

# ELLIOT LAKE COMMISSION OF INQUIRY

---

DAY 103

September 17, 2013

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ELLIOT LAKE COMMISSION OF INQUIRY

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--- This is Day 103 in the Inquiry proceedings held before the Honourable Justice P.R. Bélanger, Commissioner, taken at the White Mountain Academy of the Arts, 99 Spine Road, Elliot Lake, Ontario, on the 17th day of September, 2013, commencing at 9:00 a.m.

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REPORTED BY: Lisa M. Barrett

CRR, RPR, CSR

1     A P P E A R A N C E S:

2

3     Peter Doody, Esq.,                     Commission Counsel

4

5     Ernie Thorne,                     Ontario Professional  
6                                     Fire Fighters

7

8     Carolyn McKenna, Esq.,             Ontario Fire Chiefs  
9                                     Association

10

11    Heather Parker, Esq.,             Government of Ontario

12

13    Paul Cassan, Esq.,                City of Elliot Lake

14

15    Carolyn Filgiano, Esq.,           ELMAC  
16    & Alexandra Carr, Esq.,  
17    Douglas Elliott, Esq.,

18

19

20    Nadia Champion, Esq.,             Appearing for witness  
21                                     Mr. John O'Leary

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I N D E X

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No exhibits entered

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

2 THE COMMISSIONER: Good morning,  
3 everybody.

4 MR. DOODY: Good morning,  
5 Mr. Commissioner.

6 THE COMMISSIONER: Mosquito and black  
7 fly season has officially finished this morning.  
8 And you are ready to go, Mr. Doody?

9 MR. DOODY: I am, Mr. Commissioner.  
10 If I could introduce Ms. Nadia Champion, who is  
11 counsel for Mr. John O'Leary, who will be our next  
12 witness.

13 THE COMMISSIONER: Yes. Good morning  
14 Ms. Champion, Mr. O'Leary. Thank you.

15 MR. JOHN O'LEARY: SWORN

16 EXAMINATION-IN-CHIEF BY MR. DOODY:

17 Q. Good morning, Mr. O'Leary.

18 A. Good morning.

19 Q. Now, just to start off with a  
20 few introductory points, I understand that you and  
21 I share a great start to our career; that is you  
22 have a BA in history from Queen's?

23 A. I do.

24 Q. And when did you graduate from  
25 Queen's?

1 A. In 2004.

2 Q. And after graduating from  
3 Queen's, I understand you worked as a legislative  
4 and issues assistant for Gerrard Kennedy when he was  
5 the Minister of Education for the Province of  
6 Ontario?

7 A. Yes.

8 Q. And you then worked as a policy  
9 advisor for Kathleen Wynne, while she was the  
10 Minister of Education?

11 A. That's correct.

12 Q. And these positions are what are  
13 sometimes called staffers?

14 A. That's correct.

15 Q. And can you tell us what  
16 a staffer is?

17 A. Our role is to assist the  
18 Minister in the performance of their duties.

19 Q. And staffers are not members of  
20 the public service; is that right?

21 A. We are not --

22 Q. Permanent public servants?

23 A. -- bureaucrats or officials.

24 Q. Right. You then joined Premier  
25 McGuinty's office in December of 2007?

1 A. Yes.

2 Q. And you were his Special  
3 Assistant for Issues, Management and Legislative  
4 Affairs when you joined his office; correct?

5 A. Yes.

6 Q. And at the time of the collapse,  
7 you were the Manager of Legislative Issues in the  
8 Premier's office; right?

9 A. Yes, I was.

10 Q. To whom did you report?

11 A. I reported to Laura Miller.

12 Q. And what was her title?

13 A. She was Deputy Chief of Staff  
14 for Communications.

15 Q. And to whom did Ms. Miller  
16 report?

17 A. She reported to David  
18 Livingston, the Premier's Chief of Staff.

19 Q. And if I understand correctly,  
20 the Premier's Chief of Staff would be the senior  
21 official, short of the Premier, in the Premier's  
22 office; is that right?

