

ELLIOT LAKE COMMISSION OF INQUIRY

DAY 101

September 11, 2013



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ELLIOT LAKE COMMISSION OF INQUIRY

--- This is Day 101 in the Inquiry proceedings held before the Honourable Justice P.R. Bélanger, Commissioner, taken at the White Mountain Academy of the Arts, 99 Spine Road, Elliot Lake, Ontario, on the 11th day of September, 2013, commencing at 9:00 a.m.

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I N D E X

PAGES

WITNESS: WILLIAM NEADLES

EXAMINATION IN-CHIEF BY MR. WALLACE

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(No Exhibits Marked)		

1 -- Upon commencing at 9:00 a.m.

2

3 THE COMMISSIONER: Good morning,
4 everyone.

5 MR. WALLACE: Good morning,
6 Commissioner.

7 THE COMMISSIONER: Mr. Wallace.

8 THE WITNESS: Good morning, Your
9 Honour.

10 THE COMMISSIONER: Good morning, Staff
11 Inspector.

12 Go ahead, sir.

13 WILLIAM NEADLES; UNDER PRIOR OATH.

14 EXAMINATION IN-CHIEF BY MR. WALLACE

15 (CONT'D):

16 Q. Thank you.

17 Staff Inspector, I wanted to ask you a
18 couple of questions before we carry on from where
19 we left off yesterday. You told us yesterday what
20 your understanding was of the power of the Ministry
21 of Labour with respect to rescue operations. I
22 would like to know what you understood the purpose
23 of the Ministry of Labour personnel being on the
24 site during the rescue operation was.

25 And I'll break that into two parts.

1 What did you understand the purpose of the Ministry
2 of Labour inspectors, why were they there?

3 A. I was not made aware of their
4 actual purpose for actually showing up. I was
5 personally quite surprised that they were there
6 that early in the game.

7 Q. Okay, and you were aware that they
8 were there, though, however; correct?

9 A. Yes, I was made aware that they
10 were there.

11 Q. And so the short answer is you do
12 not know why they were there?

13 A. They never came to me. I never
14 asked what their function was to be during this
15 operation at that point, no.

16 Q. Okay. And so shortly put, you
17 didn't know?

18 A. No.

19 Q. What did you understand the
20 purpose of the presence of the Ministry of Labour
21 engineers was?

22 A. Again, I wasn't aware of what
23 their purpose of being there at that point was. I
24 did not know for sure.

25 Q. Okay. You did have some dealings

1 with Mr. Jeffreys, though, however, did you not?

2 A. Yes, I did.

3 Q. And in your dealings with him, did
4 you ever ask why are you here?

5 A. No, I did not.

6 Q. Okay. Dealing with the engineer
7 that came up with you, Mr. Cranford, he has
8 testified here earlier this week and I just want to
9 see if you agree with some of the statements he has
10 made.

11 Firstly, he said that he rarely dealt
12 with you; would you agree with that?

13 A. That's correct.

14 Q. He didn't see you very much?

15 A. That's correct.

16 Q. And he does not recall that you
17 ever asked him directly for any engineering advice;
18 do you agree with that?

19 A. I would -- well, I wouldn't say
20 totally agree with that. There was a point when
21 this final decision was made that he was present
22 for a conversation and offered me his advice at
23 that point.

24 Q. And you are referring to the
25 Monday afternoon?

1 A. Correct.

2 Q. Okay. And your evidence would be
3 that you did seek directly from his opinion?

4 A. Yes.

5 Q. Okay, we'll get to that. Now, as
6 far as Mr. Comella is concerned, he is not an
7 engineer; is that not correct?

8 A. No, that is correct.

9 Q. You have never believed him to be
10 an engineer?

11 A. I understand he has an engineering
12 background. I don't know what his status is.

13 Q. That is not to say that you
14 believed him to have a degree in engineering from
15 university?

16 A. I don't know if that is correct or
17 not. I don't know if he does.

18 Q. Okay. And you didn't -- you don't
19 know it is correct; therefore, you did not then nor
20 do you believe him now to have an engineering
21 degree?

22 A. I would agree with you. I don't
23 know one hundred percent.

24 Q. He has never told you he is an
25 engineer?

1 A. No.

2 Q. And --

3 A. I made assumptions that he may
4 have some training in engineering.

5 Q. You made an assumption that he may
6 have some training in engineering?

7 A. Yeah, and definitely not
8 structural collapse engineering.

9 Q. Okay. Moving forward, when we
10 left off yesterday, I had asked you a few questions
11 about the update that you sent out on the Sunday
12 morning at 8:48 in the morning, and I want to move
13 forward.

14 It is my understanding that around 9:30
15 in the morning members of the search team, in fact,
16 this would be Toronto Police Service personnel, had
17 some indication of contact with a victim?

18 A. That's correct.

19 Q. Now, would you tell us, please,
20 what information -- first of all, tell us what
21 information you received?

22 A. The information I received was
23 from Sergeant Jim Lawson and Sergeant Scott Fowlds.
24 Sergeant Lawson was designated as a Search Manager
25 and Sergeant Fowlds was the Canine Handler for the

1 HUSAR Team. They were on the second floor, I
2 believe, and they were doing some call-outs, which
3 is a normal process for us; when it is relatively
4 quiet, we like to, as one of the signs, we like to
5 call out and see if anyone can hear us, so --

6 Q. And how does that -- how do you do
7 that?

8 A. Well, just yell, "Hello, is
9 anybody here? Can anybody hear me?"

10 And then one of the next ones, "If you
11 can hear me, tap, tap a couple of times, or tap if
12 you can."

13 So Sergeant Lawson made out a couple of
14 call-outs and asked for a tap, and he received I
15 think it was three taps. And then he asked again,
16 and he got two taps. And then there was no more
17 after that. He kept asking a couple more times and
18 there was no further taps. He believed that to be
19 in response to his call-out requests.

20 Q. So he called out and your
21 information was he called out and asked for three
22 taps?

23 A. Yes.

24 Q. And he got three taps back?

25 A. Yes, I think he got some taps.

1 I'm not exactly certain on the number, but he got
2 some response from what he believed to be a victim
3 in the pile.

4 Q. And more than once?

5 A. Twice, I believe, yes.

6 Q. And did he describe for you what
7 the taps sounded like?

8 A. They were just a hollow, a very
9 hollow sound of what he believed to be someone
10 tapping on some concrete or some sort of object.
11 He wasn't able to tell, but they were a hollow,
12 quiet tap.

13 Q. A hollow, quiet tap, and you used
14 the word like a person tapping on concrete?

15 A. That is what he believed it to be.

16 Q. Okay. And that is how he
17 described it to you?

18 A. Yes.

19 Q. Now, did he indicate where he was
20 at the time that this took place?

21 A. He was on the second floor. He
22 wasn't down on the ground level, but he was on the
23 second floor overlooking the pile. Where exactly
24 he was on that second floor I do not know, but he
25 was overlooking the pile and close enough to be

1 looking down right on top of it, I believe.

2 Q. And was he able to determine where
3 the sound was coming from?

4 A. Other than the rubble pile down
5 below, not precise.

6 Q. So the closest he was able to say
7 was it was coming from the rubble pile; is that
8 fair?

9 A. Correct.

10 Q. And --

11 A. In that -- but I will be more
12 specific, in the general area of what he believed
13 where victim one was, the victim was that we had
14 been led to believe from our previous -- his
15 previous conversations with Captain Thomas. He had
16 spoke to Captain Thomas.

17 Q. So you wouldn't know specifically
18 what area he is referring to; is that true?

19 A. Probably it would be a guesstimate
20 on my part.

21 Q. So what he is saying to you is we
22 heard tapping sounds; it came from the area of the
23 pile and, more specifically, from the area that we
24 believed the victim to be?

25 A. Correct.

1 Q. And did you ask him how far away
2 you were? Did you say to him, "Okay, well, I
3 understand the two concepts, but how far apart were
4 you?"

5 A. The proximity from him to that
6 rubble pile, because of where it had stacked up,
7 I'm going to say he was probably, and this is a
8 total guess, about 30 to 40 feet from that pile,
9 because he is up on the floor down and he is right
10 at the edge where the collapse took place.

11 Q. Now, that is your estimate?

12 A. Yes.

13 Q. Okay, but did you ask him? Did
14 you say to him, "Okay, I wasn't there; how far away
15 were you?"

16 A. I probably did and he gave it to
17 me in the terms of not so much in feet but "I was
18 right over the pile on the second floor."

19 Q. And Sergeant Fowlds was with him
20 as well?

21 A. Yes, he was.

22 Q. And he corroborated that account?

23 A. He did.

24 Q. And based on what you heard, did
25 you feel that that was a credible sighting, I guess

1 I'll use that word?

2 A. I did believe it was a credible
3 connection.

4 Q. Okay. And based on that, you were
5 of the belief that as of 9:30 on Sunday morning,
6 that you had a live victim?

7 A. Yes, sir, I was of the belief of
8 that, yes.

9 Q. And if we could go to Exhibit No.
10 6894, please, and if you could go to the page 001.
11 You have to go to the bottom, please, this is
12 update 2. This is update 2, and this is at 11
13 o'clock in the morning. You are informing the
14 usual group of the progress, and you have said that
15 the:

16 "Team has commenced working into
17 the building via the main entrance
18 to the Hotel that is attached to the
19 mall."

20 You are talking about the shoring
21 operation that was being conducted there?

22 A. Yes.

23 Q. Okay:

24 "The wood cutting table has been
25 built and is operational.

1 K-9 Search has commenced to
2 research the mall."

3 Were you aware of any results of a
4 canine search at that time?

5 A. I was not.

6 Q. Okay. And if we can flip over the
7 page, please:

8 "At 9:30 a.m. contact was
9 established with the victim that was
10 spoken with last night."

11 Now, the reference to being spoken to
12 last night, that would not be your forces but
13 rather Elliot Lake Fire?

14 A. Correct.

15 Q. Okay:

16 "This contact was [made] via
17 several knocks. It was short lived
18 but confirmed victim still alive.
19 It is anticipated a substantial time
20 period to arrive at this victim."

21 And which is -- you are simply just
22 confirming for them what you have just told us?

23 A. Yes, sir.

24 Q. Okay:

25 "Camp still being built.

1 Control Group meeting held with
2 media asking all the key questions
3 re victims."

4 Now, my understanding is you had not
5 attended any CCG meetings up until this point?
6 This is Sunday at 1:00 in the afternoon.

7 A. Correct.

8 Q. Or, sorry, Sunday morning at
9 11:00.

10 A. Correct.

11 Q. Where is the information, where
12 are you getting this information coming from the
13 CCG meeting?

14 A. I believe it is from the Chief,
15 Chief Officer.

16 Q. And when you are referring to
17 "asking all the key questions re victims", that is
18 essentially looking for numbers?

19 A. Looking for numbers, looking for
20 viability, yes.

21 Q. And whether they have any
22 confirmed deceased persons?

23 A. Correct.

24 Q. To your knowledge, were the media
25 getting answers to those very basic questions at

1 that time?

2 A. At that point in time, I was not
3 sure what they were getting.

4 Q. Okay. When the Chief tells you
5 that, did you ask him like what is the information
6 that is going out?

7 A. No, I didn't ask specifics, but I
8 know the Chief was hoping more would go out.

9 Q. And we'll get to it later, but in
10 fact, you became involved in a debate as to what
11 information should be released as far as the
12 victims are concerned?

13 A. Debate may be a little strong, but
14 definitely a conversation.

15 Q. Okay. And Paul Officer is not one
16 of the recipients of this update at 11 o'clock in
17 the morning. Would you be providing him with this
18 information?

19 A. Verbally, yes.

20 Q. Now, the next update takes place
21 at 1 o'clock. So you have sent out update number 2
22 at 11:00, and the next update is at 1:00 p.m. My
23 question is do you have any recollection of what
24 activities occupied your time between the two
25 updates?

1 A. I'm not really sure. I'm trying
2 to figure out where I grabbed some sleep in this
3 ordeal, but I don't think it was there. So I
4 really don't have any information to assist you
5 with that.

6 Q. Okay.

7 A. Nothing of a specific nature.

8 Q. Now, if we could just go to page
9 001, Ms. Kuka, and we'll deal with update number 3.
10 And this one, as we can see, Staff Inspector, is
11 sent out at 1 o'clock in the afternoon and then it
12 states:

13 "Operations continue towards
14 reaching the live victim as of 1930
15 hours."

16 Which is in reference to your previous
17 update. What is the significance of "sensitive"?

18 A. Well, because of what Chief
19 Officer was indicating to me, that he wished more
20 information was coming out earlier in the event, I
21 put that there so my folks that I was sending this
22 to would understand that it is not something that
23 we are releasing, that I want any of them to even
24 talk about.

25 So I sure wouldn't want that

1 information coming out of Toronto someplace that we
2 are up here and we may have a live individual who
3 we are working towards without that coming through
4 the proper process.

5 Q. So what this is telling the
6 recipients is I'm giving you this information, but
7 it is on the understanding that you do not
8 disseminate it any further; is that --

9 A. Right, that's correct.

10 Q. Okay:

11 "We are building shoring to
12 support a main column and beam and
13 setting up a large crane to assist
14 with some large debris removal."

15 Now, what main column and beam are you
16 talking about here?

17 A. They are in the pathway in towards
18 the main lobby of the hotel.

19 Q. Okay. If we could have Exhibit
20 No. 7946, please. Now, you recognize this picture,
21 Staff Inspector?

22 A. Yes.

23 Q. Now, I appreciate the fact that at
24 1 o'clock on Sunday all of the zones that are
25 depicted in the picture aren't reality at that

1 stage, but --

2 A. Correct.

3 Q. But I would like you to help us
4 with where the beam that you are referring to in
5 your update, the main column and beam, whereabouts
6 would that be?

7 A. I believe it is right in the area,
8 that the main office part there, that is the
9 front --

10 Q. Why don't you use your laser
11 pointer there.

12 A. Okay. In this general area is
13 where I believe that column is. I'm not exactly
14 certain, but this was the path that we were
15 planning to take in and here is where they started
16 the shoring. So it would have been in this
17 particular area that there was more columns and a
18 beam that ran across that supported the second
19 floor. I believe they wanted to make sure that
20 those were all securely supported.

21 Q. So again, in a general sense, you
22 are talking about the hotel lobby area?

23 A. Correct.

24 Q. And you are not referring to any
25 of the areas pushing forward along either sides

1 towards the victims?

2 A. No, sir.

3 Q. Now, it then says:

4 "We are building shoring to
5 support a main column and beam and
6 setting up a large crane to assist
7 with some large debris removal."

8 And I gather that there had been a
9 decision made to commence some crane operations?

10 A. Yes.

11 Q. What large debris are you
12 referring to here?

13 A. That I can't recall, but I don't
14 believe it was to start the rigging process at that
15 point. It wasn't to start rigging concrete from
16 the pile because we hadn't -- in my opinion, hadn't
17 made the assessments on that yet. I'm struggling
18 to recall exactly what that was, but I know that
19 they were -- would have been shortly tasked after
20 that to remove the beam.

21 Q. Mr. Comella gave evidence that he
22 was unaware of what the crane was going to be used
23 for except intuitively. My question to you is who
24 decided that the crane operations were going to
25 commence? Because obviously he didn't.

1 A. Obviously, that falls back to me,
2 and I am not recalling who I spoke to to authorize
3 the use of the crane. Obviously, I did not speak
4 to Sergeant Gillespie, so I'm sort of lost at who
5 and what that purpose was for other than it was
6 setting up. So I knew it had been ordered by
7 Sergeant Gillespie's team to come and I'm going to
8 say that it was starting to put itself into
9 position and to start working. To what debris it
10 was going to be, that may have been just my
11 forethought in seeing where we were going to go
12 with it, but I do not know, I can't recall if -- I
13 don't believe I had given him a task at that point.

14 Q. It is really quite astounding that
15 your Operations Chief would not know that there was
16 going to be crane operations; correct?

17 A. I would have to say I agree with
18 you, because I would have thought he would have a
19 handle on that.

20 Q. Okay. And this could be one of
21 the problems of the lack of clarity as a result of
22 no documentation; fair?

23 A. I'm not sure you could put this
24 one at that point into clarity on documentation.
25 It certainly would be of help now. But are you

1 meaning then or now?

2 Q. Well, then. Then.

3 A. Well, I think the proximity of
4 most of what was going on there was all oral, was
5 all verbal communication, but I would still be
6 somewhat astounded that Tony did not know why that
7 crane was -- what it was going to do. I think we
8 would be both in agreement that we knew it was
9 going to set itself up.

10 Q. And you would agree that the fact
11 that he wasn't aware of that is a failure of
12 communication?

13 A. Yes, sir.

14 Q. Now, the next -- I'll just re-read
15 the whole paragraph so you get the context:

16 "Operations continue toward
17 reaching the live victim as of
18 [...]"

19 THE COMMISSIONER: Can we bring that
20 back up.

21 BY MR. WALLACE:

22 Q. I'm sorry, yes, that is back to
23 Exhibit No. 6894:

24 "Operations continue towards
25 reaching the live victim as of 0930

1 hours. (Sensitive). We are
2 building shoring to support a main
3 column and beam and setting up a
4 large crane to assist with some
5 large debris removal. This is our
6 primary objective at this time."

7 What is the primary objective at the
8 time?

9 A. Basically to make sure that the
10 shoring is getting done to allow us to move deeper
11 into the building.

12 Q. And Mr. Comella gave evidence that
13 he didn't know what the primary objective was at
14 that time, other -- are you surprised at that?

15 A. It was his plan. He brought me
16 the plan and that was the plan that we were working
17 from.

18 Q. The plan that you have told us
19 about was simply articulated as shoring the hotel
20 lobby, clearing out the debris, and then from there
21 on in there wasn't really a clear plan; correct?

22 A. I thought this continue part of
23 the beam and the columns were all part of that
24 plan. They were an extension to that moving
25 forward on continuation or part of that initial

1 plan to shore to that stage.

2 Q. But when you say "continuation",
3 that would mean that there has been some
4 modification; correct?

5 A. Well, that wasn't my impression.

6 Q. But you do find it surprising that
7 he didn't know what the primary objective was?

8 A. Well, I would have to agree with
9 you there, because it was Tony Comella's plan
10 working with the engineers that he brought to me
11 that I would say I approved.

12 Q. Now, if we could go to update 5,
13 please, and that would be on the same document.
14 You'll just have to go to the first page. Yes, and
15 it is the one at the bottom. It appears that there
16 is no update 4, but there is two update 5's.

17 So if we look at the first update 5 is
18 the one that takes place at 3:00 p.m., and it
19 states:

20 "Operations continue focused on
21 the locating of the know[n] victim
22 as contacted this morning. The team
23 continues to build Raker Shores, T
24 spots and Lace Posts from the north
25 end while the large crane is slowly

1 being placed to enter via the roof
2 to have a Steel worker attach eye
3 bolts, secure and [then] cut in half
4 and remove."

5 And that was your plan, was to remove
6 the beam?

7 A. That is initially what was
8 proposed to me.

9 Q. Okay. And who proposed that to
10 you, do you know?

11 A. I'm pretty sure that came through
12 Tony Comella.

13 Q. Well, given the fact that he
14 wasn't sure what the crane is going to be there
15 for, is it somebody else who could propose that?

16 A. Well, this is a couple of hours
17 later, sir. So I mean, I'm not a hundred percent
18 certain it was Tony that gave me that information,
19 but that would be my best understanding, would be
20 from Tony.

21 Q. And it then says:

22 "They will also bring in a second
23 crane to assist with this operation.
24 This will allow the next step of
25 removal of a very large slab of

1 concrete lying insecurely on the
2 escalator."

3 And then there you have the notation
4 "sensitive", and what in this paragraph does that
5 sensitive part relate to where you don't want it
6 disseminated further?

7 A. Again, at this point I don't want
8 any information released from any of the folks that
9 are listed on here. There is really no extremely
10 sensitive information there. It is just a general
11 statement.

12 Q. So what you are saying is you
13 don't want any of the information that you have
14 outlined in that paragraph going out?

15 A. Very true. I probably should have
16 started off every one of the updates with that kind
17 of an overarching statement, that any information
18 contained here is considered sensitive and not to
19 be disseminated.

20 Q. Well, wouldn't there be an
21 understanding that Carol-Lyn Chambers is the -- I
22 believe she is directing the operations from the
23 Fire Marshals Office in Toronto?

24 A. Correct.

25 Q. And she has people that she has to

1 report to?

2 A. Correct.

3 Q. Would you not have expected her to
4 disseminate that information, at least upwards?

5 A. Absolutely. It wouldn't mean
6 within their own -- within our own organizations.
7 Everybody -- and that is why, one of the main
8 reasons why I send this, is we are all responsible
9 to upwardly report, and even the folks on this list
10 would be responsible for upwardly reporting because
11 of the nature of the event.

12 Q. Okay. I want to ask you about the
13 last sentence there -- sorry, the second-last:

14 "They will also bring in a second
15 crane to assist with this operation.
16 This will allow the next step of
17 removal of a very large slab of
18 concrete lying insecurely on the
19 escalator."

20 When did that, when did the removal of
21 the slabs on the escalator, when did that become
22 part of the plan?

23 A. It really was a thought process
24 that I was walking through here. I had been given
25 the understanding that it was something that was

1 being looked at from within, within the site, but
2 it quickly was resolved to say that it was unable
3 to be done.

4 Q. Okay, well, just wait a second.
5 You have announced at 3 o'clock that this is
6 something that is going to take place; correct?

7 A. It is something that we are
8 looking at.

9 Q. Well --

10 A. There is no absolute to anything.
11 I'm trying to give them the best information I can,
12 as well as I'm trying to look forward to let them
13 know where we might be going and where we hope to
14 go in the next operational -- in the next reporting
15 period.

16 Not everything that I have stated in
17 any of these updates were absolute, that absolutely
18 happened at the end of the day. So I was trying to
19 give to all the people that I was reporting to the
20 best information I could at that time.

21 Q. Fair enough. But you are trying
22 to give them the best information, and you are not
23 trying to mislead them either, right?

24 A. Absolutely not.

25 Q. Okay. So a reasonable reader of

1 this would say that this has become part of your
2 plan? That is not to say that it is going to
3 happen, but it has become part of your plan;
4 correct?

5 A. They may read that into that, yes,
6 sir.

7 Q. Well, can you think of any other
8 way of reading that:

9 "This will allow the next step of
10 removal of a very large slab of
11 concrete lying insecurely on the
12 escalator"?

13 A. Well, that is what it says, yes, I
14 would agree with you that is what it says there.
15 But I'm not sure what -- how much information that
16 any of these folks, other than Carol-Lyn, might
17 have to formulate as detailed and as definite a
18 situation or position that you would like to put to
19 that, but I agree with you it is something that
20 they may understand.

21 Q. And a reasonable reader would
22 understand that this is something you are planning
23 on doing, not necessarily it is going to happen,
24 but as of 3 o'clock in the afternoon, this is
25 something you are planning on doing?

1 A. It was in the thought process of
2 the planning, yes.

3 Q. Now, Tony Comella gave evidence
4 that he was never aware that this became part of a
5 plan?

6 A. It never became part of the plan.

7 Q. No. He wasn't even aware that
8 this was being considered.

9 A. Okay.

10 Q. Do you agree with that?

11 A. I don't know. If he said that,
12 that is what he said. I don't know that -- why he
13 would or would not understand that. I'm not sure I
14 had a conversation with Tony about this. This was
15 maybe coming from another direction.

16 Q. Who would propose that? Who would
17 propose that this should be part of the plan?

18 A. I do not recall that, sir.

19 Q. Logically you would expect, if
20 that was going to be part of the plan, it would
21 come from your Head of Operations?

22 A. That is possible.

23 Q. Okay. The other thing is that
24 James Cranford, the engineer, he gave evidence that
25 he was never asked to provide advice about removing

1 slabs off the concrete.

