

ELLIOT LAKE COMMISSION OF INQUIRY
DAY 118 - CLOSING SUBMISSIONS, PART II

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This is Day 118 in the Inquiry proceedings held before the Honourable Justice P.R. Belang r, Commissioner, at the White Mountain Academy of the Arts, 99 Spine Road, Elliot Lake, Ontario, on the 12th day of November, 2013 commencing at 9:00 a.m.

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APPEARANCES:

S. Richard	For the Elliot Lake Mall Action Committee
25 K. Moyer	For the Senior's Action Group of Elliot Lake
R. Oliver	For the City of Toronto
J. Saunders	For the Ontario Association of Fire Chiefs
P. Cassan	For the City of Elliot Lake
D. Kloeze	For the Province of Ontario

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Opening Remarks

TUESDAY, NOVEMBER 12 2013

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5 THE COMMISSIONER: Good morning ladies and gentlemen. Thank you for your attendance this morning. This is the last time that we'll be meeting in this great hearing room that has served us well since we began here in late February of this year. And this room, I gather, is now slated for a new vocation but it certainly has been a most comfortable and convenient place within which to do our work. I thank you for your carefully crafted submissions which I and Commission Counsel have had an opportunity to review over the weekend. I particularly wanted to thank SAGE for their thoughtful and well-prepared submissions and for their assiduous presence throughout these proceedings. Their submission apologises for their presentation and I simply want to say that that apology is entirely unwarranted. Your participation, Mr. Miles, Mr. Moyer and others has been invariably professional, your presentations carefully crafted and respectful of the process that we're engaged in and in doing so, I think you've rendered an important public service to the citizens of this community and to the people of Ontario. What's remarkable about your submission and your participation is that they were not made to benefit yourselves, but to benefit your community and indeed all the communities across this province and for that I thank you. I can't say that we will adopt all of your submissions but I assure you that they are all gratefully received

Submissions - Mr. Richard

5 and we thank you because your contribution has been effective and it's been meaningful. The last public activities of the commission will be for four days next week at the round tables at the Ernst Young Centre in Ottawa. The round table of experts and their work will be broadcast and available for viewing here in this building, of course, and on the website. And then we have the first round tables relate, of course, to the subject matter explored in part one. In early December we'll be doing the round tables at the same place in relation to subject matters arising out of part two and I'll be announcing a release date for our report sometimes after we've concluded the round table portion. So without further ado this morning we'll commence in accordance with the schedule which I believe everybody's received, and I think ELMAC is the first, the first to be heard, Mr. Richard. And Mr.- the Commission Counsel, of course, are represented this morning by Mr. Wallace and as usual, of course, Commission Counsel will make no submissions. I ask you simply to be mindful of the fact that we only have one interpreter this morning. Perhaps bearing that in mind you could slow down your presentation a little bit because Madam Interpreter has no substitute so she's going to have to bear the burden of the interpretation of the entirety of proceedings. Any comments before we begin? Are we ready to go? So then we'll go ahead in hearing Mr. Richard. Thank you.

30 MR. RICHARD: Good morning Commissioner. All of the facts we think you should find and our

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Submissions - Mr. Richard, Mr. Moyer

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recommendations are detailed in our written
submissions. On behalf of ELMAC I'd like to thank
you, your staff and counsel

UNIDENTIFIED WOMAN: Sorry, the interpreter can't
hear.

MR. RICHARD: Is that not working? I'll go over
there I guess.

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THE COMMISSIONER: Yes, I should have indicated,
everybody has to go there. I forgot to mention
that....

MR. RICHARD: All right, I'll start over.

THE COMMISSIONER: Yes, so if you'd start again
please.

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MR. RICHARD: Sure. Good morning. All of the facts
that we think you should find and our
recommendations are detailed in our written report.
On behalf of ELMAC I would like to thank you, your
staff and counsel for all of your hard work and
wish you luck in drafting your report.

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THE COMMISSIONER: All right then, Mr. Moyer.

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MR. MOYER: I'd like to begin by thanking you for
your kind words, Mr. Commissioner. After listening
to and reviewing testimony during Phase II of this
Inquiry, one cannot help but to recall an oft-
quoted line of dialogue from a classic movie: "What
we have here is a failure to communicate." Witness
after witness, when asked by various counsel what
they felt would be a critical recommendation they
would like to see made and implemented, they almost
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to the individual responded "communication,
communication, communication." Perhaps never was
there a more critical need for improved

Submissions - Mr. Moyer

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communication than during the Algo Mall collapse and the ongoing operations for rescue and recovery. These witnesses ranged from the public inside the mall at the time of the collapse, the families of victims of the catastrophe, the concerned general public, the first responders up to and including the teams of rescuers working on the rubble pile and the Incident Commander himself. We, who live in Elliot Lake, witnessed the proceedings from the safety of the street or the comfort of our living rooms watching for news bulletins on television or the internet. We heard conflicting reports of a yet unidentified fatality then possibly even more. We heard conflicting reports of people who were not yet- not as yet confirmed to be missing. We heard and watched the cities- city run news conferences at which the Mayor sat almost silent, the named communication coordinator was basically unknown and invisible while proceedings were directed, controlled and dictated by the CAO who was, according to the emergency response plan of the city, in charge of only the Community Control Group. It was usually he who responded to press questions or he directed questions to various specialists who came from afar to undertake the rescue operation. It would appear reasonable that these individuals would have been more productive and even more- preferred to be out on the site as opposed to answering questions from the press. One must only recall the recent flooding disaster in Calgary and the public communications from their mayor to see how things should have been done.

Submissions - Mr. Moyer

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Instead of these specialists channeling their known information up through the Incident Commander and the mayor, whom is identified as the head of the CCG and the official spokesperson for the operation, they were left to attempt to explain what they were facing and doing to a press who in some instances sought to slant and sensationalize the news. For the public holding vigil on the street, even these newscasts were not available and they were forced to rely on second or third-hand information. Not until some senior official from the province or OPP arrived did the mayor appear on the street. And that was usually to introduce them and let them speak to the people. No regular briefings were communicated to the people awaiting news on the street. The families of victims spoke of being told next to nothing and ignored as the news of the fate of their loved ones and were told they were being done a favour to be told a smattering of news they did get. Again, from people that would have been more use on the site than taking the place of those who should have been communicating. We have been made aware of communications between a few members of council itself who are never given any information as to what was happening on the ground so they could at least try to keep questioning constituents informed. It was not the job of the Incident Commander to speak and- with the press or concerned citizens, the emergency response plan clearly spells out whom it should have been. There were various testimonies as to difficulties with

Submissions - Mr. Moyer

communications on the site itself. Because of incompatible radio frequencies decisions made at lower levels on the chain of command rather than the Incident Commander. Conflicts on the ground appearing to be the result of what cannot be described other than a testosterone contest between various groups of professionals on the ground due to some sort of "who is really in charge" perceptions. We see instances of a first group to arrive for the rescue from out of town who were simply assumed to be an advance group of another and larger group who had been requested by the first group itself. Who they were was not known by anyone, even their own so-called IC on site who was a member of the same organization. The Incident Commander had never heard of them, and was unaware they were a separate identity. The public were never told that there were two groups of experts arriving who would co-ordinate and work together. Almost nobody was aware that the first to arrive group of outside rescue personnel was almost shut out of the operational planning and relegated to alorans. We heard of instances of interferences from a Crown Ministry who, unless the operation was declared a recovery as opposed to a rescue by the Incident Commander himself, has no real business other than as an advisory role. Why they sat at CCG meetings, influencing the members thereof instead of funnelling their concerns only through the Incident Commander is yet a mystery. While SAGE has made a number of recommendations for the consideration of Mr. Commissioner, we emphasise

Submissions - Mr. Moyer, Mr. Oliver

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that the progress of those tasked with the rescue and recovery of victims would have been much better and a much- had simple communication been practiced by all concerned. There is a definite need to strengthen all aspects of communication at all levels. We can only hope that the provincial government will display a different attitude from the recently uttered opinion of the prime minister when asked to conduct an Inquiry into the deaths or disappearance of some 600 aboriginal women when he responded "way too long, way over budget and recommendations are usually of little utility." SAGE would like once again like to express our appreciation to both Mr. Commissioner, the commission staff and council for permitting us to participate on behalf of our members and other concerned citizens of Elliot Lake. We would appreciate the- we have appreciated the opportunity to observe, listen, think outside our daily lives and be permitted to actively participate, develop and submit our own recommendations for the consideration of Mr. Commissioner in his final recommendations to the Province of Ontario. Thank you.

THE COMMISSIONER: Thank you Mr. Moyer. Mr. Oliver for the City of Toronto.

MR. OLIVER: Good morning Your Honour. I would also like to start by echoing the comments of my friends, to thank you, thank Commission Counsel and thank counsel for their participance and the participants themselves for all their hard work. I'd also like to now talk about the events in

Submissions - Mr. Oliver

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Elliot Lake themselves and I want to start by briefly discussing the TF3 training. TF3 is the only heavy urban search and rescue team in Ontario. The TF3 team is trained in accordance with the National Fire Protection Association or NFPA Standards numbers 1006- sorry, 10006 and 1670. These standards are generally accepted across the North American rescue field. While TF3 does provide complementary crane training to its members, crane operations are not found anywhere in the NFPA standards. Now, to become a member of TF3 each individual is required to take first a four-hour introduction course, next a level-one operational structural collapse course and then four 20 hour core skills courses being Shoring, Stabilization: Floor, Shoring and Stabilization: Wall, breaching techniques and Heavy Object Lift and Move. After completion of these courses, the TF3 members will have received technician-level training. TF3 members are then required to complete a minimum of two core courses, one ten-hour skills maintenance course and ten hours of online courses annually. Now, there are numerous other complementary courses that the members can take that are offered in-house by TF3 each year. Now, in addition to their TF3 training, all TF3 members receive extensive experience and training through their home agencies of Toronto Fire, Toronto Police, Toronto Water and Toronto Emergency Medical Services. This allows the team to have training and experience of firemen, police and medics as well as heavy operations operators- heavy equipment operators. Now, I want

Submissions - Mr. Oliver

to transition to briefly discussing the process of the TF3 deployment. TF3 was deployed to Elliot Lake at the request of the province in accordance with the Memorandum of Understanding between Toronto and the province. Because TF3 is multi-disciplinary, with members spread out through these four divisions I have discussed, TF3 is able to offer varied training and expertise from across Toronto's main search and rescue professions. However, the makeup of the team also makes it a time consuming process to deploy. At the time TF3 was deployed a large portion of the team was involved in training outside of Toronto. These members had to be gathered over a large forested area and the training had to be safely shut down in order for these members to be returned to Toronto to deploy. TF3 deployment is also affected by union rules and seniority which effect who can be called to deploy and how. Who can deploy is also affected by the level of training an individual may have. To be deployed, the member must have the minimum training. TF3 does not have the funding to own its own tractor trailers and these tractors are needed to pull the three trailers worth of equipment that TF3 deployed to Elliot Lake. TF3 had to obtain the tractors through private companies. It's at the mercy of these private companies' availability in order to obtain the tractors to pull these trailers. In this case, the closest tractors that TF3 could obtain were from Mississauga. Now, TF3's bus was out of service at the time and as a result they had to use an older Toronto Police Services

