimony, August 22, 2013, pp. 21783–5.
- ⁵⁹ Neadles testimony, September 11, 2013, pp. 25460–5.
- ⁶⁰ Jeffreys testimony, October 3, 2013, p. 28207.
- ⁶¹ Jeffreys testimony, October 3, 2013, pp. 28130–5.
- ⁶² Jeffreys testimony, October 3, 2013, pp. 28143–4.
- ⁶³ Sanders testimony, October 4, 2013, pp. 28305–7.
- ⁶⁴ Jones testimony, September 26, 2013, pp. 27431–2.
- ⁶⁵ Lacroix testimony, October 3, 2013, pp. 28005–6.
- ⁶⁶ McCallion testimony, September 6, 2013, p. 24584; Exhibit 6342, p. 027.
- ⁶⁷ McCallion testimony, September 6, 2103, pp. 24577–8, 24584.
- ⁶⁸ McCallion testimony, September 6, 2013, p. 24584.
- ⁶⁹ McCallion testimony, September 6, 2013, pp. 24591–2; Exhibit 6342, p. 027.
- ⁷⁰ Gillespie testimony, Sept. 3, 2013, pp. 23719–23; Exhibit 6378, p. 025.
- ⁷¹ McCallion testimony, September 6, 2013, pp. 24583–7; Exhibit 6342, p. 027.
- ⁷² Cranford testimony, September 9, 2013, pp. 24818–19, 24842–3, 24838; Exhibit 7545, p. 02.
- ⁷³ Cranford testimony, September 9, 2013, pp. 24839, 24842–5, 24934.
- ⁷⁴ Cranford testimony, September 9, 2013, pp. 24734–5.
- ⁷⁵ Cranford testimony, September 9, 2013, pp. 24935, 24943.
- ⁷⁶ Comella testimony, September 5, 2013, pp. 24263–5.
- ⁷⁷ Comella testimony, September 5, 2013, p. 24259.
- ⁷⁸ Comella testimony, September 5, 2013, p. 24259.
- ⁷⁹ Comella testimony, September 5, 2013, pp. 24260–1.
- ⁸⁰ Comella testimony, September 5, 2013, pp. 24260–1.
- ⁸¹ Comella testimony, September 5, 2013, p. 24267.
- ⁸² Comella testimony, September 5, 2013, pp. 24261–2.
- ⁸³ Comella testimony, September 5, 2013, p. 24268.
- ⁸⁴ Comella testimony, September 5, 2013, p. 24268.
- ⁸⁵ Gillespie testimony, September 3, 2013, pp. 23723–4; Exhibit 6378, pp. 025–6.
- ⁸⁶ McCallion testimony, September 6, 2013, pp. 24588–9.
- ⁸⁷ Sorel testimony, October 1, 2013, pp. 27588–91.
- ⁸⁸ Exhibit 6402, p. 1; Jollymore testimony, September 24, 2013, pp. 26919–20; Kerr testimony, September 25, 2013, p. 27314.
- ⁸⁹ Jollymore testimony, September 24, 2013, p. 26917.
- ⁹⁰ Exhibit 6402, p. 2; Jollymore testimony, September 24, 2013, pp. 26921–3; Kerr testimony, September 25, 2013, pp. 27322–3, 27326–8.
- ⁹¹ Jollymore testimony, September 24, 2013, pp. 26923–4.
- ⁹² Latulippe testimony, August 7, 2013, pp. 19885–6.
- ⁹³ Exhibit 6402, p. 2.
- ⁹⁴ Kerr testimony, September 25, 2013, pp. 27328–30.

- ⁹⁵ Jollymore testimony, September 24, 2013, pp. 26925–33.
- ⁹⁶ Kerr testimony, September 25, 2013, pp. 27323–4.
- ⁹⁷ Exhibit 6336, p. 1988.
- ⁹⁸ Officer testimony, August 22, 2013, p. 21789.
- ⁹⁹ Exhibit 7107.