2 A. Okay.

3 Q. And if we look at Exhibit No.
4 7959, please, we can see on this, on the task list,
5 that the removal of the slab off of the escalator
6 is not anywhere on the task list; correct?

7 A. That's correct.

8 THE COMMISSIONER: Is there a date on
9 that photograph?

10 MR. WALLACE: No, but we can -- if we
11 look at --

12 MR. OLIVER: I was saying there are
13 times at the bottom showing the last entry at 23
14 o'clock on June 24th.

15 THE COMMISSIONER: 2300?

16 MR. OLIVER: Yes, 2300. However, Your
17 Honour, on the other column there are completion
18 times which would be later as well, so there is a
19 1700 completion time for the last task, which I --
20 would be obviously later.

21 THE COMMISSIONER: Thank you.

22 BY MR. WALLACE:

23 Q. If you can contrast it with the
24 first iteration that we see graphically, and that
25 is Exhibit No. 7961. So you've got the beam

1 removal up to raker shores, but there is nothing on
2 the task list of removing that slab?

3 A. That's correct.

4 Q. Okay, but it certainly was
5 something that you have told the people that you
6 want to keep in the loop was in the plan to take
7 place?

8 A. Not necessarily in the plan but
9 being discussed, or it might even be strictly my
10 thoughts at that point. It might have been
11 something I was thinking we may be able to go
12 forward with from the information I had at the
13 time.

14 Q. And because clearly this is not
15 something that, if it was part of the plan, it is
16 not something that either your engineer was aware
17 of or Mr. Comella?

18 A. I would -- if you are telling me
19 that is what they said, I agree with you then.

20 Q. Okay. Now, if we can go back to
21 the Exhibit No. 6894, please, it says:

22 "The media frenzy is increasing as
23 the OPP seems not to want to release
24 any info on victims."

25 What information were you getting about

1 that?

2 A. Again, that was from the Chief who
3 was -- and I am not sure if he had the
4 conversations with the OPP, but there was I guess a
5 disagreement on how much information had been
6 passed out to the public, and at this point I again
7 think there were -- it was continuing that there
8 had not been as much information as the Chief would
9 have liked to have been released released.

10 Q. So this is information, this is
11 secondhand hearsay that you are getting from the
12 Chief?

13 A. Yes.

14 Q. Okay. It goes on to say:

15 "The next meeting is at 1600 hours
16 which I have been invited to
17 attend."

18 That is the Community Control Group
19 meeting?

20 A. Correct.

21 Q.

22 "The next media event is set for
23 1700 hours. Not sure if I will be
24 part of it at this point. (Very
25 sensitive)."

1 So that is not to go anywhere?

2 A. Correct.

3 Q. And you did in fact participate in
4 that press conference?

5 A. Yes, sir, I did.

6 Q. Okay. You go on to say that:

7 "The members of the Elliot Lake
8 Fire Service have been of great
9 assistance with our members which
10 has allowed us to multitask.

11 We believe we have 4 persons who
12 have not yet been accounted for as
13 their vehicles are still in the
14 parking lot. There are 2 others who
15 the OPP have received other
16 independent information they are
17 missing and they are running these
18 down."

19 And then you indicate that there is
20 going to be -- the next update is going to be at
21 1800 hours, which I assume would allow you to go to
22 the press conference if that was the case?

23 A. Correct.

24 Q. Now, if we could go to the notes
25 of the Community Control Group, and that is at

1 Exhibit No. 3743, please, and you'll find that at
2 page 023, please. And we can see on this
3 particular page, this is a meeting at 3:57 and
4 there is a large number of people in attendance,
5 including Paul Officer, yourself, and Bob Thorpe
6 from the Fire Marshals Office.

7 And I gather that you are introduced,
8 as we see on this page here on the second line
9 underneath the attendees:

10 "Bill Neadles from team".

11 And your purpose being there was what?

12 A. My purpose there was to be part of
13 the Community Control Group and support and supply
14 information as best I could for the group.

15 Q. Okay, and to outline to them what
16 it was you were hoping to do?

17 A. Correct.

18 Q. And if we could go to the next
19 page, please -- actually, the bottom of the first
20 page indicates that the crane is in place to begin
21 upon -- maybe we should go back to the next page.
22 It says:

23 "Beam extraction - crane in place
24 to begin upon approval."

25 Upon approval of whom?

1 A. Well, that would have to come
2 through me.

3 Q. Right.

4 A. Yes.

5 Q. And is that meaning that you are
6 approving the removal of the beam or the mode of
7 the removal or what?

8 A. I seem to believe that I assigned
9 Mr. Sebert [sic], I believe --

10 Q. Selver?

11 A. Selver. He brought to me his plan
12 that was -- that had been approved by Tony Comella
13 that he had, from what I understand, had seen. And
14 I read the plan. It looked to me like to be a
15 sound plan. So I believe I actually placed my
16 signature on his plan to approve what he was going
17 forward to propose.

18 Q. Now, if we can go to the next
19 page:

20 "Hotel is being swepted now."

21 That would be information coming from
22 you?

23 A. I don't know if it says that, but
24 it is a good possibility.

25 Q. Well, there was nobody else in the

1 room from the TF-3 or the UCRT team.

2 A. "Sweaped", okay, what does that
3 actually mean? I don't know what that means.
4 Taking a broom and sweeping it or sweeping it with
5 the dogs, sweeping it for -- I'm going to say that
6 that is probably from me, but I don't know what
7 that means.

8 Q. And then it says:

9 "Entered", it looks like "S
10 heading south supporting weight at
11 reception desk.

12 9:30 confirmed hit by
13 individual."

14 That would be the reference to the hit
15 by Sergeant Lawson; correct?

16 A. Correct.

17 Q. And this would be information
18 coming from you?

19 A. Yes.

20 Q. Okay:

21 "Nothing since.

22 Shoring towards that direction.

23 Several voids between where they
24 are and the potential victim."

25 So you are simply telling the people

1 that there are voids between the hotel lobby,
2 because that is the only place your folks are at
3 this stage --

4 A. Correct.

5 Q. -- and where you think the victim
6 is?

7 A. Correct.

8 Q. And then you go on to outline the
9 plan:

10 "Beam 1st/concrete on the
11 escalator - once out of the way they
12 can move onto ground."

13 Clearly, you are talking about the
14 removal of the beam and concrete off of the
15 escalator; correct?

16 A. Correct. One of the things,
17 though, I'll point out to you, by this point in
18 time, not having seen the escalator and the beam
19 and the -- or the concrete, after seeing pictures,
20 I knew that couldn't have happened. So what I am
21 guessing -- what I am assuming myself in my own
22 comment here and the one previous is that I didn't
23 believe -- I didn't understand the full scope of
24 the size of the piece of the concrete on the
25 escalator.

1 Q. I'm not questioning for one second
2 the judgment involved in not going after that piece
3 of concrete. I'm not in a position to make a
4 judgment on that. What does cause me some
5 confusion is you are out publicly talking about a
6 proposed plan, it may not happen, but you haven't
7 discussed it with your engineer or your Head of
8 Operations, and that I don't understand. Do you
9 have any explanation for that?

10 A. Other than I hadn't had the
11 opportunity to do that maybe. But otherwise, I do
12 not have an explanation why. Again, maybe my own
13 assumptions on what we were able to do were totally
14 off and not correct based on what Tony Comella and
15 them were seeing inside or -- and not had that
16 opportunity to have that conversation up to this
17 point with him on it yet.

18 Q. You would agree with me that it is
19 not a very smart communication strategy to be out
20 talking about things that you may do when you
21 really have no idea if they are even possible;
22 would you agree with that?

23 A. Well, I'm trying to lay out where
24 we may -- what we are thinking about. Okay, if --
25 I would agree with you that it may not be the most

1 sound strategy to say to someone what I am
2 thinking, but that is where it was coming from.
3 And the actual fact of removing the slab was
4 something that needed to be followed up. And
5 again, it went -- once followed up, proved me that
6 it wasn't possible.

7 Q. And if you look further, it says:
8 "Beam 1st/concrete on the
9 escalator - once out of the way they
10 can move onto ground."

11 And you have actually -- and then it
12 says:

13 "ETA 12 hrs".

14 So you are actually giving them a time
15 frame in which you think this is going to take
16 place?

17 A. That time frame is a hopeful time
18 frame. We always try -- people always try to get
19 us to give how much time that it may take, and that
20 is a fair question. We give our best estimate of
21 what it might take.

22 Q. And this ETA of 12 hours is given
23 without the benefit of speaking to your Head of
24 Operations or your engineer. So my question is
25 where did 12 hours come from?

1 A. I think when we went -- when we
2 went back, that was the initial stage of the
3 initial time frame of the initial plan. Where I
4 got it at this point, I just have to say that it
5 was my best estimate.

6 Q. An estimate that doesn't appear to
7 have any factual foundation?

8 A. Well, factual foundation from
9 speaking with Comella, but I still have some
10 factual information that I could -- I draw from on
11 my own, make my own opinion. Though you are
12 correct in saying that I didn't get it confirmed
13 with Tony Comella.

14 Q. Well, in fact, it is not a
15 question of didn't get it confirmed. He is not
16 aware this is even part of the plan. That is what
17 he has told us.

18 A. At that point.

19 Q. Now, just to finish off that
20 particular paragraph, you have informed them, the
21 group, that is, that there is a:

22 "Slow methodical plan to be put in
23 place by crane company."

24 And if we turn the page, at the bottom
25 where it says "Next Steps", it says:

1 "Rob/Rick/Paul/Percy to meet about
2 the 5:00 p.m. conference.

3 Next meeting 10:00 p.m."

4 And if we go to Exhibit No. 6336, you
5 did in fact go to this -- you went to the press
6 conference and you also went to the meeting that
7 they had prior to the press conference?

8 A. Yes, the Mayor invited me to
9 attend.

10 Q. Okay. And if we could go to page
11 1973, please. Now, this records a closed meeting
12 for the press conference that is to be held. The
13 meeting is called to order at 16:17 hours, and then
14 it is recording your thoughts and it reads
15 something "Exp sys" -- I guess it says:

16 "[Explain] says longer wait more
17 think things being hidden.

18 Opinion - says inform public but
19 will conform to collective."

20 I gather this in a shorthand way is
21 capturing your opinion as to what -- how the media
22 issue of releasing the information should be
23 handled?

24 A. This was the discussion I
25 mentioned about earlier with the public relations

1 and the media release of information.

2 Q. Yes, and what was your position?

3 A. My opinion is that I agreed with
4 Chief Officer that the longer you wait, the harder
5 it gets and the more that the public and the media
6 think that we are hiding something, and giving them
7 decent, solid information ongoing is probably the
8 best way to go. But keeping in mind, I don't have
9 a say and a stake in the game at that point.

10 Q. And at that point in time, that
11 is, on Sunday at about 5:00, the group, that is,
12 TF-3 and Elliot Lake Fire and the OPP, were aware
13 of two facts, that is, that you had one person
14 known deceased; correct?

15 A. I believe so, yeah, they were
16 aware of that.

17 Q. Yeah, and one person believed to
18 be alive?

19 A. Yes.

20 Q. And is it your belief that that
21 information was in fact released?

22 A. Eventually.

23 Q. If we could go then back to
24 Exhibit No. 6894, and this is -- sorry, if you
25 could scroll up, please. It is the next update 5.

1 This second update 5 is at 6:04 p.m. on the 24th,
2 and:

3 "Status quo on the Operations.
4 The first of two cranes is set and
5 the second crane is getting set up
6 now."

7 So this is as of 6:00 p.m.

8 "The team continues to work on the
9 stabilization at the south end.

10 We are commencing a shift change
11 now. Team 2 is coming on as well as
12 the OPP UCRT Team.

13 There was a press Conference at
14 1700 where the info on two victims
15 was released. One being a Rescue."

16 That is, it appears from update 5 that
17 at the 5 o'clock press conference, the public was
18 told that there were two victims, one deceased and
19 one believed to be alive?

20 A. I believe that, yes.

21 Q. And that appears to be what you
22 are saying in the last sentence of your update?

23 A. Correct.

24 Q. And you were at the press
25 conference, so it is not as if somebody was telling

1 you this is what happened; you were there?

2 A. Yes.

3 Q. Okay. Now, I want to go back to
4 the opening:

5 "Status quo on the Operations.

6 The first of two cranes is set and
7 the second crane is getting set up
8 now.

9 The team continues to work on the
10 stabilization at the south end."

11 What were you referring to there?

12 A. I probably used the -- it should
13 have read the north end.

14 Q. So this is in reference to the
15 shoring that is still going on at the hotel lobby?

16 A. Correct, they are heading south
17 from the north end.

18 Q. Now, you have informed that there
19 has been a shift change. Did you have any contact
20 with Jamie Gillespie at this shift change?

21 A. No, I did not.

22 Q. How would the incoming shift be
23 made aware of what the plan is for this next shift?
24 How would that happen?

25 A. Through Tony Comella.

1 Q. He would do what?

2 A. He would communicate with the two
3 rescue squad leaders and direct them at what their
4 function would be for their next operational
5 period.

6 Q. And what did you understand to be
7 at this point in time, that is, at 6 o'clock, what
8 did you understand the plan was at that stage?

9 A. We were still continuing the
10 shoring.

11 Q. And what about the other
12 operations? You have got the crane setting up.

13 A. Okay, they are getting set up,
14 sorry, for the -- to remove the beam.

15 Q. Now, do you know at what point in
16 time the plan to remove the slab off the escalator,
17 when that was scratched? Do you know when that
18 happened?

19 A. Actually scratched off? No.

20 Q. Well --

21 A. I can't give you a time frame.

22 Q. Or when it was decided that that
23 was not going to happen?

24 A. I can't give you a time for that,
25 sir.

1 Q. Can you give me whether -- I'm not
2 asking you for a time now, but can you tell me the
3 conversation that took place and who participated
4 in that conversation wherein the idea of removing
5 the slab off the escalator would no longer be part
6 of the plan?

7 A. I might have -- I think I had
8 that -- I might have had that conversation with
9 Mike McCallion because he was the -- relieving me
10 as the Incident Commander when I was away at the
11 Control Group meeting and the press conference.

12 Q. And I gather because Mr. Comella
13 indicated he was never even aware that this was
14 part of the plan and the engineer was not consulted
15 on this, you do not have any idea what was the
16 basis upon which that part of the plan was
17 scratched?

18 A. Again, I can't give you any
19 specifics on who the conversations were, but I
20 believe that through that period and talking it
21 through with Mike that it was then my opinion that
22 we wouldn't be able to do that.

23 Q. And I gather since -- you never
24 asked Mr. Cranford if it was possible?

25 A. No, I didn't.

1 Q. And you never asked Tony Comella
2 if it was possible?

3 A. "Never" may not be the correct
4 word. I'm very sure it came up in a conversation
5 with one of them -- with Tony at least at some
6 point in time. I don't know when or how or where,
7 but it would have been part of a conversation with
8 Tony Comella.

9 Q. Well, logically, if it was part of
10 a conversation with them, you would think that it
11 would be part of the conversation in terms of
12 implementing the plan, originating the plan, the
13 idea of doing that?

14 A. Well, the initial plan that he
15 brought to me, it didn't include it there because
16 he -- it was just the shoring plan. Where the
17 transition came from to put it on the table as a
18 thought process, like I said, I'm not -- I can't
19 recall how that got on the table.

20 And it eventually was found by me that
21 it wasn't a viable task to be done for the team
22 because it was explained to me that it would be, A,
23 very unsafe to do, and this is where I believe I
24 had the conversation with Tony, it was very unsafe
25 to do; it would take several days to do it; and we

1 weren't capable of doing it because it would
2 probably have to be done with steel, and we didn't
3 have that capability.

4 Q. And if we can move to update
5 number 6, and we'll find that in Exhibit No. 6924.
6 Yes, and this is an update that takes place at 9:04
7 p.m., and you are informing the group that:

8 "At this moment the only
9 Operations are the two cranes
10 preparing to sling and then cut the
11 25ft beam that is hanging down from
12 the second floor. All other work
13 has been suspended except for water
14 suppression and a RIT (Rapid
15 intervention Team)."

16 I gather the water suppression is in
17 support of the beam-cutting?

18 A. Correct.

19 Q.

20 "The number of missing has been
21 reduced as 2 were recently located."
22 And that is noted "sensitive".

23 "We have completed a full shift
24 change.

25 The next business cycle meeting

1 is set for 2200 hours."

2 And when you are talking about
3 "business cycle", you are referring to the CCG?

4 A. Correct.

5 Q. And we can go to Exhibit No. 3743,
6 and that would be at the next page, Ms. Kuka, at --
7 yes. And it records the time of the meeting as
8 9:52. And if you look down, you are one of the
9 attendees; do you see that?

10 A. Correct, sir.

11 Q. And then if we turn the page, we
12 hear from Bill Neadles:

13 "2 cranes in operation about to
14 start to cut beam.

15 Water is on."

16 That is what you -- the water
17 suppression you are referring to?

18 A. Yes.

19 Q. Okay:

20 "Wanted to secure a weld but metal
21 not good enough - going to sling
22 it."

23 That was the problem that the iron
24 workers had in terms of how it was going to be
25 removed?

1 A. Correct.

2 Q. Yes, so this was -- the slinging
3 it is essentially the plan B of the crane
4 operation?

5 A. Yes.

6 Q. Okay, and then it says:

7 "Will not be able to remove large
8 piece of concrete on escalator, will
9 try to support it."

10 And I gather somewhere between the 6
11 o'clock update and the 10 o'clock CCG meeting, the
12 decision was made that that particular beam --
13 sorry, that the slabs were no longer going to be
14 attempted to be removed?

15 A. Correct.

16 Q. And then it says:

17 "Will [attempt] to support it."

18 What information was that based on?

19 A. Well, that is the information that
20 Tony Comella and the engineers were going to look
21 at it at that point. I didn't have any response on
22 whether it was possible or not. I didn't get that
23 I believe until maybe even after this meeting. I'm
24 not sure when it came. But the response that I got
25 from Tony was that it was not feasible.

1 Q. The supporting?

2 A. Correct.

3 Q. Okay. So at least at this point
4 in time, at almost 10 o'clock at night, you are
5 simply telling them, we can't lift it off, we can't
6 remove it from the escalator, and we are going to
7 try and support it?

8 A. We are going to have a look at
9 whether we can support it or not, yes.

10 Q. Right, and that ultimately, and
11 we'll get to that a little later, but ultimately
12 that wasn't feasible either?

13 A. That's correct.

14 Q. Okay. Now, the next update we
15 have to go to is Mr. Comella's compilation, and
16 that is Exhibit No. 6393, and if we can go to the
17 page ending 1863. Okay, and this appears to be
18 done shortly after midnight, and this would be
19 the -- we have now progressed into the 25th, that
20 is, Monday morning, at 10:30 hours:

21 "The crane pulled out the 25ft I
22 beam weighing 2500+ pounds from the
23 interior collapse zone [...]"

24 Could you just make that a little bit
25 bigger, Ms. Kuka, please? Thanks.

1 "[...] via the roof. The original
2 plan was to weld connectors to the
3 end but the metal was so
4 deteriorated they were unable to do
5 this and had to strap it. The beam
6 was turned over to the Ministry of
7 Labour.

8 Team members quickly commenced
9 removing debris and shoring the
10 necessary areas to continue moving
11 towards the victim. The crane is
12 now being utilized to assist with
13 removing some slabs of concrete from
14 dangerous positions to expedite
15 access to the victim.

16 Next Business meeting is 0830
17 hours with the next Press conference
18 scheduled for 1200 noon.

19 The next update will be at 0400
20 hours."

21 So the statement "The crane is now
22 being utilized to assist with removing some slabs
23 of concrete from dangerous positions to expedite
24 access to the victim" is simply an articulation of
25 the fact that rigging operations have started

1 beyond the beam?

2 A. They will commence, yes.

3 Q. Now, we have heard evidence about
4 the OPP LifeLocator device and it was employed on
5 two different occasions, the first being about
6 11:30 at night Sunday night, and Monday morning,
7 just prior to this update. It is not mentioned in
8 this update and my question is, firstly, were you
9 aware of the LifeLocator and its results at the
10 time this update was sent out?

11 A. I don't believe so. There are
12 certain things that are done within the hot zone
13 that Tony Comella has the authority to authorize if
14 it falls within the objective that we have agreed
15 upon, and he has the authority to approve those
16 operations within the zone.

17 Q. I'm not questioning the wisdom of
18 that decision, just rather you --

19 A. I became aware of it after.

20 Q. After the update?

21 A. I believe so, yes.

22 Q. Okay.

23 A. I'm going to assume that I did not
24 know, but I may not have even -- I may or may not
25 have actually had the information, and even if I

1 did, it may not have made its way to the update. I
2 wouldn't say for sure it would have, because I had
3 notified them that we had a live victim prior to.
4 I would only -- I may or may not notify them as we
5 went through to update them on that situation every
6 time.

7 Q. Okay. You were made aware of the
8 fact that the OPP LifeLocator had been used;
9 correct?

10 A. Yes, I was.

11 Q. And you were aware of the fact
12 that it had been used on two different occasions,
13 once about a little before midnight and another in
14 around 4 o'clock in the morning?

15 A. Correct.

16 Q. Okay. Now, dealing with the one
17 at just before midnight, what we had been told by
18 Constable Hulsman, because he is the OPP person who
19 actually ran the machine --

20 A. Okay.

21 Q. -- that because of the state of
22 the pile at that point in time, he had to deploy
23 the machine from the basket, and that is the same
24 basket that the iron workers were in when the beam
25 was cut.

1 A. Yes, that is my understanding.

2 Q. Okay. And who gave you -- who
3 told you about the LifeLocator? Who are you
4 getting your information from?

5 A. I can't recall who gave me that
6 information.

7 Q. Okay. Do you know if it was Jamie
8 Gillespie?

9 A. It was not Jamie Gillespie.

10 Q. It wasn't Constable Hulsman?

11 A. No, it was no member of the OPP.

12 Q. Okay. And you don't know who?

13 A. No, I don't recall who. It might
14 have been from Mike, but I don't recall.

15 Q. Okay. You were told that it was
16 deployed from a basket; correct?

17 A. Yes, sir.

18 Q. Were you made aware of the fact
19 that the manufacturer tells the operator to be at
20 least 15 metres away from the machine when it is
21 being deployed?

22 A. No, sir, I'm not aware of anything
23 in relation to that LifeLocator. That was the
24 first time I had ever heard of that being an asset
25 on the --

1 Q. Okay. When you got -- when you
2 were told about the LifeLocator by whomever told
3 you, what did they tell you? And this is in
4 connection with the 11:30 --

5 A. Right.

6 Q. Is that correct?

7 A. Yes.

8 Q. Okay.

9 A. All I was told is that the OPP
10 used their -- and I didn't even at that time
11 understand what the name of it was, an x-ray
12 machine as was almost put to me, was to determine
13 if there was a viable victim because it could
14 detect breathing through the rubble, through the
15 concrete.

16 Q. Okay.

17 A. That is basically what my
18 understanding of the piece of equipment was capable
19 of doing.

20 Q. And what did they tell you, or
21 whoever told you, what did they tell you the result
22 was?

23 A. The result was that they had a
24 positive result from that machine.

25 Q. And is that the sum total of the

1 information, that is, that the machine is capable
2 of detecting breathing in a concrete pile and, two,
3 they had detected breathing?

4 A. That would be my best recollection
5 of that conversation, of the information that was
6 given to me.

7 Q. Now, did you, upon receipt of that
8 information, did you yourself question the validity
9 of that information or did you -- first of all,
10 that question, did you question the validity of
11 that?

12 A. No, sir.

13 Q. Did you instruct anybody on your
14 behalf to question the operator about his results?

15 A. No, sir.

16 Q. Because we have heard that the
17 operator was operating it when he was within 15
18 metres and he was of the belief that there were
19 other people within 15 metres. That is one fact.
20 You are not aware of that?