5 bus. Despite the fact that the collapse occurred on
a summer's Saturday afternoon, TF3 was able to
deploy 36 members within the six hours that is set
out in the Memorandum of Understanding. The
10 province was told how many members TF3 could deploy
within the mandated time, and the province
instructed TF3 to deploy with that number of
members so as not to delay the response. On the way
to Elliot Lake, TF3 leadership received information
from Carol-Lyn Chambers of the Ontario Fire
15 Marshall's Office, and Sergeant Jamie Gillespie of
UCRT. Commander McCallion gave evidence that he was
able to tell what the team would encounter when
they arrived at Elliot Lake from the information
they received. Now when UCRT and TF3 both deploy,
20 the expectation is that UCRT will arrive first and
begin the initial rescue. UCRT is a smaller and
faster team that is expected to arrive at the
incident first and this is what happened in Elliot
Lake. TF3 arrived in Elliot Lake at 4:18 on June
24th and immediately began touring the site to plan
the rescue. When TF3 arrived in Elliot Lake, they
25 did not take over the incident. Control of the
incident always remained with the Elliot Lake Fire
Department and particularly with Fire Chief Paul
Officer who served as the Incident Commander.
However, as he was entitled to do as Incident
30 Commander, Chief Officer assigned authority of the
rescue portion of the event to Toronto Fire- or to
TF3. While this authority allowed TF3 to plan and
implement the rescue without obtaining approval
from Chief Officer, TF3 did keep Chief Officer

Submissions - Mr. Oliver

apprised of the plans and how the rescue is proceeding. Now Chief Officer himself described him and Mr. Neadles as always together and gave evidence that he received sufficient information to perform his role as the Incident Commander. Now I want to briefly discuss the roles of the TF3 members who deployed and in particularly those who were called as witnesses. Now, I'm going to start with Staff Inspector Bill Neadles. Staff Inspector Neadles served as the task force commander for the rescue portion of the incident. Staff Inspector Neadles has been a member of Toronto Police Services since 1976. He became involved in TF3 in 2000, around the time the team started. He currently serves as one of only four TF3 task force commanders. In Toronto Police Services he is a unit commander of the public safety and Emergency Management Unit. This unit responds to unplanned large scale emergencies in Toronto. He also oversees five incident management teams who is to respond to large scale planned events. Commander Michael McCallion served as the second task force commander for the rescue. Commander McCallion has been a member of Toronto's emergency medical services since 1983. He joined TF3 in 2003 or 2004 and he also currently serves as one of the four TF3 task force commanders and was previously a TF3 instructor. With emergency medical services, Commander McCallion oversees the Public Safety Unit and is commander of the emergency medical services District Five which includes the special operations section. Captain Tony Comella served as operations

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chief in Elliot Lake. Captain Comella has been with Toronto Fire Services since 1987. He has been with TF3 since its inception in 1999. He has been a full-time TF3 team coordinator since 2004. Prior to becoming team coordinator, Captain Comella was the- was a firefighter working on the Heavy Rescue Squad. Captain Martin McRae was a logistics chief in Elliot Lake. He has been a member of Toronto Fire Services for 29 years. He has been a member of TF3 since 2003. He serves as a trainer for both TF3 and Toronto Fire Services and, in particular with respect to the Toronto Fire Services, heavy rescue trucks. Captain Chuck Guy was the task force day shift leader. He has been a member of Toronto Fire Services for 24 years, joined TF3 in 2001 and is a member of the TF3 training group. He is a member and trainer of Toronto Fire Services' Auto Extrication Team and has been a technical rescue instructor for Toronto Fire Services for 15 years. Now Sergeant Scott Fowlds was called as a witness and was a member of the Technical Rescue Team and was particularly the search and rescue dog handler. He has been a member of Toronto Police Service since 1990. He joined the K-9 unit in 1994 and is currently a supervisor with the K-9 unit. He joined TF3 in 2001 and serves as trainer for TF3 K-9 matters. Don Sorel was a task member and TF3's rigging specialist. He has been an employee with Toronto for 35 years working with cranes. He is a manager with Toronto Water for the last six years, prior to that he was supervisor since 1988 and prior to that he was a foreman since 1979. He

Submissions - Mr. Oliver

5 joined TF3 in 2004 and was a TF3 instructor. Finally, Sergeant Phil Glavin. Sergeant Glavin was a task manager, he's been with Toronto Police Services for 34 years and is a sergeant at the Toronto Police College. He joined TF3 in 2007. All of these TF3 members who were called as witnesses are men who have dedicated the better part of their lives to rescuing people and have all risen to very high ranks in their home divisions. These are just the members that were called as witnesses. Now, Captain Chris Rowland was the night shift leader. He wasn't called as a witness so we don't know all of his qualifications. However, we do know from his name that he was the captain of Toronto Fire Services and from his training records we can see that he was involved in 204 TF3 training events. The list I have read to you also does not include Brian Ogawa or Todd Tsukamoto who are also TF3 trainers who deployed to Elliot Lake. Now I want to transition to talking about the Incident Management System. TF3 follows the Incident Management System or IMS. IMS is voluntary and scalable. On any given deployment, all or part of IMS can be employed-deployed. IMS is intended as a guideline. It is not meant to hamper a rescue by requiring that all aspects be complied with. Now we have heard there are five core activities within IMS. They are command, operations, logistics, planning and administration and finance. Now I've already discussed the qualifications of the members who filled the command operations and logistics roles and we know from the testimony that administration

Submissions - Mr. Oliver

5 and finance was not required for this deployment, so now I want to discuss planning. Staff Inspector Neadles has given evidence that he did not assign a planning chief. Now IMS, again, is voluntary and scalable and there is no absolute requirement that a single planning chief be assigned. Rather, Staff Inspector Neadles divided the planning role between himself, Captain Comella, Commander McCallion and Captain McRae and I've already discussed their 10 qualifications. Now, this was done out of necessity. The only TF3 member with formal training to serve as a planning chief was Division Chief Doug Silver. Division Chief Silver was not able to deploy because he was in Ottawa with the jet 15 funding hearings. Now, TF3 had wanted to send more of its members for planning training, however, the discussions among the national teams for common planning course were not put into action because of the reduction in the jet funding. TF3 is asking for a recommendation for greater funding through 20 Toronto's written submissions. Additional funding will allow TF3 to provide further training to its members and to purchase equipment that is needed on deployments and to increase the speed at which TF3 can deploy. As it is, TF3's funding has been 25 reduced by approximately 40 percent from its 2012 numbers due to the cancellation of the Federal Jet Funding Program. Now, the ability to assign a single planning chief was also hampered by the fact that UCRT was also unable to deploy a full team. 30 More importantly, UCRT was only able to deploy one member who could serve in command, being Sergeant

Submissions - Mr. Oliver

Jamie Gillespie. Now, Sergeant Gillespie made a difficult decision to remain with his team as leader of the UCRT Task Force and did not form part of command. OPP Chief Superintendent Robert Bruce gave evidence that UCRT should have deployed a staff sergeant to Elliot Lake and that UCRT lead Sergeant- let Sergeant Gillespie down by not providing him the appropriate command structure. Had UCRT been able to deploy members who could have participated with TF3 in command of the rescue this would have taken off pressure from TF3 to occupy all of the core IMS roles and would have allowed for a planning chief to be assigned. As it was Captain Comella and to a lesser extent Captain McRae would tour the command site with the engineers and provide information and propose the action plans to Commander McCallion and Staff Inspector Neadles. Were these proposed plans fit within the greater incident action plan, they would become part of that plan and would be implemented by task-level rescuers. Now the engineers also played a large role in planning. To assist with planning, TF3 relied on information provided by its embedded engineer Mr. James Cranford from Stephenson Engineering and the Ministry of Labour engineers who were on site being Roger Jeffreys and Brian Sanders. Mr. Cranford provided advice about the stresses on the building, what areas of the building he considered more safe or less safe and what elements in the building may have better survived the collapse. Mr. Cranford also assisted in designing shoring and performing calculations

with respect to the stresses on the structure. Mr. Jeffreys provided advice as to the risks involved in certain areas of the structure. I now want to discuss the incident action plan itself. The Incident Action Plan was not in writing, but IMS does not require it to be in writing. Rescues are dynamic situations and the Incident Action Plan was constantly updated and re-evaluated as more information on the collapse site became known. As the plan was modified, the task would be passed to the rescue squad leaders orally so they could instruct the task members. Now TF3's plan was to access the pile through the hotel lobby on the north end of the mall by shoring towards the pile to create a safe avenue in and out of the building. As the shoring progressed the rescuers began to shore both the east and west sides of the pile to provide two means of access. The plan was then to work through the pile with the systematic removal of debris using methods such as lifting the debris to go underneath it, lifting debris out of the way, cutting and removing debris and stabilizing debris using shoring. Larger pieces of concrete would be moved using simple machines such as lifting bags, levers and rollers. The debris pile could be stabilized to avoid any shift as the debris was removed. TF3 trains lifting debris this size. Their training involves lifting 5,000 to 16,000 pounds debris which could be stacked to obtain even greater weights. TF3 was familiar with concrete the size of that in Elliot Lake and was trained and capable of moving these slabs manually. This method

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of rescue, which is referred to in the rescue community as tunneling, is what is taught to rescuers across North America in Rescue Systems One and Two and is the preferred method of technical rescue. It is based on the FIMA method of rescue. At the same time as the rescuers were working towards the pile, searches of the pile were being performed by the technical rescue members using search cameras and the UCRT and TF3 dogs. The task members were briefed on the plan each operation cycle by the rescue squad leader who had received instructions on what would occur that cycle from briefings with the outgoing team leader and task force command. Chief Officer was made aware of the updates to the Incident Action Plan and how the rescue was progressing through face-to-face meetings with Staff Inspector Neadles. I want to transition to talking about the crane operations. TF3 trains to the NFPA standards which are generally accepted across North America. NFPA Standard 1670, which sets out the standards for urban search and rescue, does not contain any standards or operations for using a crane in a rescue. As such, crane operations are not a core part of TF3's training. Through their training, TF3 considers crane operations to be a last resort because with crane operations, rescuers lose control and the added speed is often not worth the risk. However, the crane had been ordered and it was used in the removal of debris from the pile. It was used in the removal of a hanging I-beam, an SUV that had fallen into the collapse zone and a number

Submissions - Mr. Oliver

of slabs of concrete. Now, Captain Comella and Sergeant Gillespie proposed a plan whereby they would risk using the crane to lift a number of slabs in an attempt to locate the potentially viable victim through a snatch and grab process. From the accounts given by the members of the rigging team, the crane operations proceeded without any major problem, however, the videos of the removal of the I-beam and the SUV show how dangerous crane operations can be. In these videos you can see as items are removed from the pile they swing close to the sides of the standing structure and the escalator area that was a concern to the rescuers. Just because crane operations worked in this instant does not mean they should always be used in a rescue. Crane operations are inherently dangerous to the rescuers and to the victims. On the morning of June 25th 2012, movement in the escalator area was confirmed. The movement suggested that the escalator area was moving both down and into the collapse zone where the victims were located and the rescuers were working. Crane operations were stopped at 9:38 A.M. on June 25. At this time the rig was removed from the pile so the engineers could reassess the escalator area. At the time the rigging was removed, they had already worked for a 12 hour shift and needed to be rested. The evidence provided by the TF3 members is that although the team's most experienced rigger was part of the initial crane operation, TF3 had members with rigging training which could have continued the rigging if the crane operations had