23 A. He was the senior-most member of  
24 the Premier's office.

25 Q. Right. Now, can you tell us,



1 what did your job as Manager of Legislative Issues  
2 consist of?

3 A. My job -- in my job I was  
4 responsible for coordinating the contentious issues  
5 management process through the Premier's office and  
6 in liaison and working with the various ministries.

7 Q. And just to give us an idea of  
8 what you did, what time did your job start each day?

9 A. My day began each morning at  
10 5:00.

11 Q. And why was that?

12 A. I began each -- I began my day  
13 with a review of media from across Ontario. I would  
14 review, probably a dozen different daily newspapers,  
15 in addition to upwards of 20 to 30 other newspapers  
16 that were published less frequently for stories and  
17 news that might impact Ontario, the Government of  
18 Ontario and our operations, in addition to other  
19 media, social media and things of that nature.

20 Q. Did you speak to staffers in  
21 other Ministers' offices?

22 A. Yes, I did. I would do so  
23 routinely, in the mornings, that's right.

24 Q. And did you have a meeting or  
25 a conference with them every morning?

1           A.    I did.  It was my practice to,  
2 Monday through Friday, to hold a 7:45 a.m.  
3 conference call with a member of the person  
4 responsible for issues management in each of the  
5 various Ministers' offices, or a responsible  
6 designate if they were unable to attend and we would  
7 meet with a conference call.

8           Q.    What was the purpose of that  
9 meeting?

10          A.    The purpose was two-fold.  
11 Partially to brief myself and the Premier's office  
12 on contentious issues that were facing the  
13 government and their ministries each day.  They  
14 would provide me with their public messaging and the  
15 direction that they were preparing to take.

16                The purpose was also to ensure that  
17 all the other ministries who may otherwise not have  
18 been aware of any one particular issue would have  
19 a chance for all of us together to discuss the  
20 comprehensive, sort of, top issues, top contentious  
21 issues facing the government as a whole on that day  
22 so they and their ministers would be equally  
23 prepared or aware of that information.

24          Q.    Now, I'm going to ask you now  
25 questions about the Algo Mall collapse.  When did

1 you first learn of it?

2 A. I received an e-mail, I believe  
3 at about 25 after 4:00 on Saturday, the 23rd. It  
4 was an e-mail that I would have seen just prior  
5 to -- just prior to 5 o'clock that day, which is  
6 when I would have first learned about it.

7 Q. And if I take you to tab 7 of  
8 volume 1, which is Exhibit No. 8115, is this the  
9 e-mail that you got?

10 A. The e-mail from Greg Flood at  
11 4:23 is the e-mail that I received.

12 Q. And why did you get this e-mail?

13 A. In relation to my duties as  
14 Manager of Legislative Issues I was part of a, what  
15 I believed to be like an e-mail Listserv that  
16 Mr. Flood or others at the Ministry of Community  
17 Safety and Correctional Services would use to  
18 disseminate emergency information such as this.

19 Q. What did you do when you got it?

20 A. Upon reading the message from  
21 Mr. Flood I began to notify other individuals within  
22 the government that I believed needed to be aware of  
23 the situation, in addition to contacting them as  
24 well as Mr. Flood for further information about the  
25 developments.

1 Q. And if you could turn to the  
2 next tab, tab 8 which is Exhibit No. 8116, this is  
3 an e-mail forwarding Mr. Flood's e-mail to you -- to  
4 Ms. Debbie Conrad and the bracket says "CAB" and you  
5 forwarded it to her just two minutes after you got  
6 it at 4:55 p.m.

7 Who was -- what position did  
8 Ms. Conrad occupy?

9 A. Ms. Conrad was, I believe  
10 an Assistant Deputy Minister in Cabinet Office  
11 responsible for communications.

12 Q. And the Cabinet Office, if  
13 I understand correctly, was the central office of  
14 the Ontario Public Service and the -- if you were to  
15 use an Ottawa equivalent it would be the same as the  
16 Privy Council Office; is that your understanding?

17 A. Those two are analogous, yes.

18 Q. And just so that we understand,  
19 the head of the Cabinet Office's title is "Secretary  
20 to the Cabinet", correct?