21 A. No, sir, I can't dispute any of
22 that.

23 Q. The other fact that he told us is
24 that when he deployed it, he got four different
25 results, and the results indicated to him that the

1 breathing he detected was between 2.7 metres and
2 6.2 metres below the machine. That is what he
3 understood the results to be, okay.

4 A. Correct, okay.

5 Q. Were you made aware of that?

6 A. I don't believe so.

7 Q. Because the operator was aware of
8 the fact that the results at this distance would
9 put the victim beneath the floor of the mall. Were
10 you made aware of that?

11 A. No, sir.

12 Q. And you didn't, as you have told
13 us, you didn't instruct anybody to scrutinize that
14 information or those results that the OPP gave you?

15 A. Sir, I would take that -- the
16 answer is no, but the reason I wouldn't do that is
17 I have full faith in the OPP UCRT team and the
18 equipment and the training that they bring to the
19 event. I would trust that they would not put an
20 asset into play unless they felt that they, A,
21 could operate it properly and had sufficient
22 training and were able to give the best result from
23 that deployment of that asset.

24 So I would not question that, would not
25 be the -- I wouldn't have the time to do that at

1 that point.

2 Q. Well, I didn't expect that you
3 would be the one that would necessarily go and
4 question it, but that is why I asked you did you
5 instruct anybody else to do that?

6 A. No, no, I did not. Like I said, I
7 did not know until after the fact, after they had
8 used it.

9 Q. You didn't know what?

10 A. I didn't know they had used it
11 until after.

12 Q. Okay, fair. If you had been aware
13 of the results, that is, it was giving results that
14 would indicate that the victim was below the floor,
15 if you had known that, what would you have done?

16 A. I sure would have cause for a
17 couple of questions. Maybe to ask why a reading
18 such as that would be possible or maybe was it done
19 right, do they need to do it again, or was there
20 some other factor at play here in their reading.

21 And I would hope that if that is what
22 they have got, they would then understand that
23 better than I what that reading meant and they
24 could explain it to either Tony Comella or myself
25 for that matter, but it would be under Tony's

1 authorization there on the pile that he would allow
2 that to take place. So I would not expect him to
3 question it either, but he may be the one that
4 would ask the questions.

5 Q. If you had that information, that
6 is, the four different readings between 2.7 and 6.2
7 metres, 6.2 metres is like 20 feet, 20 feet below
8 the LifeLocator machine, if you had that
9 information, would it cause you to question the
10 validity or the reliability of that machine?

11 A. Without asking the questions, was
12 there an issue with the machine, was there an issue
13 with the deployment, without having those factors,
14 it is hard for me to say. I would just wash it
15 away. It would be -- again, that would be one tool
16 in the tool box that I would consider, okay, is
17 it -- how much reliability percentage would I put
18 into that to say for sure I'm still of the same
19 belief that there is a live victim there. I would
20 use that in conjunction with if there was any more
21 canine deployments, any other knocks on the
22 concrete or any other signals that were there. But
23 those are the kinds of -- the sort of a collective
24 thing, but I would have probably put less validity
25 in that reading if I -- without an explanation of

1 why.

2 Q. Right. So if you had asked the
3 questions and got those answers, that is, here is
4 what the readings were, between 2.7 and 6.2, it
5 would cause you to inquire further before
6 considering the reliability of the results;
7 correct?

8 A. Correct, yes, that is fair.

9 Q. And you did neither? You did not
10 ask the initial questions or instruct anybody to
11 ask those questions?

12 A. I had no reason to at that point,
13 no.

14 Q. But so you didn't?

15 A. I didn't.

16 Q. And you didn't ask any follow-up
17 questions?

18 A. No, I didn't, sir.

19 Q. Now, Mr. McCallion's notes
20 indicate, and I won't take you there because it is
21 not that important, is that he relieved you at 1:00
22 a.m. Do you recall how long you would have been
23 off shift?

24 A. A couple of hours.

25 Q. And if we could go to Exhibit No.

1 7477, please, and it would be at the page 161. And
2 if you could just scroll that up, please, Ms. Kuka.
3 Okay, yes, so this is update number 8 and this is
4 sent by Mike McCallion and it is sent at 4:08.
5 Given the fact that it is up until this point in
6 time you have sent all the updates and you have
7 gone off shift at 1 o'clock, can we safely rely on
8 the fact that since Mr. McCallion sent this one out
9 at 4 o'clock, you are still off; is that fair?

10 A. Correct, yes, that's correct.

11 Q. Okay. And in update 8 he states
12 that:

13 "At 02:20 hours, the crane pulled
14 out a small SUV, no occupants.
15 Additional moderate slabs of
16 concrete were removed. Structural
17 integrity of some columns still in
18 question. Debris removal continues.

19 Team members continue to remove
20 debris and shoring the necessary
21 areas to continue moving towards the
22 victim. No further update on victim
23 status.

24 No further confirmed reports of
25 missing persons."

1 And then it says:

2 "Weather: [...]"

3 It talks about that, and it also talks
4 about a CCG meeting at 8:30 and the next update
5 will be at 9 o'clock.

6 Now, it says here in this update:

7 "No further confirmed reports of
8 missing persons."

9 We know that the LifeLocator was used
10 shortly prior to the release of the update 7, that
11 is, shortly before midnight, the update 7 being
12 released at 3 minutes after midnight.

13 Update number 8, which would have taken
14 place after the LifeLocator results, it doesn't
15 mention the results that were obtained at 11:30 the
16 night before; you can see that?

17 A. It does not.

18 Q. Okay.

19 A. Not specifically.

20 Q. Sorry?

21 A. I think what might be wrapped up
22 in the "No further update on victim status", that
23 may be where he is commenting on that. They are
24 both still as we had originally understood, one
25 deceased and one viable.

1 Q. Well, and that is your
2 understanding as opposed to the results of the
3 LifeLocator?

4 A. I'm going to assume that Mike --
5 because I understand the LifeLocator again had a
6 positive reaction at around the 04:00 --

7 Q. Well, actually, the LifeLocator,
8 as far as I understand it, the second deployment
9 would have been after this.

10 A. Oh, okay.

11 Q. Okay.

12 A. So he is just making the comment
13 that there is no further update on the victim
14 status as what I mentioned, one deceased and one
15 alive.

16 Q. When you went off shift at 1
17 o'clock, you would have been aware of the
18 LifeLocator results shortly before midnight, would
19 you not?

20 A. It is not a for sure that I knew
21 until I got back in the morning that they had
22 tried, both of them. I just don't believe I knew
23 anything about that, the first LifeLocator in that
24 time frame before. I know I didn't know before the
25 update, so I'm not sure if I knew before I went to

1 get some sleep or not.

2 Q. So when you came back on shift
3 then, you would have received some form of an
4 update; is that correct?

5 A. Correct.

6 Q. And who gave you the update?

7 A. Mike McCallion.

8 Q. Did he inform you of the results
9 of the LifeLocator?

10 A. Yes.

11 Q. Did he inform you of the fact that
12 it had been used on two different occasions?

13 A. I believe he did, yes.

14 Q. Now, in his evidence here he
15 indicated that he received the results of the
16 LifeLocator, and when he received those results, he
17 had received them with a qualifier, that is,
18 whoever passed them on, whoever gave him the
19 results gave it with the qualification that at the
20 depth the machine was reporting, it would have
21 meant the victim was below the floor.

22 A. Okay.

23 Q. Okay. He indicated to us that
24 when he passed on the results of the locator and he
25 was referring to the second deployment, not the

1 first, because I don't think he was asked about the
2 first, he indicated that he passed that information
3 on to you with the qualifier, that is, that the
4 results they got indicated that the person doing
5 the breathing is below the floor. Is that your
6 recollection?

7 A. I can't be certain if he did. If
8 he says he did, I believe him.

9 Q. You are prepared to accept that?

10 A. I'm prepared to accept that.

11 Q. My question then is when you got
12 that information that on the face of it, at least,
13 didn't make sense, did you ask him -- did you
14 question anybody about it? That is the first
15 question. Did you question him about it?

16 THE COMMISSIONER: Well, he says he
17 doesn't know whether he did or not.

18 BY MR. WALLACE:

19 Q. Okay, did you instruct him to
20 question anybody?

21 A. I don't recall.

22 Q. Okay.

23 A. And I don't recall if he did, if
24 he told me he did either. I don't recall if he
25 did.

1 Q. Okay.

2 THE COMMISSIONER: Tell me when you are
3 ready to move on, Mr. Wallace, and we'll take our
4 morning break when that occurs.

5 MR. WALLACE: Sure, I'm going to leave
6 the LifeLocator now, so now would be good.

7 THE COMMISSIONER: We'll take our usual
8 morning break, Mr. Registrar.

9 -- RECESSED AT 10:30 A.M.

10 -- RESUMED AT 10:50 A.M.

11 BY MR. WALLACE:

12 Q. Thank you.

13 Staff Inspector, when you came back on
14 shift, you told us that you were given the
15 information about the LifeLocator. Did you receive
16 any information about the deployment of the
17 canines?

18 A. I was led to believe that they had
19 also around that 4 o'clock hour, in the same time
20 frame as the LifeLocator, had deployed.

21 Q. And it is my understanding, and
22 we'll hear from Scott Fowlds, that at roughly 2:00
23 a.m. the dog, his dog, Ranger, was deployed, and he
24 did not indicate any live human scent at that time.
25 Is that the information you have been provided?

1 A. Actually, it is not.

2 Q. Okay.

3 A. I was under the impression that it
4 was the OPP dogs that had deployed around the same
5 time as the LifeLocator, and there was a positive
6 hit by their dog at that point. I wasn't aware of
7 Scott's deployment.

8 Q. So you didn't even know that it
9 had taken place?

10 A. No.

11 Q. Okay. And your information was
12 that the OPP dog had been used at the time of the
13 LifeLocator. Is that the first LifeLocator at
14 around midnight or the one more 4:00-ish in the
15 morning?

16 A. It was my understanding, and I
17 believe it to be the 4 o'clock time, the later one.

18 Q. And the information that was
19 relayed to you was that it was a live hit?

20 A. Yes.

21 Q. And who did you get that
22 information from?

23 A. I thought that came in the
24 briefing with Mike.

25 Q. Okay. So we have touched on the

1 information dealing with the victim. Mr. Cranford
2 gave evidence that he had some discussions with
3 Tony concerning shoring options on Monday. He
4 spoke to Tony about various shoring options. And
5 he also indicated that he did calculations on those
6 shoring operations at -- sorry, he actually shared
7 them with Tony approximately 2:00, 2:15 on Monday
8 afternoon.

9 My first question is, were you aware of
10 discussions between Tony and Mr. Cranford about
11 shoring operations -- shoring possibilities?

12 A. Without -- I don't believe so, but
13 I'm not sure what shoring you are referring to.

14 Q. It would be the -- sorry, it would
15 be the shoring in connection with stabilizing the
16 beam that had the escalator and the slabs.

17 A. Oh, I believe that that was part
18 of a conversation, again, and I am not sure of the
19 exact time when, that Tony and I had about the
20 escalator itself, that it would have -- it wasn't
21 impossible to shore, but it would have been a lot
22 of work to get it done. But I'm not sure of the
23 exact conversations that they had.

24 Q. Okay. So are you able to situate
25 with the fact that I have told you that he

1 discussed the shoring issues with Mr. Cranford on
2 Monday?

3 A. I would expect that to happen.

4 Q. And my question to you is when did
5 you get this information that he had discussed this
6 with Mr. Cranford?

7 A. I'm going to say on Monday that
8 that conversation that I had in relation to the
9 escalator was probably earlier than that, but on
10 what you are referring to, if that means
11 specifically they had conversations on Monday, I
12 don't believe I was brought into that conversation
13 until I came back, until Mike McCallion called me
14 back into the command tent at about 1:30, 2
15 o'clock, something in that nature.

16 Q. So that would be the first time
17 that you had been made aware that Mr. Cranford and
18 Tony had specifically discussed shoring, the
19 possibility of shoring the beam that was causing
20 all the problems?

21 A. I don't believe that was the first
22 time, but there was previous conversations.
23 Exactly when or what they -- the details of them,
24 no, but I'm certain that I had conversations with
25 Tony about it.

1 Q. Okay.

2 A. Not necessarily Mr. Cranford.

3 Q. The information that Tony was
4 giving you about the shoring of that beam, what was
5 it? What was he --

6 A. Are we talking about the beam on
7 the escalator or --

8 Q. Yes.

9 A. All right.

10 Q. Yes, that is the one, the beam
11 that was supporting the escalator and the core
12 slabs.

13 A. My interpretation from what Tony
14 was telling me that it was a possibility to support
15 that escalator, but it would have taken a couple of
16 days to do it and it would not have been something
17 that we would be capable of doing, because he
18 believed, from what I recall, we would need to use
19 some steel and it was just an unsafe work
20 environment to put our people in behind that
21 escalator because it was -- it would need to be
22 supported. And if you are supporting something,
23 you try to work from the positive side, and there
24 was really no positive side to that staircase.

25 Q. Did this information come to you

1 after, post-1 o'clock on Monday?

2 A. Most of that, no, was pre, but
3 there was some that came to me post.

4 Q. Okay. So was there any other
5 information given to you when you came back on
6 shift? More specifically, Mr. McCallion has given
7 some evidence about a safety issue involving the
8 rigging operations and, more specifically, the OPP
9 team. Had you been made aware of that?

10 A. In the general sense, yes, Mike
11 informed me of an issue that took place over the
12 night, over the period of the nighttime shift of an
13 issue involving the OPP UCRT team and Chris
14 Rowlands who was -- he is a Captain with Toronto
15 Fire who was one of the rescue managers -- rescue
16 squad leaders, that there was a safety issue that
17 was on that was involved with those two individuals
18 and he dealt with it. And that was the way he left
19 it. He dealt with it, it was over, it was done. I
20 didn't explore it.

21 Q. Okay.

22 A. I trusted Mike that he had dealt
23 with it.

24 Q. Okay. Now, if we could have
25 Exhibit No. 3743, and specifically at page 29.

1 Now, this is the CCG meeting of, as it says, the
2 25th of June, 8:30 in the morning and you can see
3 you are one of the attendees?

4 A. Yes.

5 Q. And the purpose again would be to
6 bring the members up to speed as to the progress
7 that you had made?

8 A. Yes.

9 Q. And next steps. So you have
10 informed them that:

11 "Major activity.

12 Removed beam".

13 It has been cut and removed. It was:

14 "[...] in worse shape than
15 anticipated.

16 Ministry of Labour has taken
17 control of the piece."

18 You used the crane:

19 "[...] to rig and take out
20 SUV/slabs.

21 Concrete is poor and falling
22 apart."

23 This would be information you received
24 from whom?

25 A. I think that was part of what Mike

1 had given me, that the concrete wasn't great and it
2 was -- not that it was fracturing in big pieces,
3 but there was small pieces falling apart from it,
4 but it was in poor condition.

5 Q. And were you given any indication
6 as to whether the pieces that were falling apart
7 were falling in the course of a lift or they were
8 falling in the pre-lift stage, or do you know?

9 A. I don't know that.

10 Q. You indicated that you are:

11 "Still shoring.

12 Made through 2 new zones."

13 And then it says:

14 "Dogs in at 4:00 a.m."

15 Is --

16 THE COMMISSIONER: If you could shift,
17 Ms. Kuka.

18 BY MR. WALLACE:

19 Q. Oh, sorry, yeah. It says:

20 "Same finding [...]"

21 Now, same finding as to what?

22 A. Well, they had previously had a
23 report from that area that there was someone alive
24 through the dogs.

25 Q. Okay, so you are talking about the

1 fact that at 4:00 a.m. the dog is giving an
2 indication of a live hit that is consistent with an
3 earlier live hit finding; is that --

4 A. That's correct.

5 Q. Okay.

6 "Believe someone under the pile -
7 still breathing."

8 Now, although it doesn't specifically
9 mention it there, the "still breathing" part, is
10 that reference to the LifeLocator or do we tie that
11 into the dogs?

12 A. That would be reference to the
13 LifeLocator.

14 Q. Okay.

15 "Hot spots - same one since
16 yesterday."

17 What is that in reference to?

18 A. I'm not sure.

19 Q. And:

20 "Camera - think they have seen
21 someone in the rubble."

22 What information is that?

23 A. Well, that would have come from
24 the search team, that they used one of their
25 cameras and they believed when they stuck it, stuck

1 the lens through some voids, that they may have saw
2 an individual.

3 Q. Any indication one way or the
4 other in terms of the viability of the person?

5 A. No.

6 Q. All right. Now, I notice that in
7 all of the updates that you sent, including
8 Mr. McCallion's, there was never any mention of the
9 canines. Is there any significance to that fact,
10 that the fact that the canines had made live hits
11 over the course of this deployment? I don't see it
12 anywhere and we have reviewed them all, so --

13 A. No, the intention of the updates
14 are to give information to higher level people. I
15 don't believe -- as we indicate through most of
16 these, that I am giving them information that the
17 victims are still in a viable position up to this
18 point and that I don't think it is required to give
19 them that every time the dog went out on the rubble
20 pile to make a hit.

21 So I'm covering that off with victims
22 still the same or no change. I don't think the
23 people are looking to see exactly the tactics that
24 are being deployed on the ground.

25 Q. Now, if we can go to the last page

1 of -- sorry, to page 32, and it makes reference at
2 the bottom:

3 "Press conference noon.

4 Meet upstairs [at] 11:00.

5 CCG the meet again [at] 3:00."

6 And this meeting adjourned at 8:55 a.m.

7 And it was the intention, was it not,
8 that you would participate in the noon Monday press
9 conference?

10 A. That's correct.

11 Q. And you did in fact attend?

12 A. I did.

13 Q. And I gather you also attended at
14 that pre-press conference meeting that is mentioned
15 here at 11 o'clock?

16 A. Yes, sir.

17 Q. Now, if we can go back to Exhibit
18 No. 7477, at page 160, right down to the bottom,
19 please. We just need that for the time. This is
20 update 9, which you will see on the next page, but
21 the timing of it is the Monday at 10:25 a.m. And
22 if we could go to the next page, Ms. Kuka, update
23 9:

24 "Rigging of large concrete slabs
25 continues with the large cranes and

1 Team 1 continues to push forward
2 utilizing T-spots and Lace posts.

3 Still working in rescue mode
4 towards this victim.

5 The number of persons reported
6 missing continues to fluxuate [sic]
7 while OPP is working diligently to
8 reduce the number.

9 Next Control group meeting with
10 Press Conference is scheduled for
11 noon.

12 Next update 1300 hours."

13 You received some information, you
14 received some information from Mike McCallion at
15 10:45 approximately, and this is contained at
16 Exhibit No. 6342 and this is Mr. McCallion's notes.
17 Yes, if we could go to page 27, please.

18 Now, before we actually review that
19 with you, you have sent out update number 9 at
20 10:25 in the morning, and you are going to be going
21 to that meeting, the pre-press conference meeting
22 at around 11 o'clock.

23 Prior to receiving the information from
24 Mr. McCallion about the possibility of having to
25 stop the operations, how were things progressing at

1 that time?

2 A. Everything was on schedule and
3 progressing as we had planned. We were making our
4 way in from the north end, continually shoring and
5 supporting our way in and cleaning the debris as we
6 went, and we were making headway. And within the
7 next operational period we might have, or
8 thereabouts, might have made our way into towards
9 where the victims were.

10 Q. Prior to receiving the information
11 from Mr. McCallion, was there any indication about
12 the movement of the escalator? Was there any
13 indication? I'm not talking about a possibility,
14 but was there any indication that it was actually
15 happening?

16 A. There was some discussion on
17 whether it was moving or not and whether it
18 actually -- I probably said that there was movement
19 along the way because of not information that I
20 received but I guess -- and I don't know where that
21 came from, but I didn't have any exact information
22 on any real specific movement prior to then.

23 Q. So if we can look at the note
24 there, it says at 10:45:

25 "B. Neadles advised of situation.

1 Possibility of having to stop ops if
2 instability increases."

3 Now, was this a face-to-face meeting
4 that you are having with Mr. McCallion?

5 A. I'm not sure if it was because I
6 was by then I believe headed to or at the Control
7 Group meeting, or thereabouts.

8 Q. So this could have been a phone
9 call?

10 A. I don't recall it, but it could
11 have been.

12 Q. And what specifically did he tell
13 you?

14 A. I -- obviously, there is a
15 "possibility of having to stop ops if instability
16 increases", they had seen some minor movement.

17 Q. And minor movement of what, the
18 escalator, stairs, escalators?

19 A. I believe so, yes.

20 Q. And it talks here of "advised of
21 situation possibility of having to stop ops". Did
22 he give you any indication that any operations had
23 in fact stopped?

24 A. No, my understanding would be that
25 they hadn't because the word "if" is what I would

1 rely on for that, if any instability continues, so
2 at that point I'm of the belief that everything is
3 still a go, that there is no real threat at that
4 point.

5 Q. And if we could go to Exhibit No.
6 6342.

7 MS. KUKA: What page?

8 BY MR. WALLACE:

9 Q. I'm sorry, I gave you the wrong
10 number. It is Exhibit No. 6336 and that is at page
11 1984. And my understanding, sir, is that you would
12 have continued on to the meeting, this pre-press
13 conference meeting with the personnel who was going
14 to appear in the press conference?

15 A. Yes.

16 Q. And we can see here it talks -- it
17 says at the very top, it says:

18 "Closed Mtg June 25/12. Call to
19 order 11:06."

20 Caution: Watch the press, no
21 comments."

22 Do you know who is captured there?
23 Like who is saying that?

24 A. I'm sorry, I'm not -- what
25 paragraph, sir?

1 Q. It is the very, very top, right at
2 the top:

3 "Caution: Watch the press, no
4 comments."

5 A. No, I don't know.

6 Q. Okay. The CEO, that is Mr.
7 deBortoli?

8 A. Yes.

9 Q. Yes.

10 "Anticipating a good Press
11 conference."

12 And then here it says:

13 "HUSR - pulled personnel out -
14 need to reassess - escalator
15 unstable.

16 To support escalator estimates 2
17 days and cannot work around
18 escalator.

19 To go in north end - based on
20 still on rescue due to sonar hit
21 this [morning]."

22 I gather the sonar hit this morning is
23 the LifeLocator?

24 A. Right.

25 Q. My question here is it certainly

1 appears that when you are talking to this group,
2 you are telling them that people have been pulled
3 out?

4 A. I was referring to they were --
5 what we were -- we had stopped working in any
6 relation to that escalator, that was pulled out of
7 that particular area. We were still -- in the area
8 that we were able to work and confined, they were
9 trying to come in or find other avenues as well
10 through the other areas, the other doors to come in
11 as well. Those were probably stopped, and the
12 area -- the primary focus through the north end was
13 still continuing I believe at that point.

14 Q. So this would be in reference to
15 the work happening on the pile, the rigging
16 operations?

17 A. I'm not sure if they were still
18 rigging at that point or not. I believe if they
19 were, that would have probably ceased as well. I
20 wasn't there to say that, so I'm not sure.

21 Q. So, okay, I'm just not quite
22 following here. What people were pulled out? And
23 I don't mean --

24 A. My understanding would be that
25 anybody that was working in conjunction with that

1 and close to that staircase would have been
2 removed.

3 Q. Well, the staircase is at the
4 south end of the collapse area; correct?

5 A. Correct.

6 Q. The shoring operations had started
7 at the north end?

8 A. The north end, correct.

9 Q. And had then started to progress
10 outside the pile but on the west side?

11 A. Correct.

12 Q. And maybe I'll just get --

13 THE COMMISSIONER: The sketch?

14 MR. WALLACE: Yes.

15 THE COMMISSIONER: Exhibit No. 7946.

16 BY MR. WALLACE:

17 Q. Where are you referring to where
18 the people would have been pulled out?

19 A. Probably working in that area
20 there.

21 Q. So --

22 A. Anyone in that area would have
23 been -- we were still I believe making headway on
24 this here towards that victim, to the victim, but
25 anybody that would have been working in conjunction

1 with that. And I guess that would include the
2 rigging, but again, I wasn't at the scene at that
3 point so I don't even recall if there was rigging
4 going on at that point.