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been restarted. Even after the rescuers were removed from the debris pile, shoring work continued in other areas of the building. The riggers were removed from the pile so the potential continued movement of the escalator could be evaluated. This was an area that the rescuers were greatly concerned with and an area the rescuers had been discussing shoring since the event began. However, the rescuers were not able to arrive at a way to shore this escalator area without placing rescuers in dangerous situation. There was concern that in attempting to shore the area, the rescuers could actually cause collapse of the escalator area. No safe practical way of stabilizing the escalator was found, either before or after the rescuers were removed from the pile. At 1:20 P.M. on June 25th, Captain Comella confirmed to Commander McCallion that the building had continued to move and Commander McCallion removed the rescuers who had been performing shoring work. At approximately 2 P.M. on June 25th Staff Inspector Neadles made the decision not to allow the rescuers back in the building. The decision was made because of calculations performed by Mr. Cranford and the advice provided by the engineers and rescuers such as Captain Comella about what the movement in the escalator meant, including the device Captain Comella had set up that showed the escalator had shifted significantly. That the building shifting without any additional load being placed on it indicated that something in the building was beginning to yield or give way. That movement was a

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warning sign that something within the steel frame of the building was moving and that this meant that steel somewhere within the structure had exceeded its yielding point and had started to fail, that the escalator with the slabs on top was subject to failure. Mr. Cranford conducted calculations which showed the beam under the escalator was 428 percent overstressed. The escalator was moving both downwards and towards the debris pile where the victims were located and where the riggers had been working. The rescuers- that rescuers moving debris within the building or working in the escalator area could result in catastrophic collapse, that further collapse could be imminent and when it occurred it would be catastrophic and that the evaluation team was not sure why the beam had not already failed and that the area around the escalator posed an extreme risk. Now, survivability of the victims was not a factor in the decision to remove the rescuers. Staff Inspector Neadles gave evidence that he would have made the same decision even if signs of life had been detected 10 minutes earlier. The building was too unsafe to allow the rescuers in, and Staff Inspector Neadles could not risk their lives for the amount of time it would take to reach the potentially viable victim. I wanted to discuss the announcement that the rescuers had been removed from the building. Staff Inspector Neadles attended a June 25th 3 P.M. Community Control Group Meeting to update on the recent occurrences. At the time, Staff Inspector Neadles had not been provided any options to

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continue the rescue. While it may have been possible to shore the area given enough time, it was too dangerous to allow the rescuers into the area where shoring would have to occur. Given what he had been told by the engineers and other rescuers, Staff Inspector Neadles did not expect that the rescue would be able to continue, and he told the CCG meeting as much. We now know that the rescue was able to continue and Staff Inspector Neadles has given evidence that if he could, he would take back the wording he used at this meeting. However, the wording Staff Inspector Neadles used had no effect on the fact that members of TF3 were working to arrive at a way to continue the rescue and did in fact arrive at a plan whereby the rescue was continued. No one at the three o'clock CCG meeting objected to the removal of the rescuers in the circumstances. Rescuers such as Chief Officer and Sergeant Gillespie gave evidence to the effect that they would have done the same thing. Staff Inspector Neadles also attended to tell the families about the recent developments before they could find out through other means. The families were critical about not getting information on earlier events of the rescue sooner than they did and Staff Inspector Neadles attended at Collins Hall to speak to the families at the request of Mayor Hamilton so they would hear the news first. At this time, Staff Inspector Neadles did not have any hope to give the families and he did not attempt to give them false hope. Rather, he provided them with the most up to date information

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he had, which is the same information that was discussed at the 3 o'clock CCG meeting, and in command meetings about the removal of the rescuers. Staff Inspector Neadles' evidence was that he did not tell the families that the operation had become a demo or that TF3 was leaving. Now, after speaking with the families, Staff Inspector Neadles attended an already scheduled 3- 5 o'clock press conference. Again Staff Inspector Neadles provided the most up to date information he had and answered the questions that were asked of him as honestly as he could. The information he provided was again the same information that was discussed at the 3 o'clock CCG meeting and he- sitting- command meetings about the removal of the rescuers. I want to talk about the Priestly Operation. The plan to rescue, to continue the rescue was initially proposed by Sergeant Phil Glavin of TF3. Sergeant Glavin had been off shift from 6 A.M. to 6 P.M. on June 25th and was not aware the rescuers had been removed from the building until after 6 P.M. when he returned. While Sergeant Glavin had spoken to his brother on June 24th about the availability of the Priestly articulating arm, he did not do this as a possible means of continuing the rescue if the escalator became too unstable. Sergeant Glavin considered that Priestly may be able to assist if demolition was required in the event of a further collapse. When Sergeant Glavin returned to shift and learned that the rescuers had been removed from the pile, he immediately located Staff Inspector Neadles to propose a new plan. This conversation

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5 occurred between 6 o'clock and 8 o'clock P.M. on
June 25th. The call that Staff Inspector Neadles had
with the premier occurred after he had spoken with
Sergeant Glavin. While Premier McGuinty was helpful
in getting the plan implemented, the Priestly
Operation was already in its planning stage and
would've occurred even if the premier had not
called. Now Sergeant Glavin was uniquely able to
propose the plan involving Priestly due to his
10 extensive family history with the Priestly's. The
Priestly Articulating Arm is a one of a kind piece
of demolition equipment that was not known to Staff
Inspector Neadles. The Priestly Articulating Arm is
not a crane, it does not need riggers to attach
15 debris for lifting. The articulating arm can grasp,
cut and pull and push debris without putting
rescuers in the collapse zone. While Priestly had
assisted TF3 in recovery missions, this was before
Priestly had purchased the articulating arm. The
20 articulating arm had never been used in this type
of operation while with Priestly. Staff Inspector
Neadles was not aware of any other rescue team in
Canada having trained using equipment such as an
articulating arm. Toronto submits that it would not
25 be appropriate to use hindsight to make a finding
that TF3 should have arrived at a plan to use the
Priestly Articulating Arm earlier than it did. The
Priestly operation was far beyond NFPA training and
involved a unique piece of machinery that became
30 known to TF3 only through a task member's personal
relationship. Rescuers had serious concerns about
the Priestly Operation. The plan was to reach over

5 the top of the building through a hole to cause the
collapse of the escalator area in a controlled
manner and then tear down the front of the building
in an orderly process. This was considered a last-
ditch effort by the rescuers as it was just as
likely to cause the death of anyone inside as it
was to rescue them. Now by all accounts, Ryan
Priestly did an excellent job of eliminating the
escalator area hazard and then covering(sic) the
10 victims but this does not change the fact that the
Priestly Operation was extremely dangerous and was
not the type of operation that could generally be
considered part of a rescue operation. Now during
the Priestly Operation, Ms. Perizzolo was removed
before Misses Aylwin. The reason that Miss Aylwin,
15 who was thought to be potentially viable, was not
located first was ascribed by a number of
witnesses as being due to the nature of the pile,
including that the pieces that had been removed
from the north or higher end of the pile had to be
20 removed first due to the nature of the pile before
Miss Aylwin could be uncovered. And because the
pieces of debris were interconnected, they had to
be removed in a systematic manner. The order
removal of slabs in no way reflected a lack of
25 urgency to locate Miss Aylwin. Now during the
examination of commissioner Hefkey, he was advised
that the rescuers believed that Miss Aylwin could
have been uncovered if three more slabs had been
30 removed. This appears to have come from Constable
Cox's evidence when he said that the rigging was
concluded on the morning of June 25th and he

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estimated that only a few more slabs would have to be removed to reach where Miss Aylwin was believed to be located. However, Constable Cox gave evidence that it ended up taking a lot longer than three slabs to locate Miss Aylwin. He also gave evidence that when the rescuers were removed from the building, they did not know how close they were to Miss Aylwin. Sergeant Cox stated "It could've been the next slab, it could've been 30 slabs. We don't know because it wasn't the case of right where we thought the person was." As can be seen from Ryan Priestley's handwritten notes, even after Priestly completed removing the escalator area and the front of the building at 6 o'clock A.M. on June 27th it took seven hours to locate Miss Aylwin at 1 o'clock P.M. Mr. Priestly gave evidence that even after Ms. Perizzolo was removed, approximately 40 tons of debris had to be removed to uncover Ms. Aylwin. Mr. Priestly has provided evidence explaining how the Priestly equipment was able to remove the debris much quicker than the Millennium Crane. It is Toronto's submission that it would have taken Millennium at least seven hours to uncover Miss Aylwin and likely much longer given the fact that it took Priestly seven hours to do the same work after the escalator had been removed and the front of the building had been removed. Now, with respect to time of death of the victims, I'm not going to go through the medical evidence but I do want to say that it is Toronto's position that the medical reports and the evidence of Doctor Posen, Doctor Bradford and Doctor Queen all point to Ms.

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Perizzolo and Miss Aylwin having died near immediately after the collapse. I also do not intend, at this time, to go through the potential signs of life that were noted by the rescuers I have in my written submissions. However I will note that the signs of life appeared credible at the time. Through the medical evidence it now appears they weren't. I also do not want to dwell on the issues that were encountered between members of the rescue. These are discussed briefly in Toronto's written submissions. However, we have heard evidence that these issues were not as dire as they may have seemed before the members gave their evidence. The evidence is that these issues were caused primarily through differences in personality and that the issues did not have any effect on the ability to perform the rescue. Now I want to conclude by saying that in all rescues there will be lessons learned. This is particularly so with Elliot Lake rescue effort as a result of this Inquiry and the detailed look back at the analysis of what transpired. I want to leave the commission with Toronto's submission that it would not be fair or appropriate to criticize the dedicated TF3 members who were involved in the rescue efforts. We have seen through the TF3 witnesses, many of the TF3 members have long and distinguished careers dedicated to search and rescue work. In their evidence, several TF3 members have acknowledged that there are certain areas that TF3 can improve upon in future events. Now these areas are addressed in the recommendation section of

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5 Toronto's written submissions. Toronto hopes these recommendations will result in improvements to rescues and Toronto looks forward to discussing the recommendations and the recommendations made by other participants through the policy round tables and looks forward to the commission's findings in this Inquiry. Thank you Commissioner.

10 THE COMMISSIONER: Thank you Mr. Oliver. You mentioned hindsight and I, and counsel on the Commission are acutely conscious of the fact, as previous commissioners have mentioned, that hindsight is a highly imperfect tool when evaluating past conduct but essential, obviously, in the crafting of recommendations and making suggestions as to future conduct and best practices and that will characterize my approach as we analyze the evidence and come to conclusions. I appreciate your comments Mr. Oliver and I thank you for them.

20 MR. OLIVER: Thank you, Your Honour.

THE COMMISSIONER: Perhaps we can take five minutes at this point to give Madam translator a bit of a break and we'll start again.