21 A. Yes.

22 Q. And that position, again, for us  
23 Ottawatians is equivalent to the Clerk of the Privy  
24 Council.

25 A. Yes, I believe so.

1 Q. And the Secretary of the Cabinet  
2 is the senior public servant in the Government of  
3 Ontario?

4 A. My understanding is the  
5 Secretary of the Cabinet is responsible for the  
6 Ontario Public Service; that's correct.

7 Q. And at the time of the mall  
8 collapse, who was the Secretary to the Cabinet?

9 A. His name was Peter Wallace.

10 Q. So, if Ms. Conrad was  
11 an Assistant Deputy Minister, would she have  
12 reported to Mr. Wallace?

13 A. I don't believe that she would  
14 have directly reported to Mr. Wallace.

15 Q. There was an Associate Deputy in  
16 between?

17 A. I don't know the precise sort of  
18 organization. Ms. Conrad was a very senior official  
19 within Cabinet Office.

20 Q. And why did you send this e-mail  
21 on to her?

22 A. Ms. Conrad had formerly -- I had  
23 formerly worked with Ms. Conrad in connection with  
24 other incidences that involved Emergency Management  
25 Ontario. Given the nature of the information that

1 I had received from Mr. Flood, given the mention of  
2 EMO, which I understood to be Emergency Management  
3 Ontario, I contacted Ms. Conrad as a person who  
4 I believed would have been able to provided me with  
5 more information or collate and collect information  
6 from various ministries to provide to me.

7 Q. Because the Cabinet Office is  
8 the central agency?

9 A. That's correct.

10 Q. And if you turn to tab 9,  
11 Exhibit No. 8117. This is an e-mail which you sent  
12 at the same time, essentially, 4:56 p.m., to two  
13 individuals by the name of Fahim Kaderdina and Bill  
14 Killorn at the Ministry of Labour?

15 A. That's correct.

16 Q. And what positions did those  
17 individuals occupy at the time?

18 A. Mr. Kaderdina was the Chief of  
19 Staff to the Minister of Labour and Mr. Killorn was  
20 the person responsible for issues management in the  
21 Office of the Minister of Labour.

22 Q. And why did you ask them to look  
23 into it?

24 A. I understood, I understood in  
25 a general way that the Ministry of Labour would not

1 be the lead agency in response to an emergency  
2 situation such as this, but I also believed that  
3 they would be playing a role in support of any sort  
4 of rescue.

5 I also understood that the  
6 Ministry of Labour had responsibility for overseeing  
7 things such as the Building Code or performing  
8 inspections, things of that nature, and given their  
9 role in sort of workplace safety and given this was  
10 an incident that was happening, a building had  
11 collapsed, I wanted to ensure that the Ministry of  
12 Labour, at the political level was aware of the  
13 situation and would be able to begin to collect and  
14 undertake to learn more about it from their own  
15 officials and ensure that their own officials were  
16 looking at it.

17 Q. And if you turn to tab 11,  
18 Exhibit No. 8119, first of all, if you go to the  
19 e-mail in the middle, you sent -- you passed on the  
20 e-mail from Mr. Flood which had notified you of the  
21 collapse, you passed it on to Tracey Sobers, Neala  
22 Barton, Wendy McCann, David Livingston and John  
23 Brodhead, all at the Premier's office, with the  
24 message simply "Heads-up we are waiting for more  
25 information." Those were all colleagues of yours in

1 the Premier's office?

2 A. That's correct.

3 Q. And just to focus on a couple,  
4 Wendy McCann, what position did she occupy?

5 A. Her title was Executive Director  
6 of Communications.

7 Q. And to whom did Ms. McCann  
8 report?

9 A. She also reported to Laura  
10 Miller.

11 Q. Who was the Deputy Chief of  
12 Staff Communications?

13 A. Correct.

14 Q. And who was David Livingston?

15 A. David Livingston was the  
16 Premier's Chief of Staff.

17 Q. And then at the top e-mail, you  
18 passed on the -- you sent an e-mail at 5:05 p.m., to  
19 the same group of people with the note that you'd  
20 received a further update from CSCS, which is  
21 Community Safety and Correctional Services from the  
22 Ministry of Labour and from the Cabinet Office, that  
23 they're confirming details and assistance and you  
24 wrote:

25 "Media is reporting incident



1 at 2:19 p.m. Opp can't confirm  
2 anyone missing or injured. 2  
3 cars apparently fell through the  
4 collapsed hole, which is  
5 approximately 30 ft x 50 ft.  
6 Media also reporting at least 2  
7 people missing.