5 Q. My understanding is that the zones
6 that are shown there, that is, 6, 7 and 8, or more
7 specifically, 7 and 8, were actually behind a wall;
8 there is a wall that was constructed that separated
9 that shoring operation from the actual pile itself.

10 A. Okay.

11 Q. You are not aware of that, I
12 gather?

13 A. I never saw that, no.

14 Q. So we do know that the rigging had
15 taken place that would put people in the proximity
16 north of number 5 there, but are you aware of
17 anybody else other than the rigging operations that
18 would have put them in that area?

19 A. I think that if that is the case,
20 then if you are telling me that, and I am not sure,
21 I thought there was some of those workers who were
22 at risk at that point and that is what I am
23 referring to there.

24 Q. You are referring to the workers
25 in zones 7 and 8?

1 A. Yeah. That is what I understood,
2 and the operation, the main operation was still
3 working forward from this way.

4 Q. Sorry --

5 A. Through, they would pass through
6 number 3 and I believe we were out into this area
7 here.

8 Q. Sorry, was it your belief that
9 some of your workers were actually working in the
10 pile --

11 A. No, no, they weren't in the pile
12 yet.

13 Q. Okay, so what work would these
14 people that you are talking about be doing?

15 A. Still supporting and making sure
16 that the area was safe.

17 Q. Like more shoring, is that what
18 you are referring to?

19 A. I still think they were still
20 shoring pretty much.

21 Q. And still shoring in the lobby?
22 This is where the marker was?

23 A. Correct, and clearing -- and also
24 doing some debris clearing in this area as well.

25 Q. And --

1 A. And they were -- I believe there
2 was still some guys working on the second floor, or
3 they may be done by that time. I'm not sure.

4 Q. So your belief was that there were
5 some people working south of zone 3, in just
6 adjacent to the pile, is that --

7 A. I'm not sure how far, but I
8 believe so, yes.

9 Q. And would the fair answer be is
10 you are not sure who was actually removed?

11 A. Exactly who was removed, no, I'm
12 not sure.

13 Q. Yeah, or what their activities
14 were at the time?

15 A. No, I'm not sure.

16 Q. Okay. And is this information
17 that you are just telling us about that you have
18 related to the group at City Hall, is that an
19 elaboration of the information you received from
20 Mr. McCallion or is this information you got from
21 another source after that?

22 A. It is an elaboration of what I
23 received from Mr. McCallion.

24 Q. Okay, so he, in addition to saying
25 that it was a possibility to be removing or the

1 operation be stopping, he also went on to tell you
2 that we have actually removed some people?

3 A. I don't recall if he actually told
4 me that.

5 Q. Okay. Now, the press conference
6 took place at noon. Did you receive any other
7 further updates in terms of what was happening back
8 at the pile prior to the press conference at noon?

9 A. I don't believe so.

10 Q. I would like you to -- if we could
11 look at Exhibit No. 6942. Now, this is an e-mail
12 that was sent to both Tony Comella and Mike
13 McCallion, Michael McCallion, on the Monday the
14 25th at about 10:54 in the morning and it wasn't
15 sent to you because he didn't have your e-mail
16 address, and it says:

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

23 I doubt anyone in that rubble is
24 uninjured, and although the puddles
25 indicate there may be access to

1 rainwater/spilled water/drinks
2 present in the food court. Also,
3 I'm advised by the local emergency
4 physician that one of the people
5 suspected by local medical
6 authorities to be in the collapse is
7 diabetic and is less likely to
8 survive due to dehydration.

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

16 If visual, verbal or physical
17 contact is made at any point with a
18 victim who is not obviously dead
19 (Code 5 criteria), call me ASAP.

20 Any communication with the public
21 or media should acknowledge there
22 are rare exceptions ('miracles') to
23 the 3 day rule of thumb and that we
24 remain prepared to find and treat
25 patients.

1 Hope this helps with planning.

2 Mike."

3 And that is from Dr. Michael Feldman.

4 Now, this e-mail wasn't sent to you
5 directly. Did you receive this e-mail?

6 A. I did.

7 Q. And when would you have received
8 it?

9 A. I don't recall when. Sometime I
10 think later on Monday, but I had had a personal
11 face-to-face conversation with Dr. Feldman earlier
12 in the tent in which he relayed we had that
13 conversation more or less prior to that e-mail.

14 Q. What did he tell you in that
15 conversation?

16 A. Well, basically that he didn't
17 believe that there was much viability going forward
18 of any of the victims surviving because of the way
19 his observations of the pile, and again, using
20 those criteria that he used, the three days without
21 food and the water, he explained all that to me
22 there, though I did not know and we did not speak
23 of any medical indicators of diabetes or not at
24 that point. He did not mention that to me then.

25 Q. And how did he express the

1 viability? How did he express that to you?

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

8 But as time went on, he would say he
9 didn't believe that they would be able to survive.

10 Q. And would it be fair, and we'll
11 have a chance to ask him but I just want to know
12 what he related to you, is it -- would it be a fair
13 statement to say that when you had that
14 conversation, this would be on Monday morning?

15 A. I believe it was Monday morning,
16 yes.

17 Q. He expressed to you his opinion
18 that he did not think anybody had survived?

19 A. That's correct.

20 Q. Did you ask him, "Well, Doctor,
21 you know, we had these results at 4 o'clock in the
22 morning or thereabouts and we had these results at
23 a little before midnight indicating the opposite"?
24 Did you put that to him?

25 A. Now that you say that, I'm going

1 to guess that the conversation I had with him was
2 even prior to that. It may have been even on
3 Sunday, because I didn't -- I don't recall having
4 that information with him. And I'm going to guess
5 I'm probably not the only witness that has said
6 here that this was -- the time frame here is pretty
7 clouded because I was going the whole time pretty
8 much with very little sleep.

9 So and to put it into the right
10 context, now I'm thinking that that conversation
11 with the doctor was even on Sunday afternoon
12 sometime, because I know we were on the upper deck
13 and we hadn't started to move into the next phase.

14 Q. Well, I'm looking at the part
15 there he is talking about in bold letters:

16 "If there are no more Delsar
17 indications/sounds/signs of life
18 [...]"

19 The only information that we have
20 about -- and it wasn't even Delsar. As far as we
21 have heard, there has not been any Delsar sounds,
22 but there was this LifeLocator. It would appear
23 his reference there is he has been made aware of
24 the fact that there were signs of life detected?

25 A. I'm going to -- my recollection is

1 that the conversation I had with him was after the
2 9:30 tapping on the Sunday and later on on that
3 afternoon, sometime in that time frame, before
4 either of the LifeLocator deployments or the
5 secondary dog ones.

6 Q. Regardless of the actual timing of
7 the conversation, his opinion at the time you had
8 that conversation, whether it was Sunday or Monday,
9 was that he did not believe that there was anybody
10 alive?

11 A. Yes.

12 Q. Now, moving forward, you get this
13 e-mail sometime on Monday?

14 A. I know Mike sent it to me. I
15 can't recall what time.

16 Q. Right. Can we safely assume that
17 prior to the rescue being called off on Monday, you
18 would have read this?

19 A. Whether I would have read the
20 entire thing, I would like to think I did, but I
21 can't guarantee that I did.

22 Q. When you became aware of the fact
23 that you have signs of life, that is, it is being
24 reported to you, as I understand, when you came
25 back on shift on Monday, Monday morning, did you

1 contact Dr. Feldman and say, "Doctor, here is a
2 change, what do you think?" Did you have a
3 conversation with him on Monday?

4 A. No, I did not. He was still there
5 I believe Monday morning, but I did not have that
6 conversation with him.

7 Q. And to your knowledge, nobody
8 brought the fact of the LifeLocator to his
9 attention?

10 A. I do not know that.

11 Q. Okay. But in any event, as you
12 were moving forward on Monday, were you of the same
13 mind as Dr. Feldman, that is, you didn't believe
14 that there were any survivors?

15 A. I wouldn't put my mindset right in
16 that same thing. I knew in my head that this was
17 going to be a very difficult situation for anyone
18 to survive, but my heart was telling me that I
19 still need to go forward with continuing this and
20 not just saying this is -- I have no medical proof.
21 I have no medical background other than to go with
22 what the doctor has told me and -- but I'm still
23 moving forward to say that I do believe that there
24 was a viable sign of life at 04:00, and that is the
25 last I can go from that.

1 Q. But the one thing that we can be
2 clear of is you did not have a conversation with
3 Dr. Feldman yourself about the LifeLocator on the
4 Monday?

5 A. I did not.

6 Q. And if we could have Exhibit No.
7 6962, this is a transcript of the press conference
8 that took place on the noon of the 25th, and it
9 starts off where the person unidentified says:

10 "[...] the emergency management of
11 the city of Elliot Lake conducted a
12 briefing. Information received is
13 that this is still a rescue and we
14 are continuing our efforts in
15 searching for victims. Mr. Neadles
16 will have an update in this regard."
17 And then it would be turned over to
18 you:

19 "Okay, good morning. The Toronto
20 Heavy Urban Search and Rescue team
21 assisted by the OPP and the Elliot
22 Lake fire service has been
23 diligently working through the
24 night. Since our last night, we
25 managed to, with the assistance of

1 the large crane operators, remove
2 the damaged i-beam that had
3 collapsed within the structure.
4 That i-beam has been turned over to
5 the Ministry of Labour as part of
6 their investigation. We also
7 managed to make use of the large
8 cranes over the course of the night
9 to assist us to remove some of the
10 very large pieces of concrete slabs
11 that had been thrown all around
12 through the collapse. This morning
13 around 4 o'clock, the OPP utilized a
14 piece of equipment that they have to
15 again determine that there was signs
16 of life from the one same location
17 that we had indicated yesterday."
18 This is reference to the LifeLocator;
19 correct?

20 A. Yes, sir.

21 Q. Okay, and you do not qualify in
22 any way, shape or form the results of the
23 LifeLocator in this press conference; correct?

24 A. No, sir.

25 Q. Okay.

1 "and again, we're still diligently
2 working as fast as we can toward
3 that person. Unfortunately, we've
4 had probably a setback in that the
5 structure, after some of the weight
6 has been removed from some of the
7 other parts that had fallen and a
8 beam had been removed, is still
9 shifting and is still unstable. It
10 has become more unstable for us.
11 The escalator inside is now shifting
12 and we've had to remove our crews to
13 reassess our entry point. That's
14 not to say that we have stopped
15 working. We have now gone back to
16 the other avenue from the north to
17 now come back from the entrance to
18 now start shoring and putting up
19 weight posts", I assume that is
20 probably lace posts, "and supporting
21 the roof above to keep moving toward
22 that void where that person was
23 located this morning."
24 Which is essentially what you have told
25 us a little while ago?

1 A. Yes.

2 Q. That is, that there was operations
3 stopped but the place, the operation didn't come
4 down to -- ground to a halt?

5 A. Correct.

6 Q. And:

7 "So we're still working that way.
8 We will not be able to use the crane
9 as much as we did because that area
10 that they were lifting and removing
11 large slabs from is now a no-go
12 situation for us to be there. We're
13 still scared of it. It even has the
14 potential of falling down."

15 Could you just raise that up, please?

16 "We put on some technical
17 equipment to try and assess how much
18 movement there is in that [...] of
19 the building."

20 The technical equipment you are
21 referring to is what?

22 A. Well, it is the piece of
23 equipment. "Technical" may not have been quite as
24 the key word. It is the piece of -- the box that
25 Tony Comella put on the escalator.

1 Q. Did you ever see that?

2 A. No.

3 Q. Did he explain it to you?

4 A. No, not until much later.

5 Q. Okay, so at this point, at the
6 press conference, all you had been told is he had
7 installed or had installed a couple of pieces of
8 wood to be used as a measuring device?

9 A. That's correct.

10 Q. Okay, and when did he explain it
11 to you?

12 A. I don't even know if it was
13 explained to me until way after the event.

14 Q. Okay, you mean the deployment
15 itself?

16 A. Correct.

17 Q. Okay.

18 "But it is still very unstable and
19 very unsafe and we have to be very
20 careful with every move that we make
21 within that structure. We are still
22 moving forward. That rescue. Now,
23 to give you a time frame, I just
24 can't do that because now we're
25 reassessing the whole operation and

1 moving forward in what was now a
2 different direction. And so we
3 don't have a time frame on when we
4 might be able to make contact with
5 anybody there. And I believe - are
6 any questions."

7 So as I understand what you are
8 conveying to them is that because of the shifting,
9 the operations around the escalator have to stop?

10 A. Correct.

11 Q. You are going to be trying -- you
12 continue shoring in an effort to move towards the
13 victim?

14 A. Correct.

15 Q. And this could only be
16 accomplished along the perimeter of the collapse
17 zone?

18 A. Correct.

19 Q. And so that the plan at this stage
20 had shifted from one where you were a crane
21 operation to remove the debris was now going to
22 become a shoring operation, and at some point in
23 time you would have to figure out how you would
24 move from the perimeter of the pile when you got up
25 to the area of the victim to inside the pile?

1 A. Correct.

2 Q. That was the unknown at that
3 stage?

4 A. Yes.

5 Q. Nobody had the answer, as you are
6 explaining this to the people --

7 A. At that time, no. I would -- no,
8 sorry, I'll leave it there.

9 Q. And if you could turn the page,
10 please, right up at the top, please, the question
11 is asked of you:

12 "You said that there were signs of
13 life this morning. What signs of
14 life?

15 Unidentified panel member: Well,
16 the piece of equipment that the OPP
17 has is called a life detector - and
18 it has the capability to - it is
19 sort [of] x-ray machine that can
20 look through the concrete slabs and
21 can determine on the machine whether
22 there is someone breathing within
23 that structure or within that void.
24 And they did come up with that
25 positive sign again."

1 And I'll ask the same question. This
2 result that you are expressing at the press
3 conference is not qualified in any way, shape or
4 form; correct?

5 A. Correct.

6 Q. You did not advise anybody
7 listening that they should advise caution when
8 relying on this particular result?

9 A. Correct.

10 Q. And then if we can just go to the
11 next page, and the question that starts with
12 "sorry", it says:

13 "My question is about the
14 individual who at 4 a.m. was once
15 again - there were signs of life
16 shown. Can you [...] clarify if
17 that is the same person or came from
18 the same area from the tapping? And
19 follow-up, is that the person who is
20 believed to be trapped under the
21 car? Again, is it the tapping
22 person? And you can tell us where
23 that person is located? Just a
24 second."

25 And then you answer the question:

1 "The answer to the question is
2 'yes'. That's the same person.
3 That's the only person we've had
4 actual contact with, on the site.
5 So it would be the same person who
6 was tapping. The same person who
7 has been, there has been hits by our
8 search dogs. That is the only
9 person we've had contact with.

10 Question: And they are the ones
11 that were under the car?

12 Unidentified panel member: No,
13 not under the car. They are under
14 some concrete."

15 And now I have asked you on a couple of
16 occasions over the course of this press conference
17 that we have just reviewed, and you have agreed
18 with me that you did not qualify the results of the
19 LifeLocator that you conveyed to the public.

20 If you had been speaking to family
21 members, would you have expressed the results of
22 the LifeLocator in those fashions or would you have
23 qualified it?

24 A. I probably would have -- I would
25 have just expressed that we had the asset was

1 deployed or the machine was deployed and they were
2 successful in finding someone that was breathing.
3 Would I have went into the details? Probably not.

4 Q. Would you advise caution on
5 relying on the result?

6 A. I probably wouldn't come out and
7 say I want to be cautioned on what I am telling
8 you. I wouldn't -- it would be my -- I wouldn't
9 tell them anything unless I thought it was factual
10 enough to give it to them and solid enough
11 information to give it to them.

12 I never gave the family this
13 information, but again, I put it out in the public,
14 so I believed it to be a valid confirmation from
15 the machine.

16 Q. And I gather you have no
17 recollection, notwithstanding that Mr. McCallion
18 qualified the results to you when he conveyed the
19 results to you?

20 A. If he did, he did. I don't -- but
21 I didn't ask any further questions on it. I don't
22 recall him giving me that information.

23 Q. Now, after the press conference,
24 what did you do?

25 A. I think it was shortly thereafter

1 I received a call from Mike, Mike McCallion, to
2 come back to the site.

3 Q. And if we could go to Exhibit No.
4 6342 at page 27. Now, these are Mr. McCallion's
5 notes, and he notes that at about 13:20:

6 "Comella confirms [building] is
7 continuing to move. [Building]
8 unsafe. Teams should not be inside
9 pile. Notify B. Neadles that teams
10 need to be removed from pile.
11 [Building] unsafe."

12 And then he has got "agreed".

13 What information did you receive from
14 Mike McCallion?

15 A. Basically what he has written
16 there, that he had informed me when the call that
17 he asked me to come back on, that the information
18 he had from Comella was that the building -- the
19 escalator and the technical thing, that it had
20 moved and it was now unsafe for our teams to be
21 inside the building.

22 Q. So he has informed you that this
23 measuring device that was installed has detected
24 some movement?

25 A. Correct.

1 Q. And as a consequence of that, what
2 did you do?

3 A. I returned back to the tent.

4 Q. And when you got back to the tent,
5 who did you speak to?

6 A. I believe when I first arrived, I
7 spoke to Mike and we chatted about this situation,
8 and then I had a conversation with Tony Comella,
9 Roger -- Mr. Cranford and Mr. Roger Jeffreys of the
10 Ministry of Labour who are the -- that was the
11 engineering brain trust that had been working
12 together collectively over the last several hours.

13 Q. Okay. Mr. McCallion notes that he
14 informed you of this information, that is, that the
15 building was shifting at about 20 after 1:00, and
16 moving forward, we have an e-mail that I will share
17 with you in a few moments from Bob Thorpe at 13:50
18 hours, approximately half an hour after getting
19 this information from Mr. McCallion. And at 13:50
20 he reports that the effect of events, it has been
21 decided that the rescue will cease and the building
22 is going to be demolished.

23 So what I would like to do is I would
24 like to determine with you what happened, who you
25 spoke to and what information you received in that

1 roughly 30-minute period that led to the decision
2 you made.

3 So if we could, first of all, situate
4 all of this, that is, these events that we are
5 talking about, did they take place in the command
6 post?

7 A. Yes, they did.

8 Q. When you got back to the command
9 post, who was there?

10 A. Like I said, Mike McCallion was
11 there, Tony Comella, Roger Jeffreys and James
12 Cranford. Outside of those four, I really couldn't
13 tell you who was in the tent. I don't know. I
14 was -- it was one of those concentrated very
15 focussed conversations that I was involved with the
16 three of them anyways. Mike was probably standing
17 off to the side somewhere. But after that, I have
18 no idea, no recollection who might have been in or
19 in the proximity of or inside the tent.

20 So those three were the three that I
21 was focussing that conversation on at that point.

22 Q. Your conversation, the people you
23 have present that you can recall are Tony Comella,
24 Roger Jeffreys and James Cranford?

25 A. Correct.

1 Q. Okay. Now, James Cranford has
2 given evidence that at approximately 1:35 that
3 afternoon, at the same time he is elsewhere
4 discussing his calculations. He had been asked to
5 provide a calculation in terms of the load that the
6 beam was being subjected to, that is, the beam that
7 is supporting the escalator and the core slabs.
8 And he gave evidence earlier this week that at
9 roughly 1:35 he was with Tony Comella in -- not in
10 the command post, but he was actually in or around
11 the building, I believe it was the north end or it
12 may have even been the south end of the building
13 explaining those calculations to Tony Comella.

14 So he obviously can't be two places at
15 one time. My question to you is, are you sure that
16 James Cranford was part of this group?

17 A. I'm absolutely sure Mr. Cranford
18 was part of the group. The time may be what is at
19 issue here, but I'm sure Mr. Cranford, because when
20 the last I saw of Mr. Cranford, he did -- he was
21 saying that he had to -- he had to get back in
22 touch with Toronto to confirm his numbers. That
23 was the last thing I heard from Mr. Cranford say.

24 Where they went from that I can only
25 guess, but I know for a fact that those three were

1 the three key people that I needed right in front
2 of me to deliver me the information.

3 Q. If we could go to Exhibit No.
4 7545, this is a timeline that Mr. Cranford
5 prepared. And if we could go to the next page,
6 please, at 9:30 a.m. he notes:

7 "Reviewed options on shoring
8 escalator with Tony Comella,
9 specifically what calculations to be
10 carried out."

11 At 10:00 a.m.:

12 "Began calculations to determine
13 loading on escalator."

14 At 11:30:

15 "Sent sketches back to office to
16 be run in SAP2000."

17 And just scroll up, please:

18 "Results received from office."

19 At 1:15:

20 "Worked out revisions in
21 calculations, re-sent to office."

22 At 1:30:

23 "Updated results sent back."

24 And the next page, please.

25 At 1:35:

1 "Discussed results with Husar and
2 OPP commanders."

3 And he identified the people there as
4 being Tony Comella, Jamie Gillespie and Constable
5 Waddick.

6 And then at 2 o'clock:

7 "Discussed results with MOL
8 engineers."

9 And at 2:30:

10 "Did not accompany commanders and
11 MOL on walk-through of building."

12 And I can also inform you that he
13 testified that the results that he was referring to
14 here is the loading results on the beam.

15 A. Correct.

16 Q. He conducted additional
17 calculations in terms of the ability or what would
18 be required shoring wood and steel, and he
19 discussed those with Mr. Comella -- sorry, I
20 shouldn't say that. He discussed the wood
21 calculations with Mr. Comella around the 2:00 to
22 2:15, in that time frame area.

23 So does this timeline that I have shown
24 you and the additional evidence that we have
25 received, does that in any way, shape or form

1 change your belief that Mr. Cranford was part of
2 this meeting?

3 A. Absolutely not, sir.

4 Q. Okay. So would it be -- Bob
5 Thorpe, he provided an e-mail talking about the
6 meeting. It would not surprise you to learn that
7 he would have been present in the command tent when
8 this discussion took place?

9 A. I have no recollection of him
10 being there.

11 Q. But it wouldn't surprise you if he
12 was?

13 A. No, sir.

14 Q. Paul Officer, would you expect him
15 to be there?

16 A. At that point, I don't believe
17 Paul was there.

18 Q. Okay. So in this initial meeting
19 that you situate Roger Jeffreys, Tony Comella and
20 James Cranford, what was said?

21 A. Tony started the conversation
22 from -- and he said that the mechanism he put in
23 place had shifted significantly and that it was now
24 a position that, based on what the two engineers
25 who were right there, based on what the engineers

1 have said, have calculated that the escalator with
2 the concrete on top is now subject to a failure and
3 that it is overstressed, and I believe the number
4 at that point in time that I recall was just over
5 100-and-some-percent stressed. I know there has
6 been another number of 400, but I did not hear that
7 number here. I believe the number I heard there
8 was over 100 percent stressed and the risk of that
9 collapse was almost imminent and that at that point
10 the recommendation to me was that we remove all of
11 our -- all of the workers from the building.

12 Q. Is it Tony Comella that is giving
13 you this information in the presence of these other
14 people?

15 A. Correct.

16 Q. Okay. And he has said that
17 calculations have been done; correct?

18 A. He didn't explain how he got to
19 the number. I had no idea to what extent
20 Mr. Cranford had been working on those
21 calculations. I did not know that.

22 Q. Okay, well, let's just go back one
23 step then. He has informed you that the escalator
24 is shifting; correct?

25 A. Correct.

1 Q. And that has been detected by that
2 device?

3 A. Correct. It has shifted
4 significantly is --

5 Q. Okay, and he makes reference to
6 calculations. Did he say what the calculation was,
7 number one, and did he say who did the calculation?