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25 RECESS

U P O N R E S U M I N G :

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30 MR. COMMISSIONER: Thank you. Mr. Saunders for the Association of Fire Chiefs.

MR. SAUNDERS: Thank you. Speaking on behalf of the Ontario Association of Fire Chiefs, we welcome the opportunity to make these submissions to this

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Inquiry. In my submissions today I want to expand on the written submissions which we've made and make a couple of comments with regard to some of the other recommendations which had been made by other parties. First off though, I'd like to start by addressing the guidelines which we would ask that you would follow or potentially follow in making recommendations. First we would ask that you would be practical. From my client's perspective, there are over 450 fire departments in this province. There are over 30,000 firefighters who are employed in those departments, 11,000 of them are full time and about 20,000 of them are volunteers. Those departments range in size from the City of Toronto with 3,000 firefighters who are full time to places like Elliot Lake who have a chief, 9 full timers and 25 volunteers. What comes out of this Inquiry needs to work for both of those types of departments. In addition there are many volunteer departments across the province who simply have a full time or even part time chief, maybe a fire prevention officer, and all of the services are provided by volunteers. These are individuals who are paid either at an hourly rate or sometimes they share a fix sum of money, sort of a pot of money, and at the end of the year they might make \$1,000 or \$1,500. Not large sums of money. These are people who give of their time and efforts to their communities. They don't do it for the money. And as I say, whatever comes out of this needs to work for them as well. Not all of those firefighters are going to become rescue

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specialists. Not all of the municipalities are going to train, equip and allow their firefighters to develop a level of expertise which will be utilized in every possible situation and so we need to be practical in terms of what we come up with. Secondly we need to realize the financial and fiscal realities that exist within municipalities today. Cities, towns and villages across this province are being financially squeezed on an annual basis and frankly so are the fire departments. There are many legitimate interests which compete for limited tax dollars. Things such as drinking water, waste water, public health, communicable disease, immunization, flu shots which we should all be lining up to get these days, road repair maintenance, salting, sanding, ploughing. Those are all important things in this community and across the province and each of those departments within the municipalities can legitimately claim the scarce tax dollars that are available to the parties. They all have legitimate interests, as does the fire fighters- as do the fire fighters and the fire departments for those tax dollars. Bluntly, recommendations which have the effect of fundamentally increasing the cost of providing fire services across the province aren't well received for all the obvious reasons and have a small chance of being implemented. Ultimately the municipalities are responsible for determining the level of service which they will have in their communities based on council's view of the needs and circumstances. That's the phrase under the Fire

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Prevention and Protection Act, "In their communities". If a municipality wants to have an enhanced level of service from their fire department then they can fund it. If a municipality decides that they want to provide a reduced yet adequate level of fire service for their community, then that's their choice as well. Ultimately it's the municipal council, as the voice of the people, as the elected representatives of the public who will decide the type and level of fire service that will exist within any community. So we'd ask that any recommendations consider that practical reality. The third thing that I would like to suggest is sort of the, what I'd call, the "please don't overreach, but don't be shy and timid at the same time." There are many helpful suggestions which have been made by the parties here but bluntly some of them don't exist in the real world. Too often recommendations from judicial inquiries and coroner's inquests sit on a shelf because they're either too ambitious, too intrusive, or too expensive. We would not ask you to do that. At the same time however, we would ask you to be bold. There are problems in this system and we think that we can fix, solve, tweak some of those problems and we would ask you not to be shy and not to be timid in terms of coming forth with some of these recommendations. We'd ask you to help us make a better system for emergency services and rescue across this province. So given those three factors, I'd like to talk about some of the recommendations. Recommendation number one: Who is the Incident

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Commander? We've spent days going through the evidence in terms of who was in charge in the Elliot Lake situation. Ultimately from my client's perspective, and I think from the facts in this situation, the most senior ranking member of the Elliot Lake Fire Department was the Incident Commander on scene. Initially it was Fire Captain David George. He passed that role of Incident Commander over to Fire Chief Paul Officer who arrived on the scene a few minutes after the actual incident took place. Chief Officer was essentially in command until this rescue was over. While he did delegate the role of Incident Commander to other persons when he was sleeping or otherwise engaged off site, he was the Incident Commander throughout the entire rescue. He was the person who made the ultimate decisions and he was and is the person ultimately responsible for all of those decisions that were made in this rescue. Now, from a policy perspective, that's how it should be. The Incident Commander at a rescue should be the fire chief or his designate or the senior fire official at a scene. That's consistent with the Fire Prevention and Protection Act whereby rescue is the mandate of the fire service in this province. In the Elliot Lake situation, most of the parties seemed to understand this concept and seemed to acknowledge Chief Officer was in command. Now, without exhaustively canvassing all of the parties who were present during this rescue, it's clear that the members of the HUSAR team, the UCRT team and the OFM had no hesitation in recognizing this

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5 authority. There's no question there was some
tension between members of the HUSAR team and the
UCRT team with regard to who was in charge. We
don't need to go into that from my client's
perspective. But it needs to be made clearer that
when the Incident Commander delegates someone to be
in charge of the rescue sector, as happened with
Mr. Neadles, then that person is in charge of that
area and all other agencies and personnel report up
10 to that individual. Others such as the Ministry of
Labour arguably were attempting to shut down the
rescue efforts. I'm not here to take a position on
that point, you can decide that, you know, whether
that happened, whether that didn't happen, whether
they wanted to, whether they didn't want to. In any
15 case, I think we can all agree that there was
confusion on the ground as to their ability to do
that and whether they were going to do that. This
needs to be eliminated and I'll talk a little bit
about that more later. The OPP detachment commander
20 does not appear to have recognized that it was
Chief Officer who was in charge. He referred to
himself as the Incident Commander during the press
conferences that we listened to throughout this
proceeding. He had members of the OPP engage in
25 actions which, while well motivated, were not
directly helpful to the rescue effort and which in
fact may have harmed the rescue effort. I will just
outline three areas that we've talked about. One
30 was the issue with regard to the helicopter. Now,
it made sense to get some aerial reconnaissance
pictures. I don't see anything wrong or necessarily

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inappropriate with that but there was no communication between the OPP and the members of the fire department, the Incident Commander, anyone who was involved on the scene. You recall what the evidence was, the evidence was the helicopter flew overhead, there were people on the pile and the vibration from the helicopter caused things to start falling and made the pile start to shake. It was a simple example of the left hand not knowing what the right hand was doing, and I don't say that was done in a malicious way. It was just simply a lack of communication, a lack of consultation between the parties. The second issue is the videotape issue. You'll recall that there were 22 videotapes that were present in the mall and the evidence is not clear as to why those videotapes weren't handed over for approximately two days. There's certainly evidence that is before you that those tapes, there was difficulty in terms of viewing the tapes and that they had to talk to - the OPP had to talk to other individuals with regard to that. But frankly, if the tapes had been turned over sooner, there's the possibility they might have been helpful sooner in the process. The third issue is the communications to the public with regard to the number of possible victims and the possibility that there were deceased persons in the collapsed building. You'll recall that there was a dispute between the OPP detachment commander and Fire Chief Paul Officer with regard to what should be said to the public and when it should be said. Now again I'm not here really to decide who's

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5 right and who's wrong. I think in hindsight we can
say that Fire Chief Officer was correct, but
hindsight is a wonderful tool and as you just
commented with the previous presenter, it's not to
be the be all and the end all with regard to this
10 process. But, if there was a clear delineation and
recognition by the OPP that Fire Chief Officer was
the person in charge, the result might have been
different. Clearly the local OPP needed to treat
Paul Officer as the ultimate IC and a
15 recommendation from yourself that would help to
clarify that would be helpful. I am only talking
about in these circumstances with regard to a
rescue where it's the fire department that's in
charge. We'd also acknowledge that with that type
of designation comes the responsibility and the
20 accountability for the decisions that are made by
the Incident Commander. If you're the person on
top, you are the person who answers for those
decisions you make. The fire chiefs know that and
they accept that. That's the world in which they
live. Next I want to talk about who provides rescue
services. Across this province, the fire chiefs and
25 the members of their departments are the experts in
rescue. The Fire Prevention and Protection Act
gives them that authority. We've heard of numerous
types of specialized rescue, high angle, confined
space, ice rescue, water rescue, hazardous
30 materials and of course building collapse. Each of
these types of rescues is an individualized
specialized type of rescue. Particular academic and
practical training is required, equipment needs to

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be purchased, the individuals need to be trained on that equipment and they need to keep that training fresh. It's not a situation of "Oh, I took the training three years ago and I'm still able to do it." You actually have to use it or you lose it. The firefighters are the people that have that training and they're also the people that use that training on a regular and consistent basis. Thank goodness it's not every day, it's not every week, but they use it more than others across the province. There's also a lot of money that's invested in that training, in that specialization and that purchasing of equipment. That again is the purview of the fire department, and so at the end of the day it's the fire departments that have the skills, they have the equipment, they have the training, they are the experts in rescue. Now let me contrast that to the police. Under the Police Services Act, rescue is not a core policing service. The Police Services Act defines their role as crime prevention, law enforcement, assistance to victims of crime, public order and emergency response as core policing duties. The regulation then further breaks down the definition of emergency response to tactical units, hostage rescue teams, major Incident Commanders, crisis negotiators, explosive forced entry technicians and explosive tech- disposal technicians. Those are not rescue functions as that word is used across this province, and certainly not as that word is used within the fire departments or under the FPPA. Bluntly put, police officers are not primary rescue

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5 providers. And so I ask in a world of scarce
resources, which everyone is talking about in terms
of this Inquiry, could and should the UCRT team
continue in existence to provide rescue services.
10 Could that funding by the province, 'cause this is
OPP funding by the province, be better allocated to
the HUSAR team? Could it be better allocated to
other fire departments across the province to
supplement their rescue efforts and their rescue
training and their purchasing of equipment. In our
opinion it doesn't make sense to fund the police to
provide a service which is not part of their key
mandate. Now, let me be clear, I'm not here to say
that that they don't do a good job. The UCRT team
15 did a fantastic job in Elliot Lake. They were
professional, they were well-trained, they were
responsive, they were dedicated and they did what
they were supposed to do. But the question is, in
building a better system, could those funds be
20 reallocated to others? And in our respectful
submission, that's something you need to consider.
Next, what's the role of well-intentioned
outsiders? And by that I have two sub categories.
One's individuals and the second is government
25 officials. We heard a lot of evidence from John-
about Mr. John Green from Ottawa. Unfortunately he
wasn't able to attend this Inquiry because of some
medical issues that he had. But assuming that his
offer to help was well-intentioned and genuine,
30 which we have no reason to believe it wasn't, when
he arrived in Elliot lake with a trailer full of
stuff he'd thrown in from his garage, which was the