8 Urban Search and Rescue Team  
9 (10 members) and Urban Critical  
10 Response Team (10 members) has  
11 been deployed."

12 And that the ETA on the teams was  
13 approximately eight to nine hours and that the  
14 community had declared an emergency declaration.

15 From where did you get that  
16 information?

17 A. I believe that this was provided  
18 to me -- that this information was provided to me by  
19 Mr. Flood and by others at the -- I believe by  
20 Mr. Flood. I would have also -- the reference to  
21 "media reporting 2 people missing" may also have  
22 been from my own -- my own ability to look for media  
23 reports of that nature.

24 Q. So, at this stage you were  
25 getting your information from a variety of places.

1           A.    At this stage I was primarily  
2   receiving any information from the Ministry of  
3   Community Safety and Correctional Services and I was  
4   undertaking to gather more detail and more  
5   information from other government sources as well.

6           Q.    And of course it's only -- this  
7   was only half an hour after you got the first  
8   notification?

9           A.    It was about -- it was about  
10  half an hour from the e-mail having been sent and  
11  approximately 10 minutes from my first -- from me  
12  reading it and beginning to -- beginning to notify  
13  others.

14          Q.    Right.  And what was your  
15  understanding at the time of the role which EMO,  
16  Emergency Management Ontario played in such  
17  a situation?

18          A.    I knew that Emergency Management  
19  Ontario, as an agency of the Ministry of Community  
20  Safety and Correctional Services would be  
21  responsible for providing and coordinating emergency  
22  assistance with the affected community at  
23  a provincial level, and offering a coordinated --  
24  a coordinated response on behalf of the  
25  Ontario Government to that.

1 Q. And what was your role in  
2 respect of the response?

3 A. I had no -- it is my  
4 understanding my role was to ask questions, to  
5 gather information, to ensure that information was  
6 being shared amongst the political level, Ministers'  
7 offices within the Premier's office, that  
8 information was being collected and shared and  
9 asking questions about that, about that response.

10 Q. Did you provide direction to  
11 those making decisions about the response?

12 A. No. I did not believe I had the  
13 ability to direct or otherwise influence the  
14 operational decisions being made by emergency  
15 responders.

16 Q. If I could have you turn to  
17 tab 13, Exhibit No. 8121, and if you turn to the  
18 second page you will see that there is an e-mail  
19 which was sent on to Mr. Flood, Mr. Kaderdina,  
20 Mr. Killorn, an individual by the name of Thomas  
21 Chanzy, and Rebecca MacKenzie at 5:03.

22 Who was Thomas Chanzy?

23 A. So, Thomas Chanzy  
24 [pronunciation].

25 Q. I'm sorry, my Peterborough

1 origins are showing on me here.

2 A. That's all right. Mr. Chanzy  
3 was the Chief of Staff to Minister Meilleur.

4 Q. And Ms. MacKenzie, I'm sure  
5 I pronounced her name right; what role did she play?

6 A. Ms. MacKenzie was a special  
7 assistant for issues management in the office of the  
8 Premier.

9 THE COMMISSIONER: Pardon my  
10 ignorance but who is Minister Meilleur?

11 MR. DOODY: Minister of Community  
12 Safety and Correctional Services, Madeleine  
13 Meilleur.

14 THE COMMISSIONER: Oh, okay. The  
15 pronunciation threw me off. Meilleur. Thank you.

16 MR. DOODY: Was that my pronunciation  
17 that threw you off, Mr. Commissioner?

18 THE COMMISSIONER: I don't know. But  
19 I'm tuned in now.

20 BY MR. DOODY:

21 Q. And you said to those  
22 individuals:

23 "Copying MOL here as well.