- ¹⁰⁰ Neadles testimony, September 11, 2013, p. 25444.
- ¹⁰¹ Exhibits 7104, 7108.
- ¹⁰² Exhibit 7109.
- ¹⁰³ Chambers testimony, September 18, 2013, pp. 26156–8.
- ¹⁰⁴ Neadles testimony, September 11, 2013, p. 25453.
- ¹⁰⁵ Neadles testimony, September 11, 2013, p. 25448.
- ¹⁰⁶ Neadles testimony, September 11, 2013, p. 25452.
- ¹⁰⁷ Neadles testimony, September 11, 2013, p. 25447.
- ¹⁰⁸ Neadles testimony, September 11, 2013, pp. 25493–6.
- ¹⁰⁹ Neadles testimony, September 11, 2013, pp. 25448–9, 25450–1, 25497.
- ¹¹⁰ Neadles testimony, September 11, 2013, pp. 25455–6.
- ¹¹¹ Neadles testimony, September 12, 2013, pp. 25640–1.
- ¹¹² Selters testimony, September 10, 2013, pp. 25093–6.
- ¹¹³ McCallion testimony, September 6, 2013, pp. 24603–13, 24618.
- ¹¹⁴ McCallion testimony, September 6, 2013, pp. 24623–4.
- ¹¹⁵ Comella testimony, September 5, 2013, p. 24277.
- ¹¹⁶ Comella testimony, September 5, 2013, p. 24278; Exhibit 7943.
- ¹¹⁷ Comella testimony, September 5, 2013, pp. 24291–2.
- ¹¹⁸ Cranford testimony, September 9, 2013, pp. 24832–3 and 24840.
- ¹¹⁹ Cranford testimony, September 9, 2013, pp. 24909–16; Exhibit 9582, p. 03.
- ¹²⁰ Cranford testimony, September 9, 2013, pp. 24917–22, 24989; Exhibit 9582, p. 04.
- ¹²¹ Cranford testimony, September 9, 2013, pp. 24920–1.
- ¹²² Comella testimony, September 5, 2013, pp. 24237–40.
- ¹²³ Neadles testimony, September 12, 2013, p. 25682.
- ¹²⁴ Neadles testimony, September 11, 2013, pp. 25454–5.
- ¹²⁵ Exhibit 3743, p.033.
- ¹²⁶ Exhibit 3743, p.034.
- ¹²⁷ Jeffreys testimony, October 3, 2013, p. 28148.
- ¹²⁸ Hamilton testimony, October 7, 2013 pp. 28524–5.
- ¹²⁹ Bray testimony, October 7, 2013, p. 28356.
- ¹³⁰ Officer testimony, August 22, 2013, p. 21803.
- ¹³¹ Neadles testimony, September 11, 2013, p. 25473.
- ¹³² Officer testimony, August 22, 2013, pp. 21805–7.
- ¹³³ Officer testimony, August 21, 2013, p. 21673.
- ¹³⁴ Neadles testimony, September 11, 2013, p. 25442.
- ¹³⁵ Neadles testimony, September 11, 2013, pp. 25476–7.
- ¹³⁶ Neadles testimony, September 11, 2013, p. 25477.
- ¹³⁷ Neadles testimony, September 11, 2013, p. 25475.
- ¹³⁸ Neadles testimony, September 11, 2013, pp. 25475–6.
- ¹³⁹ Exhibit 3743, pp.033–4.
- ¹⁴⁰ Jeffreys testimony, October 3, 2013, pp. 28151–3.
- ¹⁴¹ Officer testimony, August 22, 2013, pp. 21815–21.
- ¹⁴² Exhibit 5052.
- ¹⁴³ deBortoli testimony, October 7, 2013, pp. 28453–5.
- ¹⁴⁴ Hamilton testimony, October 7, 2013, pp. 28525–7.
- ¹⁴⁵ Bray testimony, October 4, 2013, pp. 28336–7.