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description that Captain Thomas said when he viewed the materials. When he asked Mr. Green to open up his trailer, he became an unwelcome distraction in a difficult situation. There are enough challenges to address in a rescue effort such as Elliot Lake without the senior individuals or any individuals having to deal with well-intentioned help from the public. Next we have members of government agencies. In our respectful submission, those people should only respond when they have been requested by the Incident Commander and or his delegate or her delegate. Let me talk about this specifically. Chief Officer called Bob Thorpe, the Ontario fire marshal advisor very early on in this process to get his assistance. Mr. Thorpe was very helpful. Carol-Lyn Chambers from the OFM was brought into this situation when the HUSAR team was activated. She was very helpful in terms of providing help in these circumstances. The Ministry of Labour engineer was extremely helpful in providing a second opinion with regard to the structural steel and the engineering issues which were being questioned in terms of what was happening in the mall at the time. But bluntly many of the others, without naming or specifically pointing to them, others became an unwelcome distraction and from our perspective and unless specifically asked by the Incident Commander, others from Ontario Government agencies do not need to attend and insert themselves into the process. Bluntly, as we said before, outsiders can stand behind the yellow tape. Now let me talk about the

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role of the Ministry of Labour, because there was considerable confusion with regard to the role of the Ministry of Labour inspector with regard to the emergency response. Ultimately, there needs to be some clarification as to what their role and authority is during any type of a rescue operation that's being conducted. In our opinion, the Ministry of Labour inspectors should not have the authority to interfere in a rescue situation. The Incident Commander is in charge. They have the authority and the accountability for their decisions. If they make a decision that's ultimately not in the best interest of the entire rescue scene, then they are responsible for that decision. If they're grossly negligent, if they have wanton disregard or even if they're just negligent, they are responsible for that decision. But when time is of the essence, the Incident Commander should not be looking over his or her shoulder to determine if the Ministry of Labour inspector is in agreement with the Incident Commander's decision. The Ministry of Labour inspectors can be invited by the Incident Commander to participate in the command post in the command tent to give expert advice or assistance. But frankly, if they're not wanted they too can stand behind the yellow line. Now, once the rescue is completed and the fire department has terminated the incident command process, then the Ministry of Labour inspector can clearly exercise their jurisdiction on the Occupational Health and Safety Act. So what we say needs to happen is we need to

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have an amendment to the Occupational Health and Safety Act, and maybe the FPPA to reflect that reality because unfortunately it simply is not well understood by the parties. Next I'd like to talk about the Incident Management System. Currently there's a provincial document that's over 140 pages in length that's not been agreed to or adopted by all the stake holders in this province. Frankly it's too unwieldy and complex and doesn't fit all sizes of rescue and situation. In our respectful position, it needs to be altered so that it can apply to both large and small fire departments and large and small rescue incidents. What works in Toronto doesn't work in Elliot Lake and won't work in 100 percent volunteer department in the extreme rural parts of this province. All of the parties involved have to play a part in that Incident Management System. Everyone has to fall under the Incident Management System. That's not just fire, it's fire, it's police, its EMS, it's public health, it's OFM, it's Ministry of Labour, it's all of the parties. They all have to fall in line under that system. And frankly, as it's drafted now, it doesn't seem to work. And all the parties have to be trained on it. We heard discussion about the various training modules that the ministry has. 100, 200, 300, 400 level training. The 400 level training series hasn't even been put together yet, it's not offered. We need to have- if the province is going to push incident management, there has to be full training with regard to this and frankly in terms of cost, paid for by them. And it's not just

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training for fire departments, it's everyone has to be on board. Police and fire have to work together under that Incident Management System. Because obviously what we had in Elliot Lake is not everyone was singing from the same song sheet. We had people that didn't understand titles. I didn't attempt to make a list at how many different times we use different words to mean the same thing in terms of Incident Commander. Not everyone seemed to understand the hierarchical structure that needs to exist in an emergency and in a rescue. All parties have to understand, have to be trained, and have to sing from the same song sheet. Now, that song sheet might be big, it might be small, but it needs to work and frankly right now it's not. Unified command, you recall there was some evidence of unified command being offered as another alternative to the incident command system or to work in conjunction with the incident command system. In a theoretical world it can work. Multiple jurisdictions can get along with each other and can jointly agree upon a course of action. Unfortunately in the real world reasonable people can often disagree. Like the military, you need to have one Incident Commander. He or she makes the final decision and is accountable and responsible for that decision. It can't simply be to say "oh, we will be equals at the top of the hierarchy." We'd heard discussion with regard to incident action plans and whether those should be written down. Again, in an ideal academic world everything would be written down. It would be

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5 documented, it would be typed out, it would be distributed to people, but in the real world everything is fluid and changing. Written checklists? Good idea. Written roadmaps? Good idea, but in a dynamic world it cannot be mandatory to use scarce resources to be putting together pieces of paper. There are only so many bodies that the rescuers have available in Elliot Lake. There are only so many hours of day, of work that the firefighters and the police and the EMS can use, and the Incident Commander needs to make the decision whether he or she is going to use limited resources to write action plans down. In some situations? great idea, in other situations maybe it's not necessary. Similarly with regard to having a scribe, in this situation Fire Chief Paul Officer delegated one of his firefighters to become his scribe from the start of this process. Frankly it was very helpful. We were able to have a real-time documentation with regard to what was going on. He viewed that as appropriate and frankly I think we're all thankful that he did that. But again, in the real world, that was removing a firefighter from being able to do what firefighters do during rescues. So again, having a scribe is something that can be recommended but it can't be mandatory. If the Incident Commander says "I need this person to be on the pile, I need this person to be participating actively in the rescue at the potential loss of having a real-time documentation I think that's their call. At their peril potentially, but that's their call at the end of

5 the day. Now, frankly the larger the incident, the better it would be to have a scribe. I think we all agree with that, but it can't be something that's mandatory. Communications between different organizations, there's no doubt again, in the ideal world the radio systems of all of the players would instantly communicate with each other.

10 Unfortunately they don't. Large fire departments, large police departments and different fire departments have different radio systems and frankly no one's going to go out and spend millions of dollars to buy new radio systems so that they can talk to each other. There's no doubt that some ability for the senior sector control individuals to be able to communicate would be helpful, and to the degree that there are low-cost solutions to that. We heard issues about "well, we could have extra radios, that we just give a second radio to people." Seems like a practical solution. There was some discussion about "Yes we could've done it but we didn't have some cords or something." Low cost solutions? Good idea. The senior people of the various groups need to be able to communicate together. And finally in this area, media communications and spokes persons. There is no doubt, that in this particular set of circumstances, that the lack of clear media communications and communications in general cause problems. From our perspective the answer is bring in the experts. There are public relations people, frankly, who are available 24/7 that can be utilized and bring their expertise to the process.

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People who understand how to handle the media. This situation caused international or at least national media to be present. And someone made the comment "you have to feed the beast" and that's the reality. And if you don't tell the media something and control why they're writing, they have deadlines. They're going to write something. It's better that they write what's the truth and what the Incident Commander and/or his communications person wants them to hear. The individual municipality though, through the Incident Commander, needs to control the media. That doesn't mean that's a job for the Incident Commander. Frankly, that person does not have time. Frankly Bill Neadles didn't have time to do that. Unfortunately he was tasked to do that. The province, though, shouldn't be acting in any capacity with regard to media communications unless they've been delegated that task by the local individuals. You cannot have different people speaking for the municipality, otherwise what you have is you have mixed or inconsistent messages. Frankly what we needed more of in this case was a message. Lastly I want to talk about HUSAR and in particular the funding for HUSAR. We have a situation where there is no doubt that the funding cuts from the Federal Government to the various task force teams across the country will ultimately have a negative impact on the ability of the various teams to provide the current level of service. Will they all collapse today? Hopefully not, but in the long term the evidence is clear

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that they will die the death of a thousand cuts. Equipment will become broken and will not be replaced, training will lapse, expertise will decrease and effective responsiveness will be lost. This would be an unfortunate conclusion. There's clearly a need for this type of an emergency response capability. Some persons who have- we need to have some persons who have the ability to perform what the HUSAR team does. People and teams that can work for timeframes longer than 24 hours, that can go for days and weeks at an end if needed. And if it doesn't exist, unfortunately you can't create it on the spur of the moment. The HUSAR team deployed in six hours and some people criticize them for that. That's a fantastic response time to get all of those people and all of that equipment together and get it on the road that's great. And frankly I don't know where the funding comes from. Bluntly I would say the Federal Government seems to be the most likely source. It's an asset that can be used across the country. We don't need dozens of these teams, we have a couple of them right now. We only need a couple of them. Every Canadian should have access for them and therefore every Canadian should be paying for them. We shouldn't have to call to the United States to deal with this kind of stuff. We should not have to go to Fairfax Virginia and ask the US for their HUSAR teams. Bluntly, we couldn't afford them, we heard the costs, it's astronomical. Substantially cheaper to have our own. Alternatively, if the Federal Government refuses or declines to come to the plate or to the

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table with money, then it would seem to me it becomes a provincial responsibility. Everyone in the province of Ontario is potentially in the need-in need of this asset. Who would've thought that the City of Elliot Lake would need the Toronto HUSAR team? Never in a million years would somebody have thought this accident would've happened but it did. And it could happen again tomorrow anywhere in the province and we need to have that type of team able to respond in a timely fashion. What I do know, however, is it's not a municipal responsibility. The City of Toronto should not have to absorb 100 percent of the costs of the HUSAR team for the rest of the province. Bluntly, it's just not fair. They shouldn't be forced to fund it themselves or they shouldn't have to fund it themselves and then say "Oh, we'll lend it out to you, Elliot Lake, on a user pay model". That in and of itself would be a disaster as well because that would force the City of Elliot Lake into the uncomfortable financial situation of saying "Do I want to pay hundreds and thousands of dollars for the Toronto HUSAR team in this set of circumstances?" And bluntly when it comes up, the time doesn't exist to do that. At the end of the day, this asset is needed and it has to be funded by the taxpayers and we would suggest that it's the Federal or the Provincial Government that needs to do that. In conclusion, we would ask that you be bold with regard to these recommendations. We need some fixes to the situation. There's not huge problems, frankly some of it is just tinkering, but

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5 we still need some assistance with regard to this.
The Ontario Association of Fire Chiefs is grateful
for the role that it's been able to play in this
Inquiry and frankly we look forward with
anticipation to the next phase with regard to the
round tables in that, for your information, we will
be represented by Matt Pegg who is the president of
the Ontario Association of Fire Chiefs and is the
current deputy fire chief for the City of Toronto.
10 We'd also like to thank and we appreciate the
perspectives of the fellow players and participants
in this Inquiry. We've had a thorough constructive
and helpful process. We haven't agreed on it 100
percent but frankly in my experience, it's been one
of the most interesting and helpful inquiries that
I've participated in and we look forward to
recommendations which will benefit the city, the
citizens of this province. Subject to any questions
you would have, those would be our respectful
submissions. Thank you.

15 THE COMMISSIONER: Thank you very much Mr. Saunders
for those helpful submissions and comments. Before
Mr. Cassan starts how about you, Madam Interpreter,
are you okay? All right, thank you. Mr. Cassan
then, the City of Elliot Lake.

20 MR. CASSAN: I was told by the interpreter this
morning that now that I'd given her a copy of my
presentation I can move it along pretty quickly.