24 Who is the local MPP?"

25 Why did you want to know who the

1 local MPP was?

2 A. I wanted to know who whether --  
3 I wanted to know that information should anyone need  
4 to contact that MPP in the future.

5 Q. And if you turn to the first  
6 page, you can see in the e-mail at the bottom of the  
7 page from Mr. Chanzy to you, at 5:04 p.m., you were  
8 told that the local MPP was Mr. Mantha and that he  
9 was from Elliot Lake; right?

10 A. That's correct.

11 Q. And then Mr. Chanzy sent you  
12 another e-mail at 5:11 p.m. in which he was passing  
13 on further information that he had received, I take  
14 it from his Ministry, Community, Safety and  
15 Correctional Services and that was that there was  
16 a structural collapse of a poured concrete roof at  
17 Eastwood Mall, that there was one person thought  
18 trapped in the structure at the time of the call and  
19 that H/USAR support was being requested. The cause  
20 was unknown. A local emergency had been declared  
21 and that the OPP, UCRT was en route with arrival in  
22 eight to nine hours; right?

23 A. That is correct.

24 Q. And if you turn to tab 13,  
25 Exhibit No. 8125 and the second e-mail from the top

1 you can see that at 5:08 p.m., you passed on the  
2 information to your colleagues in the Premier's  
3 office, that the local MPP was Mike Mantha and then  
4 if you go to the next e-mail, the second e-mail from  
5 the top, you sent an -- you had sent on the string  
6 of e-mails to Beckie Codd-Downey in the Premier's  
7 office with a note:

8 "Please flag for the Premier."

9 What position did Ms. Codd-Downey  
10 occupy?

11 A. Ms. Codd-Downey at the time was  
12 the Special Assistant to the Premier.

13 Q. And what was her role in the  
14 office?

15 A. Ms. Codd-Downey reported to  
16 Tracey Sobers who was the Executive Assistant to  
17 Premier McGuinty. She and Ms. Sobers provided  
18 day-to-day support to Premier McGuinty in terms  
19 of -- I think a broad range of support including  
20 executive assistance, scheduling, overseeing his  
21 day-to-day activities and would routinely accompany  
22 him when he was out of the office at meetings or at  
23 other events.

24 Q. And with your note:

25 "Please flag for the Premier."

1                   Would I be correct to conclude from  
2 that, that if you wanted to get a message or  
3 information to the Premier quickly you sent it to  
4 Ms. Codd-Downey?

5                   A.     In fact, I had earlier included  
6 Ms. Sobers in these emails believing that she would  
7 be, as his -- as the executive assistant, believing  
8 that she would be with the Premier.

9                   It came to my attention, either  
10 Ms. Sobers giving me a telephone call or someone  
11 else, that Ms. Codd-Downey was, in fact, with the  
12 Premier at the time.

13                   So, I sent this e-mail to --  
14 I forwarded this chain containing the earlier  
15 information to Ms. Codd-Downey, to ensure that the  
16 Premier would be up to speed immediately.

17                   Q.     And she replied within a minute,  
18 5:36 p.m. on the 23rd of June, "Done. Thanks" in  
19 response to your request that it be flagged for the  
20 Premier.

21                   So can we take it from that, that at  
22 least by 5:36 p.m. on the 23rd of June, the Premier  
23 was alerted to the incident and what you knew about  
24 it?

25                   A.     That's certainly what

1 I believed, yes.

2 Q. And the Premier was in Sudbury  
3 at the time, was he?

4 A. Yes.

5 Q. And what was happening in  
6 Sudbury? Why was he in Sudbury?

7 A. There was an Ontario Liberal  
8 Party convention that had what -- was taking place  
9 in the City of Sudbury.

10 Q. Now, if you turn to tab 14 that  
11 at Exhibit No. 8122, and we go to the e-mail that is  
12 third from the top, you sent an e-mail to Ms. Conrad  
13 at 5:25 thanking her for the information -- thanking  
14 her for checking in with the EMO and the Fire  
15 Marshal and she responded at 5:25 with the note:

16 "Absolutely John - let's just  
17 hope it's not too bad."