8 A. I believe he indicated that James
9 had been doing the calculations, some calculations.
10 I didn't get into how or what they were, but the
11 calculation that he provided me was over 100
12 percent stressed. And that is when I got -- I
13 recall hearing James, who then just was standing
14 up, sat down at the table beside him, and I am not
15 sure if he got on the phone or was -- but he
16 indicated that he needed to call Toronto to get any
17 further -- to get a further update. I recall
18 hearing --

19 Q. To get a further update on what?

20 A. On the -- I believe on the
21 calculations, but I'm not sure exactly what
22 specifically he was talking about.

23 Q. And what did Roger Jeffreys say as
24 this is happening?

25 A. I believe he agreed that it was

1 significantly at risk now.

2 Q. And Mr. Comella is indicating that
3 the building -- does he use the words "significant
4 risk of collapse"?

5 A. I'm not exactly sure of the term
6 he used, but he was making his point very well and
7 succinct to me that it was -- it had moved, and
8 drastically, significantly, I'm not sure of the
9 term, but it was now in a position that it was at
10 risk of falling, not only falling down but moving,
11 falling, which was more significant for us was
12 falling forward. He put it in that downward,
13 forward motion.

14 Q. Now, this conversation that you
15 are describing for us isn't very long?

16 A. No.

17 Q. Did you ask the opinion of either
18 one of the engineers, did you ask their opinion as
19 to what should be done?

20 A. I believe I asked, is this -- "Do
21 you all agree?" And they all said yes.

22 Q. They agreed that what, the
23 building --

24 A. The information that they
25 collectively had been working together. Tony came

1 forward as the spokesperson. I acknowledged that
2 they were a team and I acknowledged that Tony was
3 speaking what I believed to be on their behalf, as
4 they would have agreed to it.

5 I think I looked to them and they were
6 giving me the affirmative that what I was getting,
7 the information --

8 Q. You indicate that they were
9 nodding their heads?

10 A. The information I was receiving
11 was in fact actual what they were agreeing with.
12 Did I ask them specifically point blank, "Do you
13 agree?" and "Do you agree?" I don't believe I did
14 that, sir.

15 Q. Okay. This conversation didn't
16 last very long, or it doesn't sound like it did?

17 A. No, it wasn't a long conversation,
18 no.

19 Q. Can you give us your best estimate
20 of how long this conversation took place?

21 A. Probably from start to finish,
22 maybe two to three minutes.

23 Q. Okay. As a result of getting that
24 information, what did you do?

25 A. With the recommendation that came

1 from Tony and the information I had received from
2 Mike, I then made the decision that the building
3 was an unsafe work zone for our members to be
4 conducting our operation and then ordered that all
5 members be withdrawn from the building. They had
6 already been pulled out, but then I went one step
7 further to say that we will not be at this point in
8 time going back in.

9 Q. What was -- were there any -- did
10 you have any further discussions about what was
11 going to happen beyond what you have told us there?
12 You have told us that you received an opinion that
13 the building was unsafe; correct?

14 A. Correct.

15 Q. And that it was at risk of
16 collapsing?

17 A. Correct.

18 Q. Right.

19 A. The staircase.

20 Q. The staircase, yes.

21 A. Escalator.

22 Q. And as a consequence of that, you
23 have stated that everybody is to be out; correct?

24 A. Correct.

25 Q. And that the operations were to

1 cease?

2 A. Yes, inside the building, yes, at
3 that point.

4 Q. Right. And once that had been
5 said, did you have any further discussions with
6 Roger Jeffreys or any officials with the Ministry
7 of Labour as to what was going to happen?

8 A. No.

9 Q. Is this the only discussion that
10 took place that led to the stoppage of the rescue,
11 or is there a further discussion that we haven't
12 heard about?

13 A. I don't believe so. There
14 probably were other discussions about it, of
15 course, but not -- that was the determining point.

16 Q. And the decision that you made as
17 a result of that information was to stop the
18 rescue; correct?

19 A. Yes. At that point, yes.

20 Q. Sorry?

21 A. At that point, yes.

22 Q. Well, we know that the rescue
23 continued as a result of events that took place
24 after, but I'm talking really now about --

25 A. At that point in time?

1 Q. Yes.

2 A. Yes.

3 Q. And we'll just sort of work
4 backwards here. If I could have Exhibit No.
5 7104 --

6 THE WITNESS: Your Honour, would I be
7 imposing if I asked for a five-minute break?

8 THE COMMISSIONER: Five minutes?

9 THE WITNESS: Yes.

10 THE COMMISSIONER: Let's take five.

11 -- RECESSED AT 12:06 P.M.

12 -- RESUMED AT 12:10 P.M.

13 THE WITNESS: Thank you, Your Honour.

14 THE COMMISSIONER: Just any time,
15 staff, if you feel that you want a break, just let
16 me know, it is no problem at all.

17 THE WITNESS: Thank you.

18 BY MR. WALLACE:

19 Q. Okay, I have -- I brought this
20 e-mail up on the -- or had it brought up on the
21 screen simply to establish a time. At 2 o'clock,
22 you have sent to a group, including Carol-Lyn
23 Chambers, to:

24 "Please call me asap for next
25 update."

1 And this would be the first oral update
2 you have given since you have started giving the
3 updates that we have tracked in your evidence;
4 correct?

5 A. I'm only trying to think if I
6 talked to Carol-Lyn at any point before that on the
7 phone. I'm not sure I had, but the other ones for
8 sure would only have been oral updates.

9 Q. Okay, sorry, this would be the
10 first oral update?

11 A. Yeah, would be the first oral
12 update.

13 Q. Okay. And I gather the reason
14 that you asked for an oral update as opposed to
15 putting it in writing was because of the nature of
16 the information that you wanted to convey?

17 A. Both the nature and probably the
18 length of setting it on my BlackBerry, putting it
19 all there, it would have been a little bit more
20 than I had time to do at that point.

21 Q. Okay. Now, my first question on
22 this is you have told us about a very short
23 conversation that you had with Tony and the two
24 engineers?

25 A. Yes.

1 Q. Were there any other meetings to
2 discuss what was to happen between the meeting you
3 have just described, the one with the two engineers
4 and Tony, and this phone call to Carol-Lyn
5 Chambers?

6 A. No.

7 Q. So the decision to stop the rescue
8 was made based on the information that you received
9 in that two- to three-minute conversation?

10 A. Yes.

11 Q. And as best as you can think, what
12 would be a fair estimate of the period of time
13 between making that decision and sending the e-mail
14 to Carol-Lyn Chambers?

15 A. Somewhere in the neighbourhood of
16 30 minutes, I think, maybe, give or take. I don't
17 know. I'm not sure.

18 Q. Do you recall what you did between
19 making the decision -- and the decision was to stop
20 the rescue; correct?

21 A. Correct.

22 Q. Right. What did you do between
23 the making of the decision and asking Carol-Lyn and
24 others to call you?

25 A. I can't specifically recall, but I

1 would have been involved with conversations
2 probably with Mike McCallion and some of the other
3 people there. I think Tony and the group, that is
4 when they went off. I believe they went off and
5 somewhere else. I lost track of them there.

6 THE COMMISSIONER: Between this e-mail
7 to Ms. Chambers and the actual conversation that
8 you had with her, was that within minutes or --

9 THE WITNESS: Oh, that I don't know. I
10 would have to -- I can't recall how far or how long
11 after she may have or I may have talked to her. I
12 don't know.

13 BY MR. WALLACE:

14 Q. Well, I have an additional e-mail
15 that would indicate that at 2:16 she had already
16 spoken to you, but I just want to -- yes, this
17 would be Exhibit No. 7108. So you have put out the
18 call at -- you put out the e-mail at 2 o'clock, and
19 at 2:16 she -- if we look down, she gets an e-mail,
20 that is, Carol-Lyn Chambers gets an e-mail from Bob
21 Thorpe and then she indicates that:

22 "Bill Neadles just called me."

23 So somewhere between 2:00 and 2:16 you
24 have spoken to her?

25 A. Agreed, that is fair.

1 Q. And the length of the phone call
2 that you would have had with her would have been
3 how long?

4 A. A couple of minutes.

5 Q. Okay. Now, I'll get to those, but
6 I want to go back here.

7 The original meeting that you had with
8 the two engineers and Tony, your decision to stop
9 the rescue would have been stated to those three
10 people; correct?

11 A. Yes, I believe so.

12 Q. And they would have clearly
13 understood you are telling them the rescue is over;
14 correct?

15 A. For that point, yes, I believe
16 they would have understood that.

17 Q. Okay. Now, Mr. Comella has given
18 evidence that he was never informed of the decision
19 to turn the rescue into a recovery. Do you agree
20 with that or disagree, based on what you have just
21 told us here?

22 A. I would agree with that, because I
23 don't think at that point the word "recovery" had
24 been used. It was still -- it was going -- it was
25 stopped as a rescue.

1 Q. Okay, you are --

2 A. And the information, the
3 conversation would have been to Tony, "We are
4 stopping the work." Would the words "rescue" and
5 "recovery" have been involved in that conversation?
6 I don't recall them being used.

7 Q. Well, the clear implication is you
8 have told us -- sorry, you have told us that the
9 decision to make was to stop the rescue?

10 A. Correct.

11 Q. The clear, logical consequence of
12 that is the rescue now becomes a recovery; correct?

13 A. Again, that -- at that point in
14 time I don't have any concrete -- though I did call
15 it a recovery, I still hopefully that there is some
16 slim chance that that individual may be still
17 alive. I don't know one way or the other.

18 Q. I'm not questioning the person's
19 viability here. I'm just asking about the
20 decision. You have told us it is clearly the
21 rescue is over?

22 A. Correct.

23 Q. And the implication of that, as I
24 understand it, is the rescue would then become a
25 recovery; correct?

1 A. I --

2 THE COMMISSIONER: Well, there may be a
3 distinction here. Is the rescue over or is the
4 rescue stopped, interrupted? I think there is a
5 distinction.

6 THE WITNESS: Okay.

7 THE COMMISSIONER: And in fairness to
8 Mr. Neadles, I think that distinction ought to be
9 explored.

10 THE WITNESS: Failing any second idea
11 that any of the -- I had no further indication from
12 Comella or the engineers that there was a viable
13 option at that point. I then more or less was
14 making my way back to the Control Group, and I am
15 not -- I'm going to assume, because I only found
16 out this later, that they were working on some
17 other viable options on how to continue or how to
18 move forward with this structural problem.

19 BY MR. WALLACE:

20 Q. I think you are, in fairness to
21 you here, I think you are talking about a different
22 Community Control Group meeting, not the one at 3
23 o'clock but one later?

24 A. No -- yeah, the one later.

25 Q. Yes.

1 A. There was one -- there was one
2 going on for 5 o'clock, I believe.

3 Q. Yeah, but we are now situated in
4 the 1:30 mark, approximately.

5 A. Right, so --

6 Q. So --

7 A. Go ahead, sorry.

8 Q. Well, I don't want to interrupt
9 you.

10 A. At that point, I have no authority
11 to continue if they are going to do the demolition.
12 If it has gone from rescue to recovery, I don't
13 have the equipment available to do that, nor at
14 that point was my understanding that I would have
15 the authority to do that without having further
16 consultations with other people to approve that.

17 Q. Let's go back to the
18 Commissioner's question. You have had this input
19 from the three people?

20 A. Yes.

21 Q. I put the question to you, you
22 made a decision to stop the rescue?

23 A. Yes.

24 Q. You agreed with that?

25 A. I agree.

1 Q. What I would like to know is when
2 you made that decision, was it the decision that
3 the rescue is over or was the decision that the
4 rescue is suspended?

5 A. It was the rescue would be
6 suspended because I do not have -- I did not have
7 the understanding of how to go forward from there.
8 But we weren't giving up hope of how we were going
9 to do that. I just was taken away to a whole
10 different set of parameters that didn't allow me to
11 consult with my folks, with my team.

12 Q. Okay. When you told the group
13 that the people had to go out of the building,
14 everybody had to be removed, what did you tell them
15 as far as the rescue was concerned?

16 A. I can't remember my exact words,
17 but the conversations probably more were with Mike
18 McCallion than anybody, that we would -- we have no
19 at this point in time way forward to continue with
20 that way, with that. Until that escalator is
21 neutralized or something is done with it, we can't
22 go forward.

23 Q. And did you at any time -- because
24 Mr. McCallion has given evidence that you told him
25 on your way to the Community Control Group meeting

1 that the rescue was over at that time?

2 A. Yeah, probably we had that
3 conversation on the way over there.

4 Q. And he says that is the first time
5 he learned of what your decision was; do you agree
6 or disagree with that?

7 A. I can't argue with that timing,
8 because there was a lot going on. I believe that
9 Mike was there when I was having the conversation
10 with the three engineers or the three guys working
11 in the engineering group. I thought Mike was
12 there. If he wasn't, I can't argue with that.
13 Like I say, it is -- I'm not a hundred percent
14 sure. Aside from those three individuals, I know
15 they were there.

16 Q. Okay. Now, if we can just look at
17 the e-mail that Bob Thorpe has sent and we can look
18 at that, and this e-mail is -- it is sent at 2:15,
19 but he is recording events as of 13:50, 10 to 2:00:

20 "As of 13:50 hours the HUSAR lead
21 [...]"

22 That would be you?

23 A. Yes.

24 Q.

25 "[...] in consultation with both

1 engineers have determined that the
2 building will be deemed closed by
3 the MOL, when the rescue operation
4 is terminated and changed to
5 recovery, due to the shifting of the
6 escalator and the load that is
7 situated on it."

8 I'm interested in finding out about
9 "the building will be deemed closed by the MOL".
10 Was that information that you gave to Mr. Thorpe?

11 A. I don't believe so. I don't
12 remember having a conversation with Mr. Thorpe. I
13 may have, but I don't remember it.

14 Q. Was this a conversation that took
15 place that Mr. Thorpe may have been present at?

16 A. Again, I don't recall any
17 conversations with respect to the Ministry of
18 Labour in that time frame.

19 Q. Did the Ministry of Labour at this
20 time, and I'll include it right up until the time
21 that you went to the Community Control Group
22 meeting, did the Ministry of Labour shut the rescue
23 down?

24 A. Not in my opinion, not that I was
25 aware of.

1 Q. And you have no information that
2 would lead you to believe that the Ministry of
3 Labour shut it down?

4 A. That's correct, I have none.

5 Q. The reason that the work stopped
6 was the decision that you made?

7 A. Correct.

8 Q.

9 "The current load is above 100
10 percent above its rated capacity.
11 Continuation of rescue and
12 stabilization in the south portion
13 has now been suspended. Measuring
14 equipment in place shows movement of
15 the escalator is continuing and team
16 lead has pulled out all members at
17 the present time.

18 The MOL engineer has notified his
19 office that this building may soon
20 be ordered closed."

21 Is this information you know about?

22 A. No, sir.

23 Q. Okay:

24 "Simply put by all intense [sic]
25 and purposes, the rescue operation

1 will cease, then the building will
2 be methodically demolished."

3 Was that information that you knew
4 about?

5 A. No, sir.

6 Q. And:

7 "This will then move this to a
8 recovery operation.

9 It has been requested that this
10 information remain confidential
11 until such time that the families
12 are made aware.

13 NOTE: THIS NOT YET CONFIRMED,
14 but will advise as soon as the
15 change to recovery is announced by
16 the Fire Chief Bob."

17 So was there a meeting called after the
18 very short conversation that you had with the three
19 individuals wherein issues here that we see in this
20 e-mail were discussed?

21 A. I don't believe so. If there was,
22 I don't believe I was part of it.

23 Q. What did you do after you have
24 spoken to these three people and have, as you have
25 told us, have decided to suspend the rescue?

1 THE COMMISSIONER: After the
2 conversation with Chambers?

3 MR. WALLACE: The two engineers and --

4 THE COMMISSIONER: No, I understand
5 that, but are you asking before the conversation
6 with Chambers or after?

7 MR. WALLACE: Oh, before, in that --

8 THE COMMISSIONER: In that interval,
9 yes.

10 BY MR. WALLACE:

11 Q. Yes.

12 A. Like I said, I think I indicated
13 that I was probably having other conversations,
14 being with Mike McCallion and others, but I don't
15 recall, sir. I don't recall.

16 Q. Did you inform Paul Officer of
17 what you had decided?

18 A. I did at a later time, but I don't
19 think it was within that time frame. I don't
20 recall exactly when. It may have only been when I
21 got to the meeting where the Control Group was that
22 Paul -- that is where Paul was.

23 Q. And when you explained it to him,
24 that is, what was happening, did you explain it to
25 him in terms of the rescue is now going to become a

1 recovery?

2 A. I'm not sure I had the opportunity
3 to speak to Paul individually before I sat down
4 with the Control Group. I don't recall that, so I
5 can't say for sure if I did that or not. It may
6 have taken place. I just don't know if I did.

7 Q. When the rescue transitions to a
8 recovery, clearly the rescue is over, right?

9 A. Yes.

10 Q. Okay. And the rescue efforts by
11 TF-3 would terminate when the scene is turned over
12 to the local authorities; correct?

13 A. It is always the local
14 authorities' position to be in charge of the scene,
15 yes.

16 Q. But you are not going to turn the
17 scene over while you are still involved in a
18 rescue?

19 A. Probably not, no. We are going
20 to -- we are still there.

21 Q. Okay. Now, did you, in the course
22 of this period of time prior to dealing with
23 Carol-Lyn Chambers, did you ask anybody if they had
24 any other options as to how to deal with this
25 problem?

1 A. I don't think that was the basis
2 of the conversations at that point in time. We
3 were still dealing with the stopping part, so I
4 don't think I transitioned into that. I didn't
5 transition into that next phase of conversations.

6 Q. Okay, so we weren't there. What
7 were the conversations you had about the stopping?

8 A. Explaining the issues with the
9 staircase and the stairwell and the slab being of
10 significant impact to our workers, our workers
11 going forward, and those kinds of explanations.

12 Q. And --

13 A. That we couldn't now be in the
14 building because this was going to fall down,
15 according to the loads and the conversations that I
16 was -- the information that I was given that it was
17 inevitable that this may come down.

18 Q. And in these discussions, did you
19 indicate anything that you could do?

20 A. I can't recall those kinds of
21 conversations coming up there, no.

22 Q. You didn't have any options;
23 correct?

24 A. We certainly did, but I didn't
25 have the opportunity to consult with anybody in any

1 great detail. I didn't talk to anybody about it at
2 that time. I was sort of whisked away. I kind of
3 got sidetracked based on those conversations, but I
4 didn't have those kind of -- those types of
5 conversations with anybody.

6 Q. Are you saying that you didn't
7 discuss any other options with other people because
8 you didn't have time?

9 A. Time -- time was ticking real
10 fast. And I didn't say I didn't have time. I
11 maybe didn't have the opportunity to get into that
12 realm of discussion before I needed to go off to
13 the Control Group.

14 Q. Okay, why did you need to go off
15 to the Control Group? I mean, you aren't even a
16 member of it. You had gone really as a courtesy;
17 correct?

18 A. In the initial stages, it was a
19 courtesy, but then I -- it was my opinion that I
20 was then became part of that group and I felt it
21 was important to at least give them the information
22 that we had at this point. I think it is critical
23 for those people to have that information.

24 Q. As I can understand your evidence,
25 in the period of time up to the Community Control

1 Group, you did not solicit any opinions as to
2 whether there were any other options; is that fair?

3 A. Regrettably not, sir, yes.

4 Q. Okay. And that means when I say
5 that, I'm talking about asking people within your
6 own group, that is, the people who were in Elliot
7 Lake; correct?

8 A. Yes.

9 Q. And you didn't solicit any
10 opinions as to options from people outside of the
11 immediate group?

12 A. That would be correct.

13 Q. Okay. Now, if we can just go back
14 to Exhibit No. 7901, please?

15 MS. KUKA: That is a video.

16 MR. WALLACE: Sorry?

17 MS. KUKA: That is a video.

18 MR. WALLACE: It shouldn't be. Just a
19 second.

20 MS. KUKA: You said Exhibit No. 7901?

21 BY MR. WALLACE:

22 Q. No, Exhibit No. 7109. Yes, that
23 is it.

24 This is Carol-Lyn Chamber's e-mail that
25 she is sending off to a number of people that she

1 reports to, apparently, and it is capturing the
2 phone call that you had with her.

3 Before we review that, what do you
4 recall saying to her?

5 A. Obviously giving her an update on
6 the status of where we sat, where we were at the
7 time that I authorized the stop. And I am not sure
8 past that what other information I spoke to her
9 about.

10 Q. Okay. So you have told her that
11 you have authorized the stop; correct?

12 A. Correct.

13 Q. And now it says here:

14 "HUSAR lead Neadles reports they
15 are having to stand down due to
16 structural failure. Other options
17 explored but not viable."

18 What options is this in reference to?

19 A. I'm not sure. I'm not sure what
20 she is meaning.

21 Q. Because you have not explored, at
22 least as I understand it, you have not explored any
23 options, certainly not at 2:22 p.m. either with
24 your group or with outside the group?

25 A. I don't recall any, no.

1 Q. Okay. It says:

2 "Will be changing from RESCUE to
3 RECOVERY mode. See details below as
4 Bob Thorpe confirms from scene.
5 There will be a press conference
6 scheduled TBA."

7 Is it unreasonable to suggest that in
8 that conversation with Carol-Lyn Chambers that you
9 told her that the matter will be changing from a
10 rescue to a recovery?

11 A. I don't think it is unreasonable
12 to say I may have -- we may have had that
13 conversation.

14 Q. And clearly what is meant by that
15 is that the rescue is not suspended but it is over;
16 correct?

17 A. It was over for that period of
18 time, but again, without any viable options to go
19 forward, can I say it would never reinstate? I
20 don't have that.

21 Q. No, of course not, but up until 3
22 o'clock, you haven't even solicited any options;
23 correct?

24 A. That's correct.

25 Q. So you haven't even asked to see

1 if you have any options?

2 A. Well, I would disagree with you
3 that you are asking me if I neglectfully not asked
4 questions about it. It wasn't that I neglectfully.
5 I said regrettably it was my time was taken up with
6 discussions on the where we were, not necessarily
7 hadn't got -- hadn't had the opportunity to do too
8 much discussing where we were going. So you are
9 right, that is correct.

10 Q. Well, just moving forward,
11 whenever you articulated the situation, you were
12 articulating it as the rescue was over; correct?

13 A. Yes.

14 Q. At no time did you articulate
15 that, listen, we have hit a snag here; we don't
16 know how to deal with this and we don't know even
17 if we can deal with it, but we are going to pull
18 back and see if we can come up with a solution and
19 we'll let you know? You at no point in time
20 articulated that either to the Community Control
21 Group, the families or in the 5 o'clock press
22 conference; correct?

23 A. You are correct.

24 Q. Right. And you clearly
25 articulated not this position, but rather the

1 rescue is over, not suspended, the rescue is over;
2 correct?

3 A. Correct. But as I indicated in
4 the press conference on the next morning, I would
5 be of the opinion that it -- those are the words I
6 used and I wish I had chosen other words.

7 Q. I'm not asking about what you told
8 people the next day. I'm asking --

9 A. I know.

10 Q. -- what you told the Community
11 Control Group, the families most importantly, and
12 the public at large and --

13 A. And that was based on not being in
14 a position, regrettably, to speak with my people
15 before I had the opportunity to speak to those
16 groups and being of the understanding that my
17 authority may have ceased.

18 Q. You have said that you didn't have
19 the opportunity to speak to your people prior to
20 going to the Community Control Group; correct?

21 A. I had the opportunity. It just
22 didn't -- it didn't present itself as a
23 conversation. I was speaking -- like I said, I was
24 speaking with some of my people before I went to
25 the Control Group, but it never came to the point

1 of speaking with them about what our next steps
2 might be, which is regrettable.

3 Q. So you did not solicit opinions
4 about options, you have told us that.

5 A. Correct.

6 Q. Prior to the 3 o'clock --

7 MR. SAUNDERS: Sorry, can he answer the
8 question?

9 THE COMMISSIONER: Well, I don't think
10 he had finished the question.

11 BY MR. WALLACE:

12 Q. I just wanted to make sure that we
13 were talking about the same time frame.

14 A. We are talking about the same time
15 frame. Regrettably, I did not have that
16 opportunity.

17 THE COMMISSIONER: I think we'll stop
18 at this point, Mr. Wallace, for the lunch break and
19 start again at 2 o'clock this afternoon.