- ¹⁴⁶ Jones testimony, September 26, 2013, pp. 27407–8 .
- ¹⁴⁷ Jones testimony, September 26, 2013, pp. 27419–20.
- ¹⁴⁸ Jones testimony, September 26, 2013, p. 27434.
- ¹⁴⁹ Jones testimony, September 26, 2013, pp. 27411–13.
- ¹⁵⁰ Exhibit 9280.
- ¹⁵¹ Sanders testimony, October 4, 2013, pp. 28321–26.
- ¹⁵² Exhibit 3743, pp.035–6.
- ¹⁵³ Latulippe testimony, August 7, 2013, p. 19903.
- ¹⁵⁴ Perizzolo testimony, August 7, 2013, pp. 19904–7.
- ¹⁵⁵ Perizzolo testimony, August 7, 2013, p. 19907.
- ¹⁵⁶ Latulippe testimony, August 7, 2013, pp. 19908–9.
- ¹⁵⁷ Latulippe testimony, August 7, 2013, pp. 19910–11.
- ¹⁵⁸ Réjean Aylwin testimony, August 7, 2013, p. 19983.
- ¹⁵⁹ Latulippe testimony, August 7, 2013, p. 19951; Réjean Aylwin testimony, August 7, 2013, p. 19983.
- ¹⁶⁰ Rachelle Aylwin testimony, August 7, 2013, pp. 19980–2.
- ¹⁶¹ Neadles testimony, September 11, 2013, p. 25492.
- ¹⁶² Exhibit 3743, p.036.
- ¹⁶³ Neadles testimony, September 11, 2013, pp. 25487–9.
- ¹⁶⁴ Neadles testimony, September 11, 2013, p. 25441.
- ¹⁶⁵ Jollymore testimony, September 24, 2013, p. 26978.
- ¹⁶⁶ Jollymore testimony, September 24, 2013, pp. 26972–3.
- ¹⁶⁷ Jollymore testimony, September 24, 2013, pp. 26978–9.
- ¹⁶⁸ Jollymore testimony, September 23, 2013, p. 26838.
- ¹⁶⁹ Hamilton testimony, October 7, 2013, pp. 28572–4.
- ¹⁷⁰ Hamilton testimony, October 7, 2013, p. 28575.
- ¹⁷¹ Kerr testimony, September 25, 2013, pp. 27336–43.
- ¹⁷² Gillespie testimony, September 3, 2013, pp. 23719–22.
- ¹⁷³ Gillespie testimony, September 3, 2013, pp. 23725–6.
- ¹⁷⁴ Gillespie testimony, September 3, 2013, pp. 23727–8.
- ¹⁷⁵ Gillespie testimony, September 3, 2013, pp. 23728–33.
- ¹⁷⁶ Exhibit 6378, pp. 028–9.
- ¹⁷⁷ Gillespie testimony, September 3, 2013, p. 23740.
- ¹⁷⁸ Gillespie testimony, September 3, 2013, pp. 23736–7.
- ¹⁷⁹ Exhibit 7208, pp. 008–9.
- ¹⁸⁰ Exhibit 7208, p. 009.
- ¹⁸¹ Exhibit 7208, p. 010.
- ¹⁸² Exhibit 7208, pp.010–11.
- ¹⁸³ Exhibit 7208, p.013.
- ¹⁸⁴ Exhibit 7208, p.022.
- ¹⁸⁵ Exhibit 7208, p.022.
- ¹⁸⁶ Exhibit 7208 pp. 026–7.
- ¹⁸⁷ deBortoli testimony, October 7, 2013, p. 28462 .
- ¹⁸⁸ Mantha testimony, September 23, 2013, pp. 26762–3.
- ¹⁸⁹ Mantha testimony, September 23, 2013, p. 26765.
- ¹⁹⁰ Mantha testimony, September 23, 2013, pp. 26767–8.
- ¹⁹¹ Latulippe testimony, August 7, 2013, p. 19923.