25 THE COMMISSIONER: Just don't deviate.

30 MR. CASSAN: Mr. Commissioner, I am very proud to
say one last time my name is Paul Cassan and I
represent the City of Elliot Lake and the Elliot

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Lake Fire Department. We've been down a long road together and I appreciate the work that your team has done, just as I know that you are aware of the work the other participants and I have done to assist you. It is interesting to note that we have accumulated a mountain of documents. We've heard months of evidence but truly we still know only a portion of what happened in the response to the Algo Mall collapse. As we part ways now, rather than simply quoting from the submissions which I know you will read or rather than simply providing you with my thoughts about other's submissions, I want to provide to you with some ideas that will hopefully help you in your consideration of the information that you have gathered and your decisions in writing of your report. We all view the world from the perspective of our experience. It is this experience which has, in my belief, been considered when you were appointed to lead this Inquiry. You have shown yourself to be fair and careful and I hope that you will draw on your past experience as you go forward with this project. With respect to my experience, my mother always told me as a child that you cannot "should have done" something. It used to frustrate me when she said that because it usually was forgone by something I probably should not have done. Keeping in mind that what has passed in this response is in history and cannot be changed, none of these brave rescuers or the city staff can now "should have" done something. Telling them that they should have done something is not constructive nor is it even

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possible. Mr. Commissioner, I know you were an officer in the Royal Canadian Navy for more than six years before your exemplary legal career that led you to being elevated to the bench and then appointed to preside over this Inquiry. You know and appreciate the nature of an emergency. You bring to this commission a firm grasp of command, strategy and tactics. This was clear when you told Chief Officer that time was his enemy and when you spoke to Captain Thomas of the fog of war. This situation that these brave responders faced was no different than you trained for as a young officer, save that rather than a human enemy, these people were in combat with a building and were governed by the laws of physics, which laws you know, have their own ruthless and unforgiving enforcement regime. We all need your wisdom and leadership now to look at the evidence, look at the facts, look at the people who appeared before you. Listen to their stories, and provide us with your guidance going forward. As you proceed in your role remember that your task is to inquire and report. This is very different from your previous role as a sitting judge for, in this case, it is not your role to pass judgment or to sentence, to punish or reward. In reporting, I submit that you should not be limited by looking for issues to be improved or looking for criticism to be wrought. In this phase, there is much for you to commend and encourage. While the witnesses were before you, you were in the presence of many great human beings. You were in the presence of those who would die so that we

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could live. You saw real life heroes come to tell you their stories and remember that you have had now 16 months to review and evaluate what they did in a scant five days. Keep in mind that your report and recommendations therein will be viewed not only by the Provincial Government but by rescue organizations and rescuers alike. Perhaps more importantly would be rescuers. You have an opportunity to show that the province is behind its first responders. It is not necessary for a rescue to successfully recover a live person for it to be successful, and you have a leadership role to show that our society will not judge rescuers as failures simply because they are in a situation where the victims cannot be saved. We must judge our rescuers by their actions and by their decisions and in every respect if that is done in this case, these brave men and women who answered the call on June 23rd 2012 were successful. When you look at the conduct of the response, I submit that you should note the distinct lack of conflict between rescue leaders. At the outset of this phase of the Inquiry, it seemed that there might be conflict between the rescue organizations, the Elliot Lake Fire Department, the OPP, the UCRT team and HUSAR, but as the evidence unfolded, and as you heard the witness testimony, that simply was not the case. This is to be commended. I submit that you will agree from the evidence and from your experience that this lack of conflict is remarkable. Does this mean that interpersonal conflicts may not and did not arise? No, but keep

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in mind that you have assembled a large group of mostly type A outgoing personalities who are acting in a most stressful, sleep deprived state under emergent circumstances. The organizations came together remarkably well. They performed their tasks admirably and excellent leadership was shown by all. The fact that this happened is a fact that you should note and commend. With respect to the City of Elliot Lake response, recall that the collapse itself took place at 2:18 P.M. on June 23rd. At 2:24 P.M. the first Elliot Lake fire truck arrived on scene with not only the two full time firefighters who were at the fire hall, but also accompanied by two volunteers who had to be paged, travel to the hall, don their bunker gear, get into the truck and travel to the mall. That response time is nothing short of remarkable. Chief Officer was on the scene within five minutes after the first truck, and 26 minutes after the collapse, he made his first call for the HUSAR team. It is clear that the Elliot Lake Fire Department acted with considerable alacrity and should be commended for their efforts. Doctor Bradford said that it was highly unlikely that Miss Aylwin survived for an hour after the collapse and that Ms. Perizzolo's injuries were not survivable even if they were suffered in the presence of a surgeon. This is critically important because it shows that there was nothing humanly possible that could be done to save these two women. The rescuers were beaten by this building and by the laws of physics, and medicine before many of them even started. Doctor

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Bradford also candidly said that he did not have significant firefighting knowledge, but he could not think of anything that the fire fighters could have done to save these women. At that point in retrospect, the analysis then proceeds to what decisions were made to ensure the safety of the rescuers, and in light of the fact that none were injured or killed, it is abundantly clear that the command structure and the decisions made within that structure were sound and effective. That is not to say that the rescuers gave up or that they tried with anything less than their whole beings to get to the victims and to get out alive. You saw Captain John Thomas get on the stand and tell you his story. You saw the emotion that he relayed some 15 months after the collapse when he told you about being the last person on the pile for the Elliot Lake Fire Department and being ordered to leave. You heard Captain Connors tell you about talking to a victim in the pile and being told that she works at Dollarama. There could be no doubt that he believed that he was talking to a live victim. When you heard stories of the fire fighters putting their arms, their heads, their chests and even their whole bodies into voids in the rubble to get at the victims there can be no doubt that they would have done absolutely anything to get to the victims and get them out alive. Chief Officer testified that there are few observations that stuck with him about his team. He recalls that when he entered the rubble pile area that he was the only one that noticed the debris, the concrete, the

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bricks and rubble falling constantly on his men. He was the only one that noticed the cell phones ringing and vibrating in the rubble pile. That is a testament to the focus and dedication that his team demonstrated. He told you his other strong memory was of his first team crouched down like Olympic runners at a race just waiting for his order to go get the victims. Were there problems? Clearly, the emergency response plan does not contemplate dealing with families of victims and does not contemplate who will provide the news of a fatality nor how that news will be decided to be released. You heard the testimony from Mr. deBortoli, from the Mayor, that they have never had to deal with this situation before. This is not something that the city or the Elliot Lake Fire Department has ever had to deal with, it has always been the OPP. And with their experience, training and protocols in place, that is where the responsibility should rest. On the whole, the city's emergency response plan worked very well. It is clear that their training, and preparation and especially the hard work of Ms. Rheaume paid off in this instance. It is clear that the CCG worked, that logistics were attended to and that the city was well served by the hard working staff. There has been some concern raised about notes. In fact though, we have many very good chronologies kept by people such as Natalie Bray, Natalie Quinn and Bonnie deBortoli. The mayor is criticized for not having kept more notes than the ones that were kept and produced to the commission. It's important to think about this,

though, from a rescue and response perspective. The Mayor was primarily dealing with interviews with the media onslaught that took place. Would it really matter for the Inquiry whether he talked to CNN before he talked to Fox News? Whether he talked to the Sault Star at 6 o'clock P.M. or the Elliot Lake Standard? This is criticism without construction. Keeping those notes would have kept the Mayor from his duties and would not have furthered the rescue one iota, if it furthered the Inquiry much more than that. Media relations is certainly something that Elliot Lake could have used support on. You heard Mayor Hamilton testify about the emergency measures Ontario media bus. This should be rolled whenever there is an emergency declared. Small municipalities and, frankly, probably all municipalities in Ontario do not have the expertise or training to deal with a media onslaught like there was in this case. Reflect on this question: If advice had been given to cancel the 3 o'clock P.M. press conference on June 25th and instead to allow the rescue leaders to focus on their next steps rather than feeding the beast as Chief Officer said, would there have been an Inquiry? Is this truly the 25 million dollar press conference? The city needed help in the form of a media professional experienced in dealing with bad news situations. It would certainly be a very good idea if all municipalities researched and put contact information of a person like this in their emergency plans. This, frankly, is something that the EMO should require and is assistance that they

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should facilitate. Another area for improvement that the City of Elliot Lake sees is with respect to the speed of the response from the support teams. While it is clear that the logistics of moving those teams and equipment does take time, and we agree fully with Mr. Saunders' statement that the six hour time for response is remarkable, it would be a good idea to put the command and engineering people from those teams either in a plane or on a helicopter to get them on the ground, on the scene as immediately as physically possible. This would allow early reconnaissance, earlier acquisition of third party equipment if required and would certainly well support the Incident Commander on the ground. A word about the Ministry of Labour, much was said in the evidence about their verbal order to shut down the rescue. Recall the doctors' evidence, it is almost impossible that any victim was alive at that point. Recall as well that each commander who testified, and even representatives of the CCG agreed, that this was the right decision. Listen to the testimony of the commanders who said that Roger Jeffreys was an invaluable resource on the scene. It would be a very good recommendation for the provincial engineer to be dispatched to any provincial emergency where there is a structural engineering issue. This participation by the ministry should not be discouraged and instead we submit should in fact be mandated. Mr. Jeffreys, too, is to be commended. The Ministry worked with the rescuers to come up with a solution. The order was a tool, not

an obstacle and could have been immediately rescinded or altered by the ministry in the event that another rescue idea came forward. There was a lot of talk about Plan B, but I would submit that there was no reason or ability to have an ongoing plan B. You heard that planning is fluid and on-going and occurs in real time. It's impossible to predict every outcome and was a complete surprise that the rescuers were ordered out of the building. To analogize to your navy life, the enemy in this case sank not one ship, but the whole fleet. To criticize the command for taking a few hours to process this is simply to fail to understand rescue. In reporting on this incident, please comment on what worked. All communities and rescue teams can learn from this response. Some excellent decisions and leadership was demonstrated in this situation and that should be put into the spotlight. It takes little imagination to think of the consequences that might have befallen and the very different nature that this Inquiry might have had but for some of those very difficult decisions. In this case, one might say that it is miraculous that rescuers were not hurt and that they were all able to go home to their families. On closer reflection, however, it is equally attributable to their excellent training, planning before the event and good command decisions during their response. All of the rescuers wanted a different result, but in light of the blow dealt to the victims by the building, the result that was achieved was the most positive outcome possible. What you write in your

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report will outlive all of us. Please let it serve to guide and inspire the new generation of first responders and their leaders. Let it not be imbued with the venom and criticism that we have seen from some quadrants since the collapse. Your report has the potential to be a very powerful document for change. Please let it be written from a viewpoint of understanding and compassion. As you know, Mr. Commissioner, I like to include quotes in my submissions from great writers and teachers who can give us useful guidance in how we can face challenges that our lives present. This time it's no different, but the author is not one from the history books. It is from a friend that I have made as a result of this Inquiry. He sent me an email about his observations. He says "You will probably never really understand what it is like to be a firefighter without walking a mile in our shoes. We are driven to help people and we feel the intense weight of that responsibility every time we get off our emergency vehicles to help someone in urgent need. That duty and responsibility we feel toward these civilians cause us to, from time to time, put our lives in harm's way in a very real and profound way, standing in the collapse zone in Elliot Lake as an example. After all, when I risk my life, I also risk unconsolable damage that it could do to all who love me. That is also a great weight on us. Even after all this reflection we are willing to do it again when duty calls, because we are your last chance and we know it. We will do whatever it takes and we will risk a lot. Life, health, happiness,

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future, and all that love us to save a lot, to save you. This commission forced me to re-live the rescue effort, something that was so incredibly hard to live through the first time. It was even harder to go through it again on the stand. I hope, when it is done, that people recognize the exceptional efforts of all of the rescuers that risked their lives to help people that they don't even know." Mr. Commissioner, the City of Elliot Lake thanks you for coming here, for living in the community, for learning a little bit about this area and for insuring that this process could take place in the community that was so shaken by the collapse and to hopefully be part of the beginning of the healing process. Mr. Commissioner, best wishes in your task ahead and thank you very much for allowing me to be part of this process.