20 -- RECESSED AT 12:43 P.M.

21 -- RESUMED AT 2:00 P.M.

22 THE COMMISSIONER: Just a tidbit of
23 information before we start.

24 For those of you who didn't have an
25 opportunity to watch or read the news at noon,

1 Mr. Smitherman's partner, Mr. Peloso, had been
2 reported missing, and the only reason I raise this
3 fact is that he was found in a slightly distressed
4 condition in a wooded area along a railroad track
5 in Toronto by Sergeant Fowlds and the dog Ranger.
6 And I was just looking at the list, and I see
7 that --

8 MR. WALLACE: They are coming up.

9 THE COMMISSIONER: I think he is a
10 witness, is he not? Yes, he is a witness coming on
11 September 19th, Mr. Fowlds, that is. The dog is
12 not.

13 Anyways, I thought --

14 MR. WALLACE: We asked for the dog.

15 THE WITNESS: He might bring the dog.

16 THE COMMISSIONER: He may bring the
17 dog, but as I say, the dog hasn't been formally
18 subpoenaed.

19 In any event, I just thought I would
20 bring that item to your attention, that the ending
21 has been satisfactorily resolved for the moment, in
22 any event, thanks to the Sergeant and his dog about
23 which we have heard things.

24 Go ahead, Mr. Wallace.

25 BY MR. WALLACE:

1 Q. Thank you very much.

2 Staff Inspector, I would like to review
3 with you a few points contained in Exhibit No.
4 8025, and these are the typed version of Chief
5 Officer's notes. And if we could go to the entry
6 on the page type-marked 6. And if you could -- a
7 little further. That is good, thank you.

8 If I could draw your attention to the
9 notation at 13:28:

10 "HUSAR Bill informs Fire Chief
11 that the building has significant
12 movement. The scene is completely
13 unsafe and all [personnel] are
14 ordered out of hot zone."

15 I think we can agree that the ordering
16 of personnel out was a little wider than that, it
17 was out of the building completely; correct?

18 A. Yes.

19 Q. Yeah. And it says at
20 approximately 13:30:

21 "Fire Chief back on scene."

22 So I gather your notification to Chief
23 Officer is by means of a phone call?

24 A. I couldn't verify one way or the
25 other.

1 Q. Fair enough. Now, this is the
2 part that you may be able to help us with in terms
3 of people. At approximately 13:33:

4 "Command meeting to discuss
5 building movement. Fire Chief,
6 HUSAR IC [...]"

7 Now, would that be you?

8 A. I'm going -- yes, it would be, I
9 guess.

10 Q. Okay:

11 "[...] and command staff [...]"

12 Who would that be?

13 A. I'm going to make an assumption
14 that might be Mike McCallion, it might be Tony
15 Comella. It might be one of those.

16 Q. Okay, obviously it is you and
17 somebody else or more than one person?

18 A. It appears that way, yes.

19 Q. Okay:

20 "[...] MOL, OFM staff."

21 And would this be the reference to the
22 meeting where the decision to stop the rescue was
23 made? Because I'm looking at the next one here at
24 13:50:

25 "Elliot Lake Fire Department,

1 HUSAR group was asked to assemble."

2 And then you see at 14:01 there is a
3 talk of removing the hydraulic equipment.

4 So sort of by default, would the 13:33
5 be the recording of the meeting to stop the rescue?

6 A. I don't believe it is that exact
7 meeting, but -- and if they were in the vicinity of
8 that conversation I had with Comella and the two
9 engineers, maybe that is what he is referring to.
10 I don't know. But then there was, as I said, there
11 was the whole load of people in the tent that I
12 just couldn't recall who may have been there.

13 Q. Okay, well, let's have a look at
14 there is another source of this information, and
15 that is the scribe notes and they are Exhibit No.
16 6336. And, Ms. Kuka, the passage that we are
17 looking at is at page 1988.

18 So it starts off, the top entry, as we
19 can see, although it doesn't say that there, but
20 certainly it is 13:28:

21 "HUSR Bill informed confirmed
22 scene movement and scene completely
23 unsafe, [people] ordered off scene."

24 Then at 13:29:

25 "Back to scene".

1 This would be Chief Officer that is a
2 reference to.

3 Now, it says at 13:32 it looks like:

4 "Chief joined a consult group with
5 Unified Command."

6 This is the first time, at least while
7 you have been testifying, we have seen this
8 reference to Unified Command. First of all, to
9 your knowledge, was there a Unified Command in
10 place on the 25th of June?

11 A. As far as what level of the org
12 chart would you be referring to, I don't know if
13 Mr. -- if Chief Officer was working in a Unified
14 Command. As far as I know, he was the Incident
15 Commander. As far as the rescue, it was the HUSAR
16 Incident Commander was in charge of the rescue
17 component, whether that be myself or in my absence
18 Mike McCallion. I wasn't -- I'm not believing that
19 there was a real need for a Unified Command, from
20 my perspective.

21 Q. And the usage of "Unified Command"
22 here, at least as I understand it, would not be as
23 pertains to the rescue operation itself, but rather
24 the overall command, Paul Officer's level?

25 A. Okay.

1 Q. An overall incident can have a
2 single commander or it can be led by a Unified
3 Command; correct?

4 A. Correct.

5 Q. Obviously in a single, it is one
6 person. In the case of a Unified Command, it is a
7 number of persons?

8 A. It could be more agencies that
9 would be involved, yes.

10 Q. And what is the decision-making
11 process in a Unified Command? Is there -- is it
12 essentially a decision by consensus or is there
13 somebody who ultimately sits on top and says this
14 is what we are going to do?

15 A. By the definition of Unified
16 Command, as I understand it, it is both. You are
17 going to try and come up with every decision by
18 consensus, but one individual would have the veto
19 or the last position to take that if in fact the
20 group either couldn't come up with a viable
21 decision-making process or if that individual was
22 not in agreement with. But that last decision
23 still should lie with the individual who is the
24 lead agency.

25 Q. So the Unified Command, as far as

1 the reference on that page, does that provide you
2 any insight as to who participated in that meeting
3 on the 25th?

4 A. Now, are you meaning -- you are
5 back to this specific meeting where I received the
6 information from Comella --

7 Q. No, I'm just asking here about the
8 notation at 13:32.

9 A. I may have my times confused. Is
10 this post?

11 Q. Post what?

12 A. Post the meeting I had with
13 Comella and the engineers? I think it is, right.
14 I think --

15 Q. Well, you see, I don't honestly
16 know. That is one of the reasons I was asking you
17 this, is whether this is something that took place
18 after you had met with Comella and the two
19 engineers or is it the point in time when you are
20 getting that information?

21 A. I don't recall. They were not in
22 my immediate focus area when I am having the
23 conversation with Comella and the two engineers.

24 Post that, I did indicate that I had
25 many conversations with many people. I would not

1 be able to sit here and tell you I didn't have a
2 conversation with some of the other folks that you
3 are meaning here, like Chief Officer. If you were
4 to say that Chief Officer was there for me to have
5 a conversation, I really couldn't dispute that. It
6 wouldn't be a misgiving if Chief Officer was there,
7 and I really -- but I'm really having trouble
8 recalling if he was and with involving the Ministry
9 of Labour and also the Fire Marshals Office. It
10 wouldn't be a shock to me if they were all there
11 and that they were part of a conversation, but
12 sorry, I'm just having a blank here on figuring out
13 what that conversation totally was all about.

14 Q. Well --

15 A. I would imagine it was about the
16 decision that I had made, and I think I know where
17 you want to take me to, and I am not sure that I
18 can recall a great deal of conversation that talked
19 about going forward.

20 Q. Okay. The only thing I'm just
21 noticing here, if we can go back to the typed
22 version, that is, Exhibit No. 8025, if you see at
23 13:33 in the typed version it talks about:

24 "Command meeting to discuss
25 building movement."

1 And then the next notation is 13:50.
2 That is in terms of Mr. Thorpe's e-mail, he
3 indicates that the decision that he references that
4 you made was he says at 13:50. So I'm just putting
5 the two pieces of information together.

6 You wouldn't disagree with the fact
7 that in that period of time from 13:33 to 13:50
8 could have been the meeting that forms the subject
9 matter of Mr. Thorpe's e-mail that we looked at
10 this morning?

11 A. I don't think I could dispute
12 that, sir.

13 Q. Okay. Now, I would like to move
14 to the Community Control Group meeting, the 3:00
15 p.m. meeting, and that is Exhibit No. 3743, and if
16 we can go to page 33.

17 Now, at this meeting we have both
18 yourself and Mr. McCallion present. What is the
19 significance of Mr. McCallion being there from
20 HUSAR, because it would seem to me then that there
21 is nobody back in the command tent?

22 A. I believe that since the
23 operational piece of what HUSAR was doing was stood
24 down at that point, it was probably a thought that
25 it was okay for Mike to come to participate in this

1 meeting.

2 Q. There was nothing happening, so
3 that it would be okay for him to come to the
4 meeting?

5 A. I wouldn't say nothing was
6 happening, but it wasn't a position that we were
7 going to enact any kind of plan at that point.

8 Q. Now, the CAO, Mr. deBortoli, he
9 opens the meeting -- and I should also add here
10 that Mr. Jeffreys is also present at this 3 o'clock
11 meeting -- he opens the meeting by saying:

12 "Rescue efforts have been called
13 off - attempt for rescue cannot
14 happen - safety reasons.

15 Logistics -
16 Mayor and inspector to visit
17 hall.

18 Notify families.

19 Need to focus on press
20 conference.

21 Need Civic Centre."

22 Now, you don't dispute that Mr.
23 deBortoli announced to the group that the rescue
24 efforts had been called off?

25 A. I don't dispute that.

1 Q. And you didn't disagree with that
2 statement?

3 A. No, I didn't disagree with it. It
4 was as he stated. We had called off our operation.

5 Q. Okay. And that the "Mayor and
6 inspector to visit hall" and "notify families",
7 clearly that was to notify the families that the
8 rescue was over; correct?

9 A. Yes.

10 Q. And you ultimately went on that
11 trip?

12 A. I did.

13 Q. Now, we get down to the part where
14 you address the group and you say:

15 "Decision - tough one. Based on
16 advice by engineer MOL remove HUSAR
17 team from structure as it has been
18 deemed unsafe."

19 Now, just stopping there, is the
20 reference, if you recall, to "engineer MOL", is
21 that meaning an engineer from the MOL or does that
22 mean somebody from MOL and the HUSAR engineer?

23 A. It would have meant -- it refers
24 to our engineer Mr. Cranford, and the Ministry of
25 Labour engineer Mr. Jeffreys.

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Q.
"Stress on stairwell and escalator
beams - excess of 100% of strength
capacity."

That is information you had been
provided with earlier?

A. Correct.

Q.
"Could fall at any time - decision
had to be made for safety of
workers."

It notes then:

"3:50 official designation
reclassified from rescue to
recovery. Turned back to [Elliot
Lake Fire Department] jurisdiction."
Does this accurately record your words?

A. I think I phrased it in -- well,
they accurately reflect the spirit of the words,
yes.

Q. And if we could go to Exhibit No.
6250, which are your notes, and it is at the page
240, and it has got the time 3:05 and perhaps you
could help us with the first word that --

A. I am assuming that it is a word

1 written over a word, but I believe the under-word
2 is "rescue to recovery".

3 Q. And "Turn back to Fire Chief";
4 correct?

5 A. Yes.

6 Q. So it would certainly appear that
7 what is recorded in the Community Control Group
8 notes is an accurate reflection of what was said,
9 because your notes say virtually the same thing?

10 A. Yes.

11 Q. And the significance, as you have
12 explained to us this morning, of turning it back to
13 the Elliot Lake Fire Department was it meant the
14 TF-3 was no longer involved in the rescue
15 operation?

16 A. I wouldn't say no longer involved,
17 but putting it that we had completed to that phase
18 or to that part, yes, we were done at that part and
19 I didn't have -- I didn't solely have any further
20 authority to move forward without conferring with
21 and back to the Fire Department, the Fire Chief.

22 Q. Well, you didn't expect the Elliot
23 Lake Fire Department to conduct a rescue operation;
24 correct?

25 A. No, no, sir, I did not.

1 Q. That is why you were there?

2 A. That's correct.

3 Q. Okay, so by turning it over to the
4 Elliot Lake Fire Department, that signified the
5 change from a rescue to a recovery, did it not?

6 A. I'm not sure that is exactly what
7 it does, but it reflects that it has that
8 appearance to it, yes.

9 Q. Well -- no, I'll just leave it.
10 Then it states under "MOL" -- would
11 this be Roger Jeffreys that is addressing the
12 group? I mean, it is either him or Don Jones.

13 A. I'm not sure which one it was. It
14 might have been Roger, I'm not sure.

15 Q. Don Jones is an inspector, whereas
16 Roger Jeffreys is an engineer.

17 A. Right, I'm not -- I can't recall.
18 The notes may reflect in the CCG meeting who it
19 was.

20 Q. I'm sorry, we should go back to
21 the meeting. And it just outlines "MOL"; it
22 doesn't identify the speaker.

23 A. You might go to the first page
24 where it lists who was at the meeting.

25 Q. Well, it has got them both.

1 A. Oh, okay.

2 Q. Yeah.

3 A. Then I don't recall which one was
4 speaking, sorry.

5 Q.

6 "Experienced continuous movement
7 on stairway and escalator.

8 MOL and HUSAR engineer do not
9 know why structure is still in
10 place.

11 Beam is bowed under all weight
12 shifting. It is opening up more and
13 more. Tracking movement. Things
14 are moving. 100% over stressed.
15 When it goes it will go
16 catastrophically. MOL stop order so
17 no one can enter."

18 What is the reference to an "MOL stop
19 order"?

20 A. Ministry of Labour, as far as that
21 understands, has issued a stop order for no one to
22 enter the building.

23 Q. And that is as a consequence of
24 the rescue being over; correct?

25 A. I'm not sure. I'm not sure if

1 that would be in -- if you could make that exact
2 nexus, but it is possible. You would have to ask
3 the Ministry of Labour.

4 Q. And is that "MOL stop order so no
5 one can enter", was it your understanding from
6 having been at the meeting that this was something
7 that was going to happen or it is something that
8 had happened?

9 A. I believe it was something that
10 was being contemplated. I don't know if it was set
11 in motion to actually happen or not. I had not
12 seen or heard that it had actually taken place.

13 Q. And if we can turn the page,
14 please, it talks about having the panel there, and
15 it was contemplating that you would be part of that
16 panel?

17 A. Sorry, the panel for --

18 Q. For the press conference.

19 A. Yes.

20 Q. Okay:

21 "Need to go over logistics.

22 Scene is now [Elliot Lake Fire
23 Department] recovery.

24 MOL places order.

25 Police have to deal with

1 coroner."

2 Is that what you understand was to be
3 the next steps as of the 3 o'clock CCG meeting?

4 A. I don't recall them necessarily as
5 direct directions or they could have been things
6 that were discussed that would eventually need to
7 be done. I'm not -- I don't recall if they were
8 given as must-dos.

9 Q. From your own knowledge, was it
10 your expectation that the scene was now an Elliot
11 Lake Fire Department recovery? Is that what your
12 understanding was?

13 A. Well, having not had I don't
14 believe a discussion to say that was going to
15 happen that way, but it was now back -- I had
16 indicated that it would now return to the
17 jurisdiction of the Elliot Lake Fire Department.

18 Q. And in fact, when you made the
19 declaration at 3:05 that it is reclassified from
20 rescue to recovery, strictly speaking, that wasn't
21 your call to make; correct?

22 A. You are absolutely correct.

23 Q. Right. However, you did make that
24 declaration; correct?

25 A. I did.

1 Q. And if we can go to the next page,
2 at the top it indicates:

3 "Recovery will not proceed until
4 owner provides structural
5 engineering report indicating how to
6 safely take down the [building] to
7 recover. Will request 1 week."

8 Were you aware of the problems that the
9 City had experienced with the owner of the mall,
10 Mr. Nazarian, prior to this 3 o'clock --

11 A. In a very general way prior to. I
12 have learned a lot since, but then it was only very
13 cursory.

14 Q. And did anybody express the view
15 at this meeting that this could be a problem,
16 having anything depend on the cooperation of Mr.
17 Nazarian?

18 A. I didn't get that at the meeting,
19 but I know from post conversations with the Fire
20 Chief, he certainly didn't want to turn too much
21 over to the owner.

22 Q. Now, before we broke at lunchtime
23 you had indicated that you felt the need to attend
24 the Community Control Group meeting at 3 o'clock?

25 A. Yes, I did.

1 Q. Correct. And it was on account of
2 the fact that -- well, let me ask you the question.
3 Why did you feel the need to go at 3 o'clock?

4 A. The answer -- the only answer I
5 think I have is that that was when I was scheduled
6 to meet.

7 Q. Right.

8 A. That was the next scheduled
9 meeting.

10 Q. Right. Would it have been
11 acceptable for you to not go?

12 A. I suspect it would have been.
13 They would have got along without me.

14 Q. And the priority it would seem to
15 me would be to make the correct decision with
16 respect to what is supposed to happen, what are the
17 next steps; correct?

18 A. In hindsight, that priority is
19 always fluctuating.

20 Q. Say that again?

21 A. In hindsight, that priority is
22 always fluctuating. I can't disagree with you that
23 that priority may have been one that should have or
24 could have or would have superceded anything.

25 Q. It would appear that this priority

1 took second place to the need to attend the CCG
2 meeting; is that fair?

3 A. I felt the need to attend the CCG
4 meeting. Did I -- and maybe it would have been
5 more prudent to stay back for those discussions.
6 You are -- I can't disagree with that in hindsight.

7 Q. Whether you attend the meeting or
8 not -- or sorry, once you have decided to attend
9 the meeting, the time limit of 3 o'clock, it
10 doesn't affect the information that you can give at
11 that meeting, does it?

12 A. No, sir.

13 Q. And if truly at 3 o'clock you had
14 been in a situation where you had hit a snag, were
15 stepping back to consider options and would make a
16 decision later on, it was perfectly open to you to
17 make that announcement at the Community Control
18 Group?

19 A. Sorry, repeat that again? I'm
20 sorry.

21 Q. If at 3 o'clock truly your state
22 of mind was that you were going to consider other
23 options, if that was your state of mind, there
24 would be nothing preventing you at the Community
25 Control Group simply stating that we have hit the

1 wall, we are going to step back, think about our
2 options and we'll get back to you; correct?

3 A. I guess it would have been -- it
4 might have been prudent to use that terminology,
5 yes.

6 Q. There was no time limit, at least
7 as I know, put on you to make a decision rescue
8 versus recovery, was there?

9 A. No.

10 Q. You didn't have to go to the
11 Community Control Group with a fixed decision as to
12 whether it was going to be a rescue or a recovery;
13 correct?

14 A. Correct.

15 Q. It was entirely in the realm that
16 you could have gone there, as I have postulated,
17 with the frame of mind we don't know what we are
18 doing right now; that was a possibility that you
19 could have done?

20 A. Yes.

21 Q. And would you agree with me that
22 you were -- you wanted to be honest with the people
23 in the community; correct?

24 A. Yes.

25 Q. And when you went to the Community

1 Control Group and told them it is now a recovery,
2 it has changed from a rescue to a recovery, you
3 were telling them the truth; correct?

4 A. As far as I knew, yes.

5 Q. Right. So when you went to the
6 meeting at 3 o'clock, you were not intending to at
7 some future time step back and consider other
8 options?

9 A. Well, I wouldn't necessarily agree
10 with that point, sir.

11 Q. Well, are you --

12 A. I didn't have anything formulated
13 at that point, but I was certainly -- because I
14 hadn't had the opportunity to speak with anybody or
15 to formulate any plan, I don't think I wanted to
16 put that on the table there.

17 Q. I mean, you certainly -- let's not
18 say you didn't have an opportunity. You had an
19 opportunity to speak to other people. You just
20 didn't take it prior to 3 o'clock; correct?

21 A. No, I wouldn't -- I didn't say
22 that. I spoke to a lot of people. I don't
23 know -- I didn't recall if I spoke to them about
24 where we were going forward.

25 Q. Are you suggesting that when you

1 went to the meeting at 3 o'clock, notwithstanding
2 the fact that you told the community that the
3 rescue is over, it has now become a recovery,
4 notwithstanding telling them that, that your true
5 intentions were really to sit back and consider if
6 we have any other options?

7 A. No, that is not necessarily what I
8 was thinking. I went there knowing that we had
9 stopped for a particular reason. Not having the
10 secondary phase in my pocket or been approved for
11 anything, and I hadn't really had an opportunity to
12 put my mind to it or discuss it at any great length
13 with anybody, so I didn't want to come there and
14 give any false hope. I was there to give them the
15 information and hopefully receive some information
16 and maybe some ideas that they could help with too,
17 because you had a lot of other people around the
18 table there.

19 Q. Well, did you solicit any ideas at
20 that meeting? I don't see any note there.

21 A. No, it was -- everybody was given
22 their turn to speak and I -- nothing came of --
23 nothing came of value, there was no subsequent
24 discussion.

25 Q. Well, you indicate that you did

1 not want to give people false hope; correct?

2 A. No, I never want to give people
3 false hope.

4 Q. But on the other hand, you don't
5 want to take away hope if the possibility of hope
6 exists; correct?

7 A. That would be fair.

8 Q. And there would be nothing
9 offensive to that principle by saying, if that
10 truly was your thinking at the time, look at, we've
11 got to think about this a little further before we
12 make a decision?

13 A. I would agree with that, but what
14 I am -- my thought was once I had made the decision
15 to stop where we were, that it has now gone back to
16 other people's jurisdiction. So I didn't want to
17 bring anything -- I didn't have anything at that
18 point necessarily to bring forward, but I didn't
19 want to -- I couldn't put myself in a box either to
20 say I had nothing more to give here.

21 Q. Well, the only reason it has gone
22 back to other people is because you have handed it
23 back to them; correct?

24 A. That is the jurisdictional issue,
25 yes.

1 Q. But as long as you think that
2 there is something that you can do, it doesn't have
3 to be formulated, the possibility, you do not have
4 to turn it back over; correct?

5 A. Well, sir, that may be something I
6 may be a little slim on the authority, on the
7 jurisdictional authorities on, but it was my
8 opinion that once I had stopped, that if it does
9 become a rescue, then as it --

10 THE COMMISSIONER: It becomes a rescue,
11 you said?

12 THE WITNESS: Sorry, if it becomes a
13 recovery, sorry, Your Honour, if it becomes a
14 recovery, then I need to seek guidance from at
15 least the Fire Chief because it is then his
16 jurisdiction. I -- my authority at that point, it
17 is my understanding that my authority was pretty
18 much finished right there when I pulled -- stopped
19 the team.

20 What may flow from that after is I'm
21 not saying there isn't anything that could have
22 flowed, but I didn't have it at that point.

23 BY MR. WALLACE:

24 Q. Well, you are not suggesting that
25 if you had pulled the people out, as you did, and

1 somebody came up to you and said "Why don't you try
2 this", that you would be precluded from doing that
3 simply because you pulled the people out? By
4 pulling the people out, it doesn't in and of itself
5 change the character of what is going on here.
6 Until you turn it over back to the City, it still
7 is a rescue, right?

8 A. Yes.

9 Q. Okay, because you have pulled the
10 people out earlier and it wasn't turned back over
11 to the City?

12 A. Yes.

13 Q. Now, you attended at the Collins
14 Hall with the Mayor and Inspector Jollymore?

15 A. Correct.

16 Q. And the purpose of the attendance
17 there was to let the families know that the rescue
18 had been terminated; correct?

19 A. Correct.

20 Q. And we have had evidence here from
21 various family members about that meeting, and I'll
22 ask you in general, did you tell the family
23 members, or members of the family, rather, that it
24 is not a recovery anymore, it has now become a
25 demo, or words to that effect?