- ¹⁹² Gendron testimony, August 8, 2013, p. 20043.
- ¹⁹³ Fowlds testimony, September 19, 2013, p. 26354.
- ¹⁹⁴ Fowlds testimony, September 19, 2013, pp. 26368–9.
- ¹⁹⁵ Jollymore testimony, September 24, 2013, p. 27007.
- ¹⁹⁶ Bailey testimony, August 27, 2013, pp. 22779–80.
- ¹⁹⁷ Gillespie testimony, September 3, 2013, pp. 23743–4.
- ¹⁹⁸ Bailey testimony, August 27, 2013, pp. 22777–8.
- ¹⁹⁹ Bailey testimony, August 27, 2013, p. 22778.
- ²⁰⁰ Guy testimony, September 24, 2013, pp. 27136–8.
- ²⁰¹ Guy testimony, September 24, 2013, pp. 27146–7.
- ²⁰² Kerr testimony, September 25, 2013, pp. 27347–8; Exhibit 6402.
- ²⁰³ Cox testimony, August 26, 2013, pp. 22389; Exhibit 6377, p. 008.
- ²⁰⁴ Hulsman testimony, August 28, 2013, pp. 23072–3; Exhibit 7010, p. 005; Bailey testimony, August 27, 2013, pp. 22775–80; Exhibit 6374, p. 004; Exhibit 6379, p. 002.
- ²⁰⁵ Jollymore testimony, September 24, 2013, p. 27008.
- ²⁰⁶ deBortoli testimony, October 7, 2013, p. 28456.

- ²⁰⁷ Exhibit 9449, p. 034.
- ²⁰⁸ Exhibit 9449, p. 035.
- ²⁰⁹ Jeffreys testimony, October 3, 2013, p. 28170.
- ²¹⁰ deBortoli testimony, October 7, 2013, pp. 28457–8.
- ²¹¹ Jeffreys testimony, October 3, 2013, p. 28170.
- ²¹² Exhibit 9449, p. 035–6; Jeffreys testimony, October 3, 2013, pp. 28170–1.
- ²¹³ Exhibit 9449, p. 035–6; Jeffreys testimony, October 3, 2013, pp. 28170–1.
- ²¹⁴ Exhibit 9449, p. 035–6; Jeffreys testimony, October 3, 2013, pp. 28170–1.
- ²¹⁵ Jeffreys testimony, October 3, 2013, p. 28171.
- ²¹⁶ Officer testimony, August 22, 2013, p. 21842.
- ²¹⁷ Jeffreys testimony, October 3, 2013, p. 28171.
- ²¹⁸ Exhibit 3743, p. 037.
- ²¹⁹ Exhibit 3743, p. 037.
- ²²⁰ Glavin testimony, October 1, 2013, p. 27720.
- ²²¹ Glavin testimony, October 1, 2013, pp. 27722–5.
- ²²² Neadles testimony, September 11, 2013, p. 25506.
- ²²³ Neadles testimony, September 11, 2013, pp. 25508–9.
- ²²⁴ Neadles testimony, September 11, 2013, p. 25510.
- ²²⁵ Exhibit 7617, pp. 191–2.
- ²²⁶ Glavin testimony, October 1, 2013, p. 27727.
- ²²⁷ Cranford testimony, September 9, 2013, pp. 24845–6; Exhibit 7545, p. 02.
- ²²⁸ Gillespie testimony, September 3, 2013, pp. 23727–8.
- ²²⁹ Gillespie testimony, September 3, 2013, p. 23745.
- ²³⁰ Gillespie testimony, September 3, 2013, pp. 23745–6.
- ²³¹ Neadles testimony, September 11, 2013, p. 25503.
- ²³² Cranford testimony, September 9, 2013, pp. 24848–9.
- ²³³ Mantha testimony, September 23, 2013, pp. 26770–2.
- ²³⁴ Mantha testimony, September 23, 2013, pp. 26769–71.