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THE COMMISSIONER: Thank you Mr. Cassan. We'll take five minutes then hear from you, Mr. Kloeze. Thank you.

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THE COMMISSIONER: Thank you. Mr. Kloeze for the Province of Ontario.

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MR. KLOEZE: Thank you, Mr. Commissioner. As you know, I do represent the Province of Ontario at this Inquiry and on behalf of the province and our team of counsel including the counsel who have appeared here representing the Ontario Provincial Police, I want to thank first Commission Counsel

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for their extremely hard work and the long hours they have put in during this Inquiry. They have been at all times direct and forthright with us as counsel and as parties when they dealt with us. I would also like to thank you, Mr. Commissioner, for the great attention you have paid during the course of this Inquiry and to the evidence. In particular the evidence in Part II of the Inquiry, has been at times difficult for the community as well as for the families and for the witnesses as well. We thank you in particular for the respect that you have shown to the first responders from this community and from elsewhere in the province who came to Elliot Lake who responded to this emergency and who hoped beyond hope that the outcome of their efforts would have been different. I'll make a few words about recommendations at the outset and then at the end of my submissions. The terms of reference of the Inquiry charge you and charge the commission with reviewing legislation, policies, procedures of provincial and municipal governments and other parties with respect to emergency management and response to the collapse of the Algo Centre Mall. We have read with interest the recommendations that have been put forward by the other parties. We look forward to fully exploring those recommendations and the different perspectives that all the stake holders bring at the policy round tables next month. Ontario also looks forward to participating the province, through witnesses and participants from the Ministry of Community Safety and Correctional

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Services, including from the Ontario Provincial Police and also from the Ministry of Labour. Our written submissions set out in detail the chronology of events during the rescue efforts of all of the agencies that responded to the mall collapse in Elliot Lake and we focused in that chronology, as it did the Inquiry on those events, from Saturday June 23rd to Wednesday June 27th 2012. I do not intend here to go through those events in detail. Instead, what I want to do in the remainder of my submissions is to underline some of the major issues involving the provincial response to the emergency in Elliot Lake and in so doing I want to spend time on the roles of the three major provincial agencies that did respond to the mall collapse and those are the Ontario Provincial Police, the Office of the Fire Marshall and the Ministry of Labour. Each of these agencies had a very specific role in the emergency response. The Ontario Provincial Police is one of the main agencies that respond to emergency incidents all across the province. Rescue operations are indeed part of the OPP's mandate for the protection of persons, which is one of their core policing responsibilities under the Police Services Act. The OPP UCRT team is a specialized team, stationed in Bolton Ontario and it's part of the OPP's emergency management section. This team can be deployed by the OPP to respond anywhere in the province. The UCRT team has expertise in urban search and rescue and also in chemical, biological, radiological, nuclear and explosive response. In responding to

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urban search and rescue incidents, the UCRT team is considered to be a medium urban search and rescue team, the difference between a medium and a heavy search and rescue team such as TF3 is one of capacity and sustainability. The training of the UCRT team meets or exceeds the training provided to those members of TF3. Mr. Oliver has gone through training of the members of TF3. UCRT, being a medium team with not as many members as TF3 is able to deploy and to respond much quicker to an emergency incident. Members of UCRT were onsite in Elliot Lake shortly before 2100 hours on Saturday evening. They were therefore able to perform the important roles of reconnaissance for the TF3 team. This information was relayed to TF3 through Carolyn Chambers of the Office of the Fire Marshall. And they were also able to assess the hazards facing the rescue operations with the assistance of the MOL engineer who arrived on-site after UCRT arrived. And they were able to develop a preliminary plan involving shoring of the hotel lobby area to prepare an escape route and preparing the site to remove the ruptured beam, to remove the vehicle that fell into the collapse zone and then to commence rigging operations. UCRT deployed to Elliot Lake under the command of Sergeant Jamie Gillespie. After TF3 arrived in Elliot Lake early on Sunday morning, given that Sergeant Gillespie was the senior UCRT officer there, he made the decision to remain in the collapse zone with the other members of UCRT and there he acted as a safety officer for them and he supervised them as

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they worked on the pile. What effectively happened, then, is that UCRT fit in under the command structure of TF3 under the ultimate command of Staff Inspector Bill Neadles who was the operation's section chief. Sergeant Gillespie acted as a team leader for his men working on the pile. Having UCRT fold into the command structure under Staff Inspector Neadles within the operations section is entirely consistent with the concept of unity of command in the Incident Management System. The OPP has acknowledged here at the Inquiry that command staff could have been deployed to Elliot Lake to assist Sergeant Gillespie and to take a role in the command staff. Sergeant- Staff Inspector Neadles, for example, he suggested that an OPP command officer could have been his alternate as operations section chief when he was off duty. However, having Sergeant Gillespie fit within, fit the UCRT team within the operation's section as he did was an effective and it was an acceptable command decision under IMS. With respect to the Office of the Fire Marshall, which is now actually known as the Office of the Fire Marshall and Emergency Management, our submissions describe in some detail the structure of Emergency Management in the province and I'm not going to revisit that here. For the purpose of explaining the role of the province in the response to the mall collapse, it is important to underline that when a municipality is faced with an incident that it does not have itself the capacity to respond to either on its own or with the assistance of

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neighbouring municipalities, they can then call on the province for assistance. The Office of the Fire Marshall and Emergency Management is the front line agency in the province who manages the provincial response. Depending on the nature of the incident, there are a number of different provincial assets that can be called upon. In the case of structural collapse, the province has entered into a Memorandum of Understanding with the City of Toronto and with their heavy urban search and rescue team or TF3. In the case of Elliot Lake, the deployment of TF3 was a process that worked very well and the response of TF3 was within the expectations of the Memorandum of Understanding and consistent with best practices. That is not to say there cannot be room for improvement, and some of these matters will be the matter for discussion at the policy round tables. Fire Chief Paul Officer recognized very early that the incident would likely overwhelm the resources of his own fire department. This was an excellent command decision that he made. He called the province immediately and he did not wait for his department's efforts to be exhausted. He contacted the Sault Ste. Marie district chief and talked- and eventually talked to his connection in the Office of the Fire Marshall, Bob Thorpe. Contact was also made with Carol-Lyn Chambers of the Office of the Fire Marshall. Within minutes of Ms. Chambers finding out about the mall collapse, she had contacted TF3 for a stand up time and she had also talked to Chief Officer. She deployed OFM staff to the scene, in particular Dave

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5 Howse who was instructed to give any assistance to
TF3 when he arrived. Two additional OFM, Office of
the Fire Marshall staff, were deployed to provide
support including Mr. Thorpe, who was instructed to
stay with Chief Officer throughout the incident and
give him any support that he needed. A fourth, a
fire marshall staff member was sent to Elliot Lake
the following day. Throughout the course of this
10 incident, the Office of the Fire Marshall primarily
through Ms. Chambers, acted as the conduit of
information across agencies as Ms. Chambers spoke
to the UCRT team as they were preparing to deploy,
and connected TF3 to UCRT. They provided logistics
and support to TF3 through Dave House and Brent
15 Ellen and they provided the support advice and
assistance to Chief Officer through Bob Thorpe who
also insured that Elliot Lake received Fire service
support from neighboring communities through its
mutual aid agreements. I want to turn now to the
20 role of the Ministry of Labour, and the Ministry of
Labour I think, in the words of Staff Inspector
Neadles, was the one agency that was probably the
most misunderstood in its response to the emergency
in Elliot Lake. And indeed my colleagues here today
25 have recognized that there was confusion and
misunderstanding about the participation of the
Ministry of Labour at the scene. I want to
underline first is that the Ministry of Labour does
30 have a fundamental and important role in the scene
of an incident like this. From the moment that the
mall collapsed, it was known that there was a
strong likelihood of a worker injury or fatality.

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And because of that, the Ministry of Labour has an obligation to attend and to conduct an investigation. And that's exactly what happened. At the time of the mall collapse, the employer of Lucy Aylwin called in the incident to the Ministry of Labour on Saturday afternoon. It was the employer's obligation to report a fatality or a possible fatality to the Ministry of Labour and the Ministry of Labour sent an inspector to the site to investigate. In fact, they sent two inspectors and that's the primary reason that Don Jones and Michel Lacroix were sent to the scene. There was nothing anomalous or unusual or unexpected in the attendance of the MOL inspectors on the scene. What was unusual, in the context of this incident, and unusual for the Ministry of Labour is how long the rescue operation continued. Normally by the time Ministry of Labour inspectors arrive, the scene has been secured, the victims have been rescued, or the bodies recovered and the inspectors will arrive at the scene and immediately commence their investigation. If anybody was confused or unsure about the Ministry of Labour's role or participation at the scene, it certainly was not the fault of the inspectors who were there from the Ministry of Labour. They have every right to assume that people understood what they were doing there, it was their normal course of business to be there. They reported to the OPP detachment when they arrived, and they explained to anyone who asked what they were doing there. The Ministry of Labour inspectors were at no time in a command or a

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leadership role on the site and it was not their responsibility to make sure that everyone on the site knew that. At no time did they seek to interfere in command decisions, and at no time did they insist that their approval be sought for command decisions. Likewise, it was not unusual for an engineer from the Ministry of Labour to be deployed to the site of a critical injury or fatality, particularly involving a collapse structure. Mr. Jeffreys, the provincial engineer with the Ministry of Labour ended up being the one going to Elliot Lake to respond as he was the only engineer available on that day. Mr. Sanders joined him the following day. Mr. Jeffreys was given the instructions by his superiors to meet up with the other agencies attending at the rescue and to give them whatever assistance he could. He was the first engineer to arrive on site around midnight on Saturday evening and he was the only engineer there until TF3 arrived a few hours later on Sunday morning. Mr. Jeffreys did offer his professional engineering advice as instructed to both UCRT and to TF3. All of the witnesses who received that advice and who interacted with Mr. Jeffreys including Sergeant Gillespie, Captain Comella, Staff Inspector Neadles and even Chief Officer. They welcomed his advice, they were grateful that Mr. Jeffreys was there and they understood that Mr. Jeffreys, along with the other people there from the Ministry of Labour, were working with the first responders to a common goal and they did nothing to slow down or impede the rescue efforts. With regard