1 A. I don't recall using that
2 terminology. I don't think I would use that
3 terminology. But I don't recall that.

4 Q. Do we have the ability to bring up
5 the transcripts?

6 MS. KUKA: Yes.

7 MR. WALLACE: Okay.

8 MS. KUKA: For what day?

9 BY MR. WALLACE:

10 Q. August the 7th, and the page
11 number on the transcript I'm looking at is 19905.
12 I guess you should go to -- the question is
13 actually at the bottom of 19904. Thank you.

14 "And please describe the
15 circumstances that you learned that
16 Mr. Latulippe should come back to
17 Collins Hall. What prompted you to
18 say that to him?"

19 If we could go to the next page:

20 "I was with volunteers and they
21 came, probably half an hour to 45
22 minutes after everybody had left,
23 and they were going to do an update.
24 I didn't realize it was going to be
25 that kind of an update. They

1 basically said 'It's over'. And the
2 only way to get my mother's body out
3 and Lucie's was to demo the mall and
4 dig them out.

5 Question: Would you like a
6 moment, Ms. Perizzolo?"

7 If you could just scroll up, please:

8 "Question: Ms. Perizzolo, you
9 indicated that volunteers said that
10 there was going to be an update.
11 Can you recall who provided you with
12 the update? Who said, 'This is
13 over'?

14 Answer: That would have been --
15 I believe, Mr. Neadles.

16 Question: And can you recall his
17 words?

18 Answer: His words were just like
19 I told you, 'It is not a recovery
20 any more, it has now become a demo.
21 We're going to demo the mall and
22 that's the way we're going to
23 recover the bodies.'"

24 Is that the gist of what you told Ms.
25 Perizzolo?

1 A. I don't ever -- would never think
2 that I would have ever said that -- I certainly
3 said it was over in those types of words, but I
4 never went farther to say that it was going to be
5 demo'd and dig them out.

6 Q. Did you -- leaving aside the word
7 "demo", would you have used words to the effect
8 that the building was going to be torn down,
9 destroyed?

10 A. You see, that still wasn't in my
11 position to say that.

12 Q. Well, I know that you wouldn't be
13 the one that is going to direct that, but was that
14 not in fact your understanding of what was going to
15 happen?

16 A. No, I don't believe that was.

17 Q. So you would deny having made that
18 statement?

19 A. About the demo and the digging
20 out, yes.

21 Q. All right. And if we could go to
22 page 19907, and just scroll down and we'll pick it
23 up, but this is Mr. -- a little further, yeah.
24 This is Mr. Latulippe, who is Ms. Perizzolo's
25 husband. He is giving evidence here:

1 "Answer: And my wife was towards
2 the right so I went straight,
3 directly to her. And she looked at
4 me... excuse me.

5 Question: Take your time,
6 please.

7 Answer: 'You have to do
8 something to make them stop.' And I
9 said, 'What do you mean, stop?' And
10 she said, 'I don't know, they are
11 giving up.' And I said -- I asked
12 if she was okay and I saw there was
13 two other people with her, and I
14 said, 'I'll do what I can,' when
15 I -- and that's, by then, I can't --
16 I don't remember -- I remember the
17 scream but I don't remember if she
18 was coming in after I'd already come
19 in but I heard somebody tell
20 Mrs. Aylwin in the hallway and she
21 collapsed into a chair and she was
22 screaming and then I seen Rej -- and
23 by that time we had got to Mr.
24 Neadles [...]"
25 Do you recall a confrontation with

1 Darren Latulippe? He is a very big man.

2 A. I don't necessarily recall an
3 individual, and I don't recall too many individuals
4 out of that group.

5 Q. Okay.

6 "[...] and we were asking him,
7 what was he going to do, how can
8 this be? And that's when he
9 explained that they were going to
10 turn the mall over, they were
11 leaving."

12 Did you tell -- sorry, you have just
13 gone a little too far there.

14 "And that's when he explained that
15 they were going to turn the mall
16 over, they were leaving."

17 Do you recall telling Mr. Perizzolo or
18 anybody that you were leaving?

19 A. Well, in the context that we had
20 stopped working, yes.

21 Q.

22 "They were going to turn the mall
23 over.

24 His exact words were, 'We have to
25 turn the mall over to the mall

1 owner. He has to get an MOL
2 approved body demolition recovery
3 team. They're going to knock the
4 mall down and try and find the
5 remains.' And I said, 'What do you
6 mean they're going to try to find
7 the remains?' And he says -- by
8 that time he had indicated there
9 were still signs of life but it was
10 too unstable to go in."

11 Just stopping there, do you recall that
12 conversation?

13 A. I don't recall the exact words of
14 the conversation, no, but --

15 Q. But again, in this particular --
16 in this conversation, the words are -- the idea
17 that is being expressed is that the building is
18 going to be torn down and that is how the bodies
19 would be recovered?

20 A. I really don't recall saying that
21 to them, sir, but I mean, it might have been -- it
22 might have been something in those lines. I don't
23 know.

24 Q. So you would not clearly be in a
25 position to say you didn't say those things?

1 A. I can't say I didn't say them, but
2 I don't believe I did.

3 Q. And lastly, if we could go to page
4 19983. This is the evidence of Mr. Aylwin. Okay,
5 we'll start with that question:

6 "Question: Therefore, Mr. Aylwin,
7 when you entered, after Mrs. Aylwin
8 left, who did you talk to when you
9 entered Collins Hall?

10 Answer: I met Darrin and we went
11 in the front. His wife was in the
12 front. Then they told us they were
13 stopping the search because the
14 building was unsafe and they were
15 packing it up and going home."

16 Do you recall making a statement like
17 that to Mr. Aylwin?

18 A. I would say I would have said
19 something similar to that, except for the part
20 about packing up and going home. We had not -- we
21 were not doing that.

22 Q. Well, that may not be how it
23 turned out, but I'm just asking you, did you say
24 that to him at that time?

25 A. I do not believe I would say that

1 to him at that time.

2 Q.

3 "They were going to bring the
4 building down and let everybody.
5 That is impossible. You cannot --
6 there were still two people there.
7 And there were still signs of life
8 12 hours ago, and they were dropping
9 everything and going. Then that
10 didn't seem to disturb them too
11 much.

12 Question: Did you get an
13 answer...

14 Answer: They told us they were
15 leaving. They couldn't do anything.
16 It wasn't safe. They didn't say
17 that they had another plan. It was
18 the end. The guy from Toronto, the
19 Mayor, the Police Chief, the Fire
20 Chief, were there. No-one spoke.
21 It seems that they all agreed with
22 it."

23 And again, there is a reference to
24 leaving, and is it your evidence that you didn't
25 tell Mr. Aylwin that you were leaving?

1 A. I don't believe I said we were
2 leaving at any time.

3 Q. Are you able to say that you
4 didn't say it?

5 A. I don't recall the exact words I
6 used during the conversations.

7 Q. But it was clear that what you
8 were telling the families was, as far as their
9 loved ones were concerned, is the rescue was over;
10 correct?

11 A. From my position, yes.

12 Q. Right, you --

13 A. At that time.

14 Q. You were not giving them any
15 reason to have any hope for a successful
16 resolution?

17 A. I probably was not.

18 Q. Okay. And you were dealing with
19 them honestly, I presume?

20 A. Well, as honestly as I could with
21 the information I had.

22 Q. And as you spoke to them and
23 offered them no hope, at that point in time you had
24 no hope of any form to offer them?

25 A. Nothing that was concrete.

1 Q. Well, are you suggesting that when
2 you are telling these people that there was no hope
3 for their family members, in the back of your mind
4 you are working on, well, maybe we can do something
5 else?

6 A. I didn't have anything to give
7 them; therefore, I wouldn't have given it to them
8 at that time.

9 Q. Okay. The next thing,
10 Commissioner, that I would like to do is I think it
11 would be beneficial if we actually saw the 5
12 o'clock press conference, and the exhibit number of
13 that is Exhibit No. 7921.

14 THE COMMISSIONER: Do you need the
15 lights out, Mr. Wallace?

16 MR. WALLACE: Yes, please.

17 [REPORTER'S NOTE: Video played.]

18 MR. WALLACE: I apologize,
19 Commissioner, that is the wrong one. That is the
20 day following.

21 Okay, yes, Exhibit No. 7923 I am told
22 is the right number.

23 [REPORTER'S NOTE: Video played.]

24 MR. WALLACE: According to the
25 transcript, Commissioner, it stalls and then it

1 picks up.

2 [REPORTER'S NOTE: Video continues to
3 be played.]

4 THE COMMISSIONER: That is it,
5 Mr. Wallace?

6 MR. WALLACE: Yes, there is no more
7 text that I am aware of, sir.

8 THE COMMISSIONER: All right, thank
9 you. We'll rise and take our afternoon break at
10 this point.

11 20 minutes, Mr. Registrar.

12 -- RECESSED AT 3:40 P.M.

13 -- RESUMED AT 4:00 P.M.

14 BY MR. WALLACE:

15 Q. Staff Inspector, prior to leaving
16 the site and going to the Community Control Group
17 meeting, at any point in time from the time you
18 received that initial information at about 20 after
19 1:00 from Mr. McCallion that the building was
20 shifting and he thought it was unsafe and that
21 people should be pulled out, in that time frame
22 from receiving that information until you go to the
23 Community Control Group, did you enter the building
24 itself?

25 A. I do not believe so, no.

1 Q. There is reference in the video,
2 and the transcript of the video is Exhibit No.
3 7208, yes, and if you could go to page 008, now,
4 I'm just referring to here, you will see a sentence
5 that starts, "So, based on that [...]":

6 "So, based on that, they, they did
7 a good assessment of the entire
8 building. While, that was now
9 working with our engineer and one
10 from the Ministry of Labour. They
11 determined that this structure
12 should or would or could fall at any
13 time without notice."

14 This assessment that you are talking
15 about, who told you that they had done an
16 assessment?

17 A. That comes from the conversation
18 with Mr. Comella, Mr. Cranford and Mr. Jeffreys
19 that they did an assessment on the area, which
20 included, from what I understand, that it would
21 have been the entire structure in relation to that
22 escalator.

23 Q. So your understanding is that in
24 that conversation that you have told us about, Mr.
25 Comella indicated that these engineers had done an

1 assessment of the entire building?

2 A. I have no explanation of why or
3 how I got to the entire building. I understand and
4 I think it was part of that conversation. I don't
5 know for sure.

6 Q. I put it to you this way. Are you
7 aware of them having done an assessment of the
8 entire building?

9 A. Well, I believe that was an
10 ongoing thing, as they were working their way
11 around the building, that they were continually
12 assessing that part and the entire structure as
13 they would go through it.

14 Q. But this reference is in relation
15 to the separation that was brought to your
16 attention shortly around 13:20 hours.

17 A. Well, I think it was part of the
18 conversation that if the structure would go, that
19 the other parts that may be connected to it may go,
20 may fail as well. So it might have been my
21 assumption that they had done the entire building,
22 but I was under the belief from that conversation
23 that they had done the entire building.

24 Q. So the answer then to the
25 question, did you enter the building and see for

1 yourself the situation --

2 A. No, I did not.

3 Q. I'll just finish, just so we are
4 clear here.

5 A. Okay.

6 Q. Prior to calling off the rescue?

7 A. No, I did not.

8 Q. And one of the persons in the
9 audience asked the question about Mine Rescue and
10 bringing Mine Rescue people in. Prior to calling
11 off the search, had you canvassed the capabilities
12 of any other organization to complete this job?

13 A. I had not, no.

14 Q. Okay. And in fact, I understood
15 you to say this morning that you hadn't canvassed
16 with other colleagues in the TF-3 world whether
17 they had any ideas about how to bring this to a
18 successful conclusion?

19 A. Like I said, I'm not recalling any
20 of those direct conversations.

21 Q. You didn't reach out to anybody
22 outside of the rescue? We talked about this this
23 morning.

24 A. Oh, no, I don't believe I did.

25 Q. And as I understood it, the reason

1 you didn't canvass options with people outside of
2 the rescue, and in fact, as I understood it, you
3 didn't canvass options with people inside the
4 rescue prior to the CCG meeting and the decision to
5 call it off was because you felt constrained by
6 time?

7 A. That was definitely one
8 constraint. And backing up, and I am not sure, I
9 don't think I said this earlier, that I could
10 categorically say I did not speak to anybody about
11 go-forward movement. I said I just didn't recall
12 any conversations.

13 Q. Okay.

14 A. I think there is some difference
15 there based on your -- what you showed me from
16 Chief Officer's notes, in fact, I may have had
17 conversations with some individuals from the team
18 around that time frame about go-forward. But I
19 don't recall them at all.

20 Q. And nobody offered you any options
21 that you could pursue?

22 A. Not that I can recall at that
23 point, no.

24 Q. Well, I think if somebody offered
25 you an option --

1 A. Yeah.

2 Q. -- you would at least check it
3 out?

4 A. You know, they would all have been
5 options, if they had have been.

6 Q. And more specifically, did you
7 receive an option from Tony Comella that it was
8 phrased in this fashion: If you want to continue
9 with a rescue, you will need to use heavier
10 equipment than we have got here; if you want to
11 deal with this as a recovery, you can use a local
12 demolition company? Did you get an option put to
13 you like that?

14 A. I could have. I don't recall it.

15 Q. Well, let me put it to you this
16 way. If you had been presented with an option like
17 that, that is something that you would have checked
18 out; correct?

19 A. I believe so.

20 Q. You would have picked up the phone
21 and made some inquiries or at least instructed
22 somebody to do that?

23 A. I think -- I believe so, yes.

24 Q. And that wasn't done?

25 A. No.

1 Q. So we can rule that out, can we
2 not?

3 A. I suspect that if it was given to
4 me, I don't recall hearing it, and I agree with you
5 that I would have probably done something with it.

6 Q. Now, if we could just stay on --
7 sorry, just go to the next page, please. Now, you
8 state at the very end of what appears to be the
9 first paragraph:

10 "[...] I had to remove the, the
11 members of the team and the OPP from
12 the structure. Having done that,
13 uh, that then turns the facility
14 back to the local authorities [...]"

15 Which you have told us and you told at
16 the CCG meeting you did. Prior to appearing at the
17 press conference, you had turned the matter back
18 over to Elliot Lake Fire; correct?

19 A. Yes, sir.

20 Q. Okay, and it says:

21 "[...] and that's when the
22 Ministry of Labour becomes actively
23 involved in the position and the
24 Ministry of Labour then, will now
25 put an order on the building for

1 that the owner must now hire an
2 engineering firm to come up with a,
3 a plan that's approved by the
4 Ministry, to, uh, to des-, have the
5 destruction of that area, taking
6 into consideration that there are
7 still two bodies in that building.
8 Um, the, the demolition company that
9 may, may, that would be hired
10 certainly would have to put into the
11 plan on how they would deal with the
12 integrity of a very respectful
13 removal of the deceased that are
14 within the building currently."

15 And this accurately states what you
16 believed was going to happen as of the time you
17 gave -- you said those words; correct?

18 A. Yes, sir, I guess so. I have had
19 a little bit of -- I can't remember how I got to
20 know that information, but if I said it there, I
21 must have had it.

22 Q. Yes, I mean, when you saw yourself
23 on there, there wasn't any hesitation here, you
24 weren't --

25 A. As ugly as I am, it is pretty

1 undeniable, sir.

2 Q. And you weren't looking for help
3 for somebody to fill you in on that?

4 A. No.

5 Q. So you knew the drill?

6 A. All I knew that -- I did state
7 that.

8 Q. After the press conference, there
9 was mention in the press conference that the
10 officials from the City were going to go back and
11 have another Community Control Group meeting and to
12 see what could be done to expedite the process.
13 There was a meeting held at 6:15, and if we can go
14 to -- or maybe we won't have to. Can you confirm
15 that you were not at that meeting at 6:15?

16 A. That's correct.

17 Q. Okay. So you went to the one at 3
18 o'clock but you did not go to the subsequent one at
19 6:15 that I have just indicated to you?

20 A. That's correct.

21 Q. Okay. Now, what did you do after
22 you went to the Community Control Group meeting,
23 and sorry, after the press conference was over?

24 A. I went back to meet with my team.
25 They were at the church that we had been using or

1 so graciously been hosted to feed the team members
2 meals, and that is where I went back and that is
3 where I started to receive information.

4 Q. We had information -- sorry, we
5 have had evidence here in the form of Jamie
6 Gillespie who indicated that he overheard you
7 briefing the men and which he thought was the
8 entire team.

9 Now, my first question is, did you
10 conduct a briefing in the command tent of your
11 entire team?

12 A. I'm not certain the entire team
13 was there.

14 Q. Let's say the majority of the team
15 then?

16 A. Yes, I believe it might have
17 happened, yes.

18 Q. And one of the things that Jamie
19 ascribes to you as having said to the group is that
20 you were going home. Is that something that you
21 said?

22 A. I don't recall saying we were
23 going home.

24 Q. I gather you are not saying you
25 didn't say that, though?

1 A. No, I probably said -- I'm not
2 saying he did -- that he -- I'm not saying I didn't
3 say it, but what I am -- I'm not sure about the
4 context that he may have said it in. I don't know.
5 I don't recall saying it, so the context that he is
6 putting it in I'm not a hundred percent certain of.
7 Are we going -- are we packing up and going home?
8 I don't think that was what was meant.

9 Q. That was specifically what he was
10 talking about, that the matter was over and we are
11 going home.

12 A. Well, no, because the part was
13 that I said -- I might have said we were going
14 home, but realistically with the Control Group
15 going back to come up with their options, I knew I
16 was going to wait until there was something either
17 yes or no from them and I was then going to go and
18 speak with some of my senior folks, Tony Comella
19 and some others who may have been able to in that
20 time formulate something.

21 Q. The Community Control Group, the
22 options that they were exploring were options to
23 expedite the demolition process; correct?

24 A. I wasn't in the meeting, but that
25 could be correct. I don't know.

1 Q. You had no reason to believe that
2 the Community Control Group was going back to meet
3 to figure out how they could do the rescue?

4 A. I don't know what they were
5 figuring. They could be figuring another option to
6 find a way. I don't know. But you may be right on
7 what their intentions were. I don't know. But
8 even if it was to expedite the demolition, we have
9 been involved with demolitions prior to and we may
10 have a part there to play.

11 Q. Well, I'm not ruling out the
12 possibility that you could be required to play a
13 role in a recovery. I'm just asking you in the
14 context of, as we now understand it, Jamie
15 Gillespie saying that he overheard you telling the
16 people that as a result of the rescue being called
17 off, you are going home?

18 A. In the context that we may be
19 going home sooner than anticipated, that is
20 possible. If there is nothing that can be
21 resurrected that would involve the use of the --
22 our members or our equipment, yes, we may be going
23 home.

24 Q. Now, you indicated that you -- at
25 some point in time you went to the church?

1 A. Correct.

2 Q. And at the church I understand
3 that you met Sergeant Glavin?

4 A. That is correct.

5 Q. And Sergeant Glavin is a Sergeant
6 with the Toronto Police Service?

7 A. Correct, he is.

8 Q. And he is one of the Search
9 Managers on this particular deployment?

10 A. Yes, sir.

11 Q. And if we could go to Exhibit No.
12 7617 and if we could go to page 191, please. These
13 are his notes, by the way. So he has a notation at
14 the 25th of June, 2012, he comes on duty at 6
15 o'clock. And the briefing that you gave to the
16 troops that were assembled, whatever size that was,
17 would that have been before or after 6 o'clock?

18 A. Before. I believe it was before.

19 Q. Okay. So his note indicates that
20 he is:

21 "To assist" somebody "building of
22 command tent and lighting systems."

23 Do you know what that's all about, like
24 why you would be building a command tent at 6
25 o'clock?

1 A. I'm not certain, no.

2 Q. In any event:

3 "Info site is a no go. Met
4 Neadles [...]" --

5 A. "Advise".

6 Q.

7 "[...] advise of option -
8 mechanical. Contact history".

9 What information did he give you at
10 that point in time?

11 A. That is probably the first
12 indication, real indication of a go-forward plan
13 from us. My conversations with Sergeant Glavin
14 were -- and I'll let you hear from Sergeant Glavin
15 on his relationship with Priestly Demolition, with
16 that thing.

17 Q. Yes, we can -- the fact is his
18 brother works at Priestly?

19 A. Correct.

20 Q. And in fact, his father had worked
21 at Priestly as well?

22 A. Correct.

23 Q. Okay.

24 A. He has an intimate knowledge and
25 very skilled in that process, in a demolition

1 process. I believe he even worked for Priestly at
2 some time or has done work with them. He has had a
3 long-standing relationship with them, both as an
4 employee of the Toronto Police Service, as an
5 employee with the Heavy Urban Search and Rescue
6 Team, and obviously personal.

7 So he -- and from my understanding at
8 this point, he had also had conversations with Tony
9 Comella before he had met me and had some
10 conversation to put this forward with Tony's -- I
11 wouldn't say one hundred percent approval, but it
12 was something to discuss to go forward.

13 Q. Okay, wait, well, hold on a
14 second. The conversations that you are talking
15 about with Tony Comella, they would be
16 conversations that would be between the calling off
17 of the rescue and this point in time; correct?

18 A. I believe so, yes.

19 Q. Yes, because just so the
20 Commissioner understands this, we are expecting
21 Sergeant Glavin to indicate that he actually
22 contacted Priestly at approximately 4 o'clock on
23 the Sunday, so now 24 hours earlier.

24 A. Correct.

25 Q. Okay. I gather you were not aware

1 of that fact. The first you became aware of a
2 Priestly possibility at all was when you spoke to
3 Sergeant Glavin at the church?

4 A. That's correct.

5 Q. Okay, so you didn't know that he
6 had actually established contact with Priestly?

7 A. I did not.

8 Q. And there is no -- I mean,
9 obviously, if you had asked him if he had any ideas
10 about this, he would presumably would have come up
11 with this and told you what he had done?

12 A. Correct, but he wasn't on duty at
13 that time either during the time when this whole
14 thing was unfolding.

15 Q. Okay. But in any event, to your
16 knowledge, he had not shared that information with
17 anybody prior to, other than maybe Tony Comella?

18 A. You would have to ask him that. I
19 don't know.

20 Q. Okay.

21 A. He hadn't shared it with me.

22 Q. What did he actually tell you?

23 A. Well, he had a pretty good
24 understanding of what -- he had been there as a
25 Search Manager. He knew the layout of the

1 structure. He knew the layout of the escalator and
2 the staircase, and he knew the layout of the
3 location of the victims. He laid out a very rough
4 plan that was possible to obtain a piece of
5 equipment from Priestly that was a new piece of
6 equipment that was -- had a very long reach and had
7 the capability, and as I described it in the next
8 morning, I think it had an articulating arm that
9 worked like a transformer that could move sideways
10 and had not just your up and down as a crane but it
11 had 90 degrees and variable maneuverability that
12 would be of assistance to rectify -- to potentially
13 rectify the issue with the staircase and the slab
14 of concrete that were on top of it.

15 Q. Okay.

16 A. So I wanted to explore that fully,
17 and it wasn't -- you know, we were talking and it
18 was probably at dinner time, and then I got pulled
19 in another direction for a few minutes first, and I
20 am sure you'll talk about that, but then I came
21 back to it after.

22 But that was the primary nature of our
23 discussion was that he was of the opinion that
24 Priestly would be able to supply that piece of
25 equipment that would assist us to do what we needed

1 to do, what we wanted to do, and that was to make
2 that staircase safe.

3 Q. What did you task him to do?

4 A. I tasked him to further explore
5 that with Priestly.

6 Q. And what would be the best
7 estimate of time that you could put on when you had
8 this conversation? Because unfortunately, his
9 notes, other than telling us when he came back on
10 duty, don't inform us at all about when you were
11 informed of this.

12 A. I probably didn't get an
13 opportunity to get back to speaking to Sergeant
14 Glavin until I'm going to guess after 8 o'clock,
15 8:30.

16 Q. Okay. And up until that piece of
17 information, is it accurate to say that you hadn't
18 received any other options that would allow you to
19 move forward?

20 A. I don't believe I had received any
21 other options.

22 Q. Now, did you, after you came back
23 from the press conference, did you reach out to
24 anybody either on the scene or outside of the
25 scene, and by that I mean in Toronto, Vancouver or

1 whatever, did you reach out to anybody to ask them
2 to provide you with do they have any ideas here?

3 A. I did not. I didn't quite have
4 the opportunity to get into it that deeply. I
5 was -- from meeting my team to -- it was just go,
6 go, go, go, go, and I just it was something that I
7 didn't have the opportunity to do.

8 Q. And I gather you didn't task
9 anybody to do that on your behalf?

10 A. No.

11 Q. Okay. Now, you know Dan Hefkey
12 from your days of being involved in the IMS?

13 A. I knew Dan when he was an
14 inspector with the OPP.

15 Q. So how long would that be?

16 A. Ten maybe years.

17 Q. And you had contact with
18 Mr. Hefkey on the 25th of June; correct?

19 A. A couple of times, yes.

20 Q. Yes, and if we could go to Exhibit
21 No. 7812, this I'm told is a chronology put
22 together by Mr. Hefkey involving his involvement in
23 the events. And if we could go to page 004, you
24 will see a note at the bottom of the page, and
25 this -- you can see this is the 25th of June and

1 this one is 16:47, so it would be very shortly
2 before the 5 o'clock press conference; correct?

3 A. Yes, I guess, that's right.

4 Q. 17:00 would be 5:00 p.m.?

5 A. Correct.

6 Q. So very shortly before that he
7 records that he:

8 "Received call from Bill Neadles
9 who explained they are at a cross
10 roads. While they thought they
11 heard a heartbeat when they put a
12 probe into the rubble pile, they
13 have not heard anything since.
14 Believes the person may be under so
15 much pressure from the collapse that
16 the second they rescue their chances
17 are minimal according to the
18 physician embedded with the HUSAR
19 team. Bill explained people are
20 upset with the apparent lack of
21 progress. His engineer and that of
22 MOL are saying the integrity of the
23 [building] is compromised."

24 Now, as far as the medical part of that
25 piece, is that information that you actually got

1 from Dr. Feldman?

2 A. Yes.

3 Q. And specifically tell us what he
4 told you?

5 A. Well, it was in that conversation
6 I indicated on the Sunday where he was giving me
7 his briefing as pretty much was outlined in that
8 e-mail that was -- he sent later to Mike and Tony,
9 I believe, that indicated that they were in that --
10 they had the viability, and he also told me that
11 even if they were found within a certain period of
12 time, the crush from -- the crush injuries from
13 being under the concrete would release potassium
14 and potassium is a toxin in the body and it would
15 probably, if they were alive, it would probably
16 cause their death.

17 Q. Are you referring to the death
18 would happen while they are on the pile, or is
19 their death a consequence of removing the weight
20 that was on them?

21 A. Either way, they could be deceased
22 from either way, but if they were alive when you
23 reached them and the concrete comes off, that is
24 when the toxins are released into the body and they
25 are poisonous to us and we die very quickly after

1 that.

2 Q. And this is information that
3 Dr. Feldman gave you?

4 A. Yes, he gave that to me Sunday
5 when he was doing a verbal -- we were having a
6 verbal talk.

7 Q. Now, it said:

8 "Bill explained people are upset
9 with the apparent lack of progress."

10 The upset that the community felt
11 didn't happen until the press conference was there.
12 What people are you referring to there when you
13 say:

14 "[...] people are upset with the
15 apparent lack of progress"?

16 A. There was still people that were
17 impatient, thinking that we were taking too long to
18 get to where we were, from my understanding.

19 Q. Sorry, are these people who are
20 members of the public --

21 A. Yes.

22 Q. -- or are they search people or --

23 A. Probably both, but I'm referring
24 here to what I believe to be the public.

25 Q. Did you tell Mr. Hefkey the

1 scenario that you envisaged that you relayed at the
2 Community Control Group, that I have turned the
3 scene back over to Elliot Lake Fire Department and
4 from there it is going to go to the Ministry of
5 Labour, they are going to issue a demolition order
6 and the building is going to be torn down?

7 A. I don't believe I indicated that
8 to him.

9 Q. Now, if we go -- if we can turn
10 the page, please, on the next page at 17:40 it
11 talks about:

12 "Met with DM [...]"

13 That would be Ian Davidson, the Deputy
14 Minister of Mr. Hefkey's department?

15 A. I believe so.

16 Q.

17 "[...] who explained that he
18 received a call and there are
19 negative comments being made on
20 Twitter reference to HUSAR team. He
21 asked", that is Davidson asked
22 Hefkey, "that I make additional
23 queries on getting supplementary
24 equipment to assist with the
25 operations. There are mining rescue

1 expertise in the Sudbury area and he
2 provided me with the name of Penguin
3 Solutions."

4 And moving forward, there was an offer
5 later on, as we'll see, of a robot; is that not
6 correct?

7 A. Correct.

8 Q. And I was a little confused. I
9 saw an e-mail that indicated that you didn't -- you
10 turned the offer down, and then I saw another thing
11 where a robot was actually employed.

12 What was the case? Did the robot come
13 to Elliot Lake?

14 A. Yes, it did.

15 Q. And was it used?

16 A. Yes, it was.

17 Q. Okay. And okay, and that is in
18 connection with the actual demolition; is that not
19 correct?

20 A. No, it was to offer us another
21 view from the roof without putting anybody in
22 danger. The robot was driven across the roof,
23 parking lot roof, and the camera was pointed down
24 and it gave the view of what was currently going
25 on.

1 Q. And that robot, it came on the
2 Wednesday; correct? The -- sorry, on the Tuesday,
3 because the Monday is the day it was called off.

4 A. Right, I think it came in Tuesday
5 morning, if I were guessing.

6 Q. Okay. Now, if we can go to the
7 next page, Ms. Kuka, please, at 20:05, that is 8:05
8 p.m., he records a phone call with yourself:

9 "Spoke with Bill Neadles. There
10 is a true hatred for the owner of
11 the Mall due to the historically
12 poor conditions of the mall
13 structure."

14 Is that information that you
15 essentially gleaned from seeing and hearing the
16 people in the press conference?

17 A. I actually had an opportunity to
18 look at some of the Twitters that was going on,
19 tweet messages that were being sent out about it,
20 and it was, in my opinion, that was -- it was
21 twofold. They were not happy with the mall and
22 they were not happy with the rescue.

23 Q. Okay, and what sort of messaging
24 were you reading about the rescue?

25 A. They thought we had quit. They

1 thought we were going home. They thought we had
2 packed up and given up on them, and they didn't
3 like me very much. So more or less they were
4 showing their displeasure of the decision at the
5 time.

6 Q. The people who were tweeting that
7 they thought you had quit, anybody who looked at
8 that press conference would clearly come away from
9 that with the idea that you had quit; correct?

10 A. Well, there was still some other
11 things that were going -- as you heard Mr.
12 deBortoli and all, they said we would be going back
13 to find out other avenues and I was still going to
14 go back and find it, if there was anything more
15 coming from my team.

16 But at that point, that is what I think
17 they could glean as a go-home stage. I think they
18 pulled out of it from what they wanted at the press
19 conference.

20 Q. Well, I'm also suggesting that
21 what they pulled out of it was what any reasonable
22 person would have, having seen that or read the
23 transcript; fair?

24 A. I guess in isolation, that would
25 be fair.

1 Q. Meaning if the only thing they had
2 to base it on was on the press conference?

3 A. Well, if the only thing they had
4 to base it on was my exact comment, that might be
5 fair, but the overall arching of the comments made
6 by the entire group, I don't think that was what
7 they might glean from that.

8 Q. Well, I won't repeat. We already
9 discussed Mr. deBortoli's comments.

10 Now, it says:

11 "Bill had just spoken with MPP
12 Mantha about how they can speed up
13 the operation."

14 And the conversation was with Mike
15 Mantha where?

16 A. Outside the church, in the parking
17 lot.

18 Q. And by this point in time, when
19 you spoke to Mr. Mantha, had the situation gotten
20 bad as far as the public reaction?

21 A. Yes.

22 Q. And when you spoke to Mr. Mantha,
23 and we'll be hearing from him, tell us about that
24 conversation?

25 A. We had some general conversation

1 about the team, obviously the situation. I'm not
2 recalling whether or not that conversation was
3 before or after I spoke to Phil Glavin to get the
4 information I did receive from Sergeant Glavin, but
5 we spoke about the decision. We spoke about the --

6 Q. The decision to stop?

7 A. Yes. The HUSAR Program in
8 general, the JEPP funding, he was really interested
9 in getting some information from me on that, and I
10 think either that was that conversation or we
11 talked a couple of times during that frame that he
12 told me that I would -- to expect a phone call, and
13 I asked him who from. And he said, "You'll just
14 get a phone call." And that was more or less the
15 gist of our conversation.

16 Q. So he was somewhat mysterious on
17 that score about who the phone call was from?

18 A. I think he knew who was calling.

19 Q. No, but he didn't tell you?

20 A. That's right.

21 Q. And did you have any idea what he
22 was alluding to?

23 A. No.

24 Q. What I would like you to tell us
25 is the meaning of:

1 "[...] they can speed up the
2 operation."

3 What operation were you referring to
4 when you told Dan Hefkey about that conversation?

5 A. Maybe -- I'm thinking that is
6 something Mr. Mantha said to me, he could help
7 speed up the operation. I'm not sure in what
8 context it was said to me, though. And I am not
9 sure why, you know, in what context I related it to
10 Dan. I just don't recall that.

11 Q. Well, I don't think Mr. Mantha
12 would be in any position to speed up a rescue of
13 any sort.

14 A. Mr. Mantha positioned himself as
15 being the MPP, that he could assist us with certain
16 things if we needed them.

17 Q.

18 "The town is willing to work at
19 doing what they can to assist."

20 And given that what is being recorded
21 here are your words, what are you telling
22 Mr. Hefkey?

23 A. That the town, who I probably
24 referred to as the Mayor and his senior staff, are
25 certainly willing to do whatever they can to help.

1 Q. And then:

2 "The mayor will do what it will
3 take to bring the situation to
4 closure."

5 A. Yes, and I believe he said that in
6 the -- as his final remarks in the press
7 conference.

8 Q.

9 "There is currently no hotel in
10 town for them and the crowd is
11 turning ugly."

12 Just describe for us what the scene was
13 like when you were talking to Mr. Mantha, because
14 it was outside the church, was it not?

15 A. No, the demonstrations or the
16 protests --

17 Q. No, sorry the conversation --

18 A. The conversation was outside the
19 church.

20 Q. Was outside the church?

21 A. Yes.

22 Q. And which was just across the
23 street from the City Hall?

24 A. Correct.

25 Q. Right. Could you see the public

1 demonstrations from that position?

2 A. Not at that point, no.

3 Q. Could you hear them?

4 A. I think I could, some of it, but
5 it wasn't -- it was fairly loud and they were being
6 very boisterous.

7 Q. And when you did see it, what did
8 you see?

9 A. Well, they were very upset. There
10 was maybe 150 people, I'm not sure of the exact
11 number, but that they were very upset and very
12 boisterous and it was to the point where, I can't
13 remember, I think I told Mike to tell the guys
14 don't go out there, don't go --

15 Q. Meaning the TF-3 folks?

16 A. Yeah, the TF-3 guys, don't go,
17 don't go into the street. There was -- you know,
18 I'm not worried that -- I'm just thinking that it
19 would probably provide for a confrontation with
20 somebody and we didn't --

21 Q. That their presence could be
22 provocative?

23 A. It could be.

24 Q. Okay.

25 A. So I didn't want to -- I certainly

1 didn't want to cause anything more than what was
2 already going on.

3 Q. Right.

4 "There is currently no hotel in
5 town for them and the crowd is
6 turning ugly."

7 And then you have got the note that:

8 "The CCG have been looking at
9 alternative plans for what looks to
10 be a recovery."

11 And I gather that is really just
12 consistent with what Mr. deBortoli has told the
13 folks at the press conference, is that they are
14 going to do what they can to speed this up?

15 A. Yes.

16 Q. Now, it goes on to say that:

17 "Bill explained that there is a
18 slab of concrete that is being
19 propped up by the escalator that is
20 buckling under all the pressure.

21 This is all under tremendous
22 weight/pressure and is what is
23 causing the I beam to bend."

24 And at this stage, Mr. Hefkey asks you
25 to:

1 "[...] consider other resources
2 that he may wish us to get for him
3 in support of the mission."

4 I gather since there is nothing in this
5 note here, that at that point in time you did not
6 mention to him Priestly; is that correct?

7 A. That's correct.

8 Q. Is that because you didn't know
9 about Priestly at that time?

10 A. I'm going to put that in before
11 the time frame I actually got a chance to talk to
12 Phil Glavin, so I didn't have that in my pocket at
13 that point, no.

14 Q. Okay. And I gather if you did
15 know about Priestly or that this angle was being
16 chased down, you would have mentioned it to Dan?

17 A. Correct, yes, I would have.

18 Q. Because he is really -- he is
19 offering here, look at --

20 A. He was great assistance. I
21 certainly would have gone down that road.

22 Q. Right, he is sort of saying, it
23 appears at least, tell me what you need?

24 A. Yes.

25 Q. And it was -- I think the words

1 say it all, but he is aware of the fact that there
2 is a lot of unpopularity with the decision that has
3 been made?

4 A. Yes.

5 Q. And he isn't judging the rightness
6 or wrongness of the decision. He has moved beyond
7 that and is saying, look at, is there any way I can
8 help you here?

9 A. Absolutely.

10 Q. Okay, and at that stage, that is,
11 at 8:05 at least, you do not mention Priestly to
12 him?

13 A. I do not.

14 Q. Now, if we turn the page, you
15 participated in a phone call, and I'm going to show
16 you two different versions of the notes that were
17 taken at the same call. The first one are
18 Mr. Hefkey's that we are with right now.

19 He lists as participants the Premier
20 and then Deputy, and then Secretary of the Cabinet,
21 Debbie Conrad, Bill Neadles, Ted W., who is the
22 Fire Marshal?

23 A. Yes.

24 Q. And Allison S., who was the Chief
25 of Emergency Management Ontario?

1 A. Correct.

2 Q. The other people here, he has got
3 them identified as Deputy, Secretary of the
4 Cabinet. Did you know, did they identify
5 themselves by name on the call?

6 A. No, I don't believe -- I didn't
7 know they were on the call.

8 Q. Oh, okay, who did you think you
9 were talking to?

10 A. Well, I was speaking with Dan who
11 was coordinating the call and the Premier. A
12 couple of other people voiced in, but I really
13 didn't know who they were.

14 Q. Okay.

15 A. They may have identified
16 themselves at the beginning. I -- but I didn't --
17 wasn't paying a lot of attention to who else was on
18 the call. My focus was Dan was putting me on to
19 speak, you know, to hear from the Premier.

20 Q. When he had asked you, the last
21 thing he had asked you in the previous conversation
22 that we just left, that he asked that you be
23 available for a call with the Premier, did he
24 indicate to you what the call was going to be
25 about?

1 A. No, he didn't.

2 Q. So at least at the start, you
3 thought the participants in the call were yourself,
4 the Premier and Dan Hefkey?

5 A. I knew there were other people on
6 the call, but I didn't exactly know who, the scope
7 of who was on.

8 Q. Okay. And the way this is
9 written, it starts out with the Premier asking a
10 question to you. How do you recall the
11 conversation?

12 A. The conversation to me was that
13 Dan introduced me to the Premier and the Premier
14 said hello more or less, and the Premier was,
15 though I can't quote you his words, was putting
16 forth a position of concern that he wanted to be
17 sure that we and what the Province could bring to
18 bear was doing everything it could for the families
19 and the City of Elliot Lake. That is how I
20 interpreted the call between myself and the
21 Premier.

22 Q. Okay. It may be helpful if we go
23 to the version of Mr. O'Leary. It is a little more
24 fulsome and may be more helpful to you, and that is
25 Exhibit No. 9140.

1 THE COMMISSIONER: Who is O'Leary?

2 MR. WALLACE: O'Leary, yes.

3 THE COMMISSIONER: Who was he?

4 BY MR. WALLACE:

5 Q. Oh, sorry, he works in

6 Mr. McGuinty's office, or more accurately, he did

7 work in the office. Is that Exhibit No. 9140?

8 There we go. And if we could go to the page 0004,

9 and go right to the bottom of the page, please.

10 And what I am told, Staff Inspector, is

11 this is a typed version of handwritten notes that

12 Mr. O'Leary took, so he has identified the persons

13 involved in the call as Bill Neadles, David,

14 apparently that is a person by the name of David

15 Livingstone, Peter Wallace, Ian Davidson, the

16 Deputy Minister, Dan Hefkey who you know, and Laura

17 Miller who is another government official, and of

18 course Mr. Hefkey and the Premier.

19 And at the bottom you can see he -- it

20 appears at least that you were there. It looks

21 like the Premier asked you to explain the decision

22 to call off the search?

23 A. Yes.

24 Q. And the answer that is recorded is

25 that was the "only viable alternative"?

1 THE COMMISSIONER: Flip the page.

2 BY MR. WALLACE:

3 Q. I'm sorry.

4 A. Yes.

5 Q. And that captures it accurately?

6 A. That was -- I'm taking that's in
7 relation to the decision earlier in the day to stop
8 the search, yes.

9 Q. Correct, yes, okay. And then my
10 understanding is you are asked the question:

11 "Is someone alive?"

12 And then the bullets underneath that
13 are the answers that you have provided that -- and
14 I'll just ask you to confirm that that is the
15 answer you gave. So the question is:

16 "Is someone alive?"

17 And by the way, it is the Premier that
18 is asking the question; correct?

19 A. Yes, I believe so.

20 Q. And you indicate that there:

21 "Is a remote chance."

22 A. Yes.

23 Q. And the:

24 "OPP have a new piece of equipment
25 to penetrate concrete, determine if

1 someone breathing."

2 This would be in reference to the
3 LifeLocator?

4 A. Correct.

5 Q. And you provided that information?

6 A. Yes.

7 Q. I guess Mr. O'Leary couldn't read
8 his own writing, but was something "by a crane".
9 Oh, maybe it was lowered, because that is how it
10 was used.

11 At that point in time, were you aware
12 that it had been lowered by -- the LifeLocator had
13 been lowered by a crane?

14 A. Yes, the operator was in the same
15 basket we saw with the gentlemen who were cutting
16 the beam.

17 Q. Okay:

18 "Detection device showed a faint
19 heartbeat.

20 Person called out, they tapped
21 back, twice."

22 This is talking about two different --

23 A. Correct.

24 Q. -- events; correct?

25 A. Yes.

1 Q. So you are telling them, look at,
2 we have signs of life from the LifeLocator. We had
3 signs of life based on the tapping, and we -- it
4 doesn't say that, but there is mention of the "sent
5 in canine search dogs", and is that again in
6 relation to the fact that the dogs had turned up
7 live hits?

8 A. Correct.

9 Q. And then it says:

10 "Yesterday: hits were
11 distinctive, less so today."

12 Help us with that.

13 A. It doesn't -- to me that really
14 doesn't make sense, they were less distinct; they
15 are a hit or they are not a hit. I think what I
16 meant by "less distinctive", the scent was not as
17 strong as it was and it wasn't a 100 percent hit.
18 The handler felt there was something there but
19 couldn't make it one hundred distinctive. It was
20 moving around, they couldn't pinpoint the location
21 as well.

22 Q. So couldn't really confirm whether
23 it was a hit or not?

24 A. They were adamant that there was
25 somebody down there below that hit.

1 Q. Alive?

2 A. They believed so.

3 Q.

4 "Advice from medical doctor, once
5 3 big pieces of concrete removed,
6 person could die right away."

7 This is the information that you have
8 told us about?

9 A. Yes.

10 Q. And the source of that was --

11 A. Dr. Feldman.

12 Q. -- Dr. Feldman. And then it says,
13 and this is just expanding on that:

14 "Body goes into shock and dies
15 right away."

16 And then there is the last bullet:

17 "But had not solid info past that
18 time frame."

19 And then the question is:

20 "Can we go in? Any way?"

21 I gather you are being asked is there
22 any way to go in?

23 A. Yes, and I'm believing he is
24 meaning our team to go in anyway.

25 Q. Right.

1 A. And my answer is "no sir".

2 Q. And you indicate that you had:

3 "Sought advice from MOL engineers,
4 from HUSAR engineers."

5 A. Correct.

6 Q. Or engineer. I know it says --

7 A. It should be take the "s's" off
8 them, I believe.

9 Q. And you are referring there to Mr.
10 Jeffreys and Mr. Cranford?

11 A. Correct.

12 Q. And then further:

13 "When roof collapsed, we removed a
14 big beam.

15 Close to where 2 individuals are.

16 Very large piece of concrete
17 fell, applied pressure down and
18 out."

19 And this is referring to the piece of
20 concrete or the slabs that were resting on the
21 escalator and on the beam?

22 A. Yes, sir.

23 Q. And you provided the information
24 as far as the stress on the beam is concerned, and
25 it said:

1 "Advised it could collapse at any
2 time."

3 Who offered you that opinion that it
4 could collapse at any time?

5 A. That was part of the conversation
6 with Tony Comella.

7 Q. And so it was the wisdom of both
8 Mr. Cranford and Mr. Jeffreys?

9 A. Yes.

10 Q. And the same would be true for:

11 "Take everything [down] for 2 and
12 3 floors down"?

13 A. Yes.

14 Q. And it would be your words that
15 you "would not put anyone into it" given those
16 circumstances?

17 A. Correct, sir.

18 Q. And then essentially I gather he
19 is asking:

20 "Anyone better at this?"

21 He is looking to see if there are other
22 alternatives?

23 A. Yes.

24 Q. And you went on to relate that
25 the:

1 "People here [...]" -- being in
2 Elliot Lake?

3 A. I'm sorry, sir?

4 Q. That --

5 A. Oh, okay.

6 Q. You were asked the question:

7 "Anyone better at this?"

8 A. I'm not sure what that means.

9 "People here all believe miners can get
10 them out", is that what you mean?

11 Q. Yes, we see -- remember at the
12 press conference, they asked if Mine Rescue, that
13 we have people in Sudbury and we have people in
14 Timmins.

15 A. Okay, right.

16 Q. And your answer or you go on to
17 say at least it appears:

18 "Mine is a mine, building is a
19 building.

20 Tear down building? Can't, could
21 [...]" something "[...]another
22 collapse.

23 No, no one else."

24 Essentially, what are you saying here?

25 A. What I am saying there is I

1 believe that there is no other search and rescue
2 team or any other team, miner or otherwise, that
3 could or should be allowed back in that building
4 based on the structural integrity of it, as it sits
5 right now.

6 Q. And --

7 THE COMMISSIONER: I take it this
8 conversation goes on for quite some time,
9 Mr. Wallace?

10 MR. WALLACE: Yes, it does.

11 THE COMMISSIONER: I'm just looking at
12 the time now. It is 5 o'clock.

13 MR. WALLACE: Yeah, it does.

14 THE COMMISSIONER: We'll call it a day
15 at this point. It has been a long day. And so
16 we'll rise until 9 o'clock tomorrow morning.

17

18 -- Adjourned at 5:00 p.m.

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REPORTER'S CERTIFICATE

I, DEANA SANTEDICOLA, RPR, CRR,
CSR, Certified Shorthand Reporter, certify:

That the foregoing proceedings were
taken before me at the time and place therein set
forth;

That the testimony of the witness
and all objections made at the time of the
examination were recorded stenographically by me
and were thereafter transcribed;

That the foregoing is a true and
correct transcript of my shorthand notes so taken.

Dated this 11th day of September, 2013.

Deana Santedicola

NEESON & ASSOCIATES

COURT REPORTING AND CAPTIONING INC.

PER: DEANA SANTEDICOLA, RPR, CRR, CSR

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