5 to the rumours that the Ministry of Labour shut
down the rescue operations, it was indeed believed
or suspected at various points over the course of
the rescue operations that the Ministry of Labour
shut down the rescue and not only on the Monday
afternoon, that was the third time that we've heard
at this Inquiry that the Ministry of Labour had
some role in stopping rescue operations. There was
a rumour that this happened as early as Saturday
10 afternoon, around the same time that Fire Chief
Paul Officer pulled his own firefighters out of the
mall for safety reasons. The Ministry of Labour was
not even in Elliot Lake at that time. There was
another rumour that the Ministry of Labour had shut
down the rescue operations again around Midnight on
15 Saturday, around the same time that Sergeant Jamie
Gillespie arrived on the scene and decided- it was
Sergeant Gillespie who decided that the UCRT plan
to send men onto the rubble pile from above had to
be re-visited, again, for safety reasons. That was
20 a decision of Sergeant Gillespie. On both
occasions, safety of the rescue workers was the
main reason for the decisions that were made. Those
decisions were made by the commanding officers of
25 the first responders in each of those instances.
These were appropriate and correct decisions. The
Ministry of Labour was not consulted and it was not
even a party to those decisions. Again, on Monday
early afternoon, when the decision was made by
30 Staff Inspector Neadles to pull the first
responders off the rubble pile, there was confusion
among some people as to the role of the Ministry of

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Labour. It was reported in the media at the time that the Ministry of Labour issued an order effectively shutting down the rescue. There has never been an order from the Ministry of Labour shutting down the rescue efforts, either verbal or written. There was only one order issued by Mr. Jones of the Ministry of Labour and that was an order written later in the day on June 25th and served the following day. It was an order issued to the mall owner and served on the mall manager Rhonda Bear. It explicitly excluded rescue and recovery operations. There never was any other order, either verbal or written. Mr. Jones, Mr. Lacroix and Mr. Jeffreys all testified that the order was directed to the mall owner to prevent the owner from entering the site and to prevent the owner from allowing mall tenants and mall employees from going onto the site. Fire Chief Officer said that he believed there was a verbal order from the Ministry of Labour shutting down the rescue operations at about 1330 hours on Monday afternoon and again almost all the witnesses who attended a Community Control Group meeting at 1500 hours on Monday afternoon were brought to the notes of that meeting that spoke about a Ministry of Labour stop work order. While those notes do not say anything about the timing of the order, other notes and other comments later at the press conference speak prospectively about a stop work order that will be issued in the future. All of the Ministry of Labour witnesses, including Mr. Jones and Mr. Jeffreys who had been requested by Staff Inspector Needles to

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5 attend that Community Control Group meeting testified that there was no such verbal order stopping the rescue operations. In addition, perhaps more significantly, all of the witnesses from TF3, the agency responsible for making the decision to stop the rescue operations on Monday afternoon, testified that it was their decision. They did make that decision for safety reasons. They relied on the structural engineering advice of their own engineer and that of the Ministry of Labour engineer but the decision was a command decision of Staff Inspector Bill Neadles, which he confirmed in his testimony here at the Inquiry. It is our submission that people simply misunderstood what was being said at the Community Control Group meeting at 1500 hours and that Chief Officer simply misunderstood what he was told about the Ministry of Labour. As Chief Officer testified himself, we spend far more time at this Inquiry talking about the role of the Ministry of Labour than was done at the scene of the incident. While we submit that the decision to pull the men off the pile early Monday afternoon was a command decision made by Staff Inspector Neadles, it was a decision that was commonly accepted to be the right decision. Chief Officer himself was very clear in his evidence that it was the correct decision. Chief Officer was the overall Incident Commander in control of the scene on Monday afternoon. He was reminded of this fact several times by the Office of the Fire Marshall, both Bob Thorpe and Carol-Lyn chambers told him that. Whatever Chief Officer might have understood

5 about the reason for pulling the first responders
off the pile, he accepted it as the right decision
then and when he testified at the Inquiry, he
continued to acknowledge it was the right decision.
We've heard nothing during the course of the
Inquiry to suggest that it was not the right
10 decision. It's easy to second guess decisions that
were made after the fact, but there is no reason to
second guess that crucial and important decision
made at that time. It was not a decision made
lightly, people were understandably upset by it.
Both in the community and among the first
responders themselves. However, nobody at the
Inquiry here has testified or suggested that it was
15 not the right decision. What I want to underline
here is that the reason the men were pulled off the
rubble pile was for safety reasons. It was for a
real concern for the lives and safety of the first
responders. People in the community and some of the
20 people involved in the rescue may have jumped to
the conclusion that because the men were pulled off
the pile for safety reasons that it was a Ministry
of Labour Occupational Health and Safety inspector
who shut down the rescue. But the safety of the
25 first responders is the prime responsibility of all
commanding officers and supervisors. The decision
to pull the men from- the men from TF3 and UCRT off
the pile on Monday was done out of concern for
their safety in light of the information that the
30 escalator was shifting, it was a legitimate
decision and was made by the commanding officer who
was responsible for those men. Further there's been

no evidence at this Inquiry that anybody involved in the response efforts, including the first responders and the inspectors and engineers from the Ministry of Labour, did anything inappropriate during the- or unprofessional during the rescue efforts. They all came to this community to put their training and expertise to work and they all worked together to a common goal. It is difficult for us to put ourselves in their shoes. And I can only imagine their sadness and frustration and profound disappointment that their efforts were not more successful. Moving on to the recommendations and the important recommendations that this Inquiry has the mandate to make. In our written submissions, we have set out more fully the involvement of the province to the response and we've also, at the Ministry of Community Safety and Correctional Services, has also in a consolidated after action report identified some areas in the response that can be improved. These are also some of the topics to be discussed in the policy round tables and we look forward to examining those topics with the other stake holders next month. I want to make some comments about three areas and I acknowledge I'm repeating some of the comments that were made by my colleagues here today, and the first is in the area of communications. One of the areas for improvement that has been identified by many parties is in precisely in the area of communications. And this includes communications among the agencies that respond to an incident and communications to the public, also communications

to the families. We believe that the municipality must take the lead in communications, however, recognizing that the OPP and the Ministry itself has some expertise in emergency communications issues. We also recognize that the province can offer some assistance. When the Commissioner of Community Safety, Mr. Hefkey came to Elliot Lake on June 26th, he came with a Ministry expert in emergency communications. They undertook to handle the communications dealing with the provincial assets and the provincial response and they also offered assistance at that time to the municipality. The province can look for opportunities to give more communications assistance to local municipalities dealing with the situation like the one in Elliot Lake. It has often been said that a smaller community does not have the resources to deal with the communications and media issues that presented themselves here with the world watching the events unfold, but frankly any community would be hard pressed to deal with this kind of situation. The communications piece is not only about communications to the public and the media, but also communications internally. This incident has shown the need for a communications officer within the IMS structure so that all responding agencies know what's happening internally and understand the roles of other responding agencies such as the Ministry of Labour. Indeed better internal communications would have gone a long way in this incident in letting all the responding agencies know who else is on the scene,

5 why they are there and what they are doing. With
respect to the concept of rescue and recovery, one
other area that's been identified by the Ministry
as needing examination is the emphasis that all the
parties have placed on what we believe is an
unhelpful distinction between rescue and recovery.
These terms were used throughout the emergency
response and indeed throughout this Inquiry as
10 indicating an important line that had an impact on
legislative authority, on operational tactics and
strategies, and on an agencies' mandate to even
continue operations or be on the scene. In fact,
there is no distinction in any legislation between
a rescue and a recovery. Either in the Occupational
15 Health and Safety Act or in the Fire Protection and
Prevention Act. It is the understanding of the
Ministry, which it hopes to explore further at the
policy round tables, that an emergency response
begins at the outset of the incident such as a
20 fire, explosion or building collapse, and it
continues until such time as that emergency is
resolved. We hope that in making this clarification
we can better understand and clarify that the local
authority having jurisdiction has a continuing
25 mandate and continuing authority from the moment
that the incident happens until that authority
leaves the scene. Finally, and we acknowledge that
there appear to be a lack of clarity both during
the emergency response and at the Inquiry about the
30 Incident Management System, about its purpose, its
scope, its utility and even the lack of clarity
going to some of the terms and concepts in that

Submissions- Mr. Kloeze, Closing Remarks

5 doctrine. The Incident Management System is a
system designed to assist in creating a command
structure when various agencies from different
jurisdictions respond to an incident. It's a
relatively new system in Ontario, developed here in
the province out of the experiences of some very
significant events in the province such as the ice
storm and SARS and it's had the benefit of input
from agencies of many different cultures, mandates,
10 and legislative authorities. We believe that the
IMS doctrine is recognized as an important
development, but one that we can now re-visit in
light of the past five years of experience. The
Commissioner of Community Safety has committed to
bringing together the stake holders that
15 participated in the creation of the IMS doctrine to
examine its strengths, to see what works, and
explore those areas that can be improved. The
ultimate goal in this re-evaluation is to help
create the culture of acceptance that Mr. Hefkey
20 testified to. It's a culture of acceptance of IMS
across the province where the doctrine is
acknowledged as an important and a necessary tool
by all agencies who respond to emergency incidents.
Mr. Commissioner, on behalf again of my colleagues
25 representing the province, including the Ontario
Provincial Police, we thank you for your attention
and we look forward to receiving your report and
your recommendations.

30 THE COMMISSIONER: Thank you very much Mr. Kloeze
and indeed I thank all of you very much. I have
personally truly enjoyed working with all of you

Closing Remarks

5 and I've genuinely appreciated your civility, your
professionalism, your cooperation and your
assistance in this very difficult task. I'll see
some of you at the round tables and certainly look
forward to your continued assistance and your
further participation but most importantly I think
I want to thank the people of Elliot Lake. You have
made me and all members of my team welcome and at
home here in your beautiful city in Elliot Lake.
10 From the very beginning in the month of August when
we first attended, to our period of continued,
continuous residency from late February until mid-
October and therefore I thank you all. Not only for
that, but for your patience in- and your
understanding in what many of you may see as a
cumbersome and laborious process. It's an essential
process, it needs to be careful and it needs to be
very carefully thought out if there is to be any
true usefulness to the commission process. This
community has gone through a sad and a traumatic
20 experience, not for the first time, but I know that
it will emerge from it stronger and more dynamic
and I hope that our work here to some small degree
will have assisted the people of Elliot Lake in
that process. That being said then, I thank
25 everybody very much again and I look forward to
seeing you one final time in the not too distant
future when I am in a position to deliver the
report I've undertaken to the people of Elliot Lake
that they would be the first to receive it and I
stand by that commitment. Thank you.

30 ...

75.
Closing Remarks

END OF SUBMISSIONS ON PART II

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CERTIFICATE OF TRANSCRIPT (SUBSECTION 5 (2))

Evidence Act

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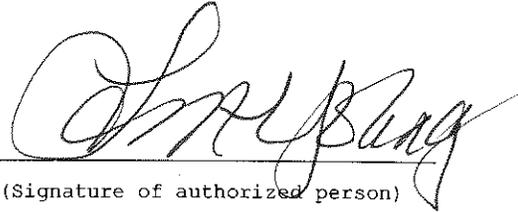
I, L. M. Young, C.C.R., certify that this document is a true and accurate transcript of the recording of ELLIOT LAKE COMMISSION OF INQUIRY, held at ELLIOT LAKE, Ontario, taken from Recording No. ML_0121_LAPTOP_2_20131112_090320.DCR, which has been certified in Form 1.

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05/12/13

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