18 And then at 5:30 p.m. you sent her  
19 an e-mail which read:

20 "Agreed. So to confirm, OPP  
21 is sending its heavy urban  
22 search team now? Toronto Police  
23 has an excellent team as well  
24 ... depending on how severe this  
25 is, given the Premier is now in



1                   Sudbury, I might recommend he  
2                   visit the scene and the info  
3                   centre if one is established for  
4                   victims. Just something to  
5                   consider depending on how this  
6                   unfolds ..."

7                   And how was it you knew of the  
8 Toronto police team?

9                   A. I was previously aware of Task  
10 Force 3 from their participation in other emergency  
11 events.

12                  Q. And if you turn to tab 16,  
13 Exhibit No. 6348, at 5:34 p.m. you received  
14 an e-mail from Mr. Kaderdina who was the Chief of  
15 Staff to the Minister of Labour?

16                  A. That's correct.

17                  Q. And he advised you that:  
18                         "First responders call in the  
19                         (MOL) when necessary. Right now  
20                         no [Ministry of Labour] presence  
21                         on site. Will let you know if  
22                         that changes."

23                  So that was the information that you  
24 had in respect of the Ministry of Labour's  
25 involvement at that time; right?

1 A. Yes.

2 Q. And if you turn to tab 22,  
3 Exhibit No. 8128, in this -- the second e-mail on  
4 the page is an e-mail from EMO DO 01, and that is  
5 the -- I understand that that is the source of  
6 e-mails that went out to people on the Emergency  
7 Management of Ontario's Listserv; is that right?

8 A. Yes.

9 Q. And you would have been one of  
10 the recipients of it?

11 A. Yes, I was.

12 Q. So this was, as I understand it,  
13 the first official notification from the Provincial  
14 Emergency Operation Centre about the collapse and it  
15 was at 6:08 p.m.; is that correct?

16 A. This e-mail was sent at  
17 6:08 p.m.

18 Q. And in fact, the notice as you  
19 can see from the fourth line, the notice was issued  
20 at 1700 hours, or 5:00 p.m., that day; right?

21 A. Yes, that's -- yes, that's  
22 correct.

23 Q. And so would it be fair to  
24 conclude that this is what the Emergency Management  
25 Ontario knew about the situation at that time?

1           A.    It is -- I certainly -- my  
2    experience with this, my experience was that  
3    information such as this was provided -- was  
4    provided to offer their best picture and the best  
5    information from whichever sources that were  
6    reporting to inform the government as to the  
7    specific circumstances, yes.

8           Q.    And who did you understand to be  
9    the recipients of this notice and other  
10   notifications of its kind?

11          A.    I don't know who else was on the  
12   e-mail serve. I believe that it was others  
13   throughout the government that would be -- that  
14   would need to either be involved in or aware of  
15   an emergency situation such as this.

16          Q.    So, internal to the government?

17          A.    Correct.

18          Q.    This was not a public release?

19          A.    No, this was not a public  
20   document.

21          Q.    And in the first line under the  
22   heading "Description of Threat Event" the document  
23   notes that:

24                    "At ... 1509 [or 3:09 p.m].the  
25                    PEOC ..."

1 Which is the Provincial Emergency  
2 Operation Centre:

3 "... was advised of  
4 a structural collapse that had  
5 occurred at ... approximately  
6 1415 [2:15 p.m.] involving the  
7 roof of a three-storey shopping  
8 mall ..."

9 And it notes:

10 "At least one person is  
11 trapped in the debris."

12 And under the second bullet under  
13 "Current Actions" it notes:

14 "The community has declared  
15 an emergency and formally  
16 requested HUSAR assistance.  
17 This request has received  
18 Provincial approval."

19 And if you turn over to the next  
20 page, at the top of the page it says:

21 "OPP UCERT is deploying 10  
22 members and 2 medics from Bolton  
23 to Elliot Lake [with an] (ETA  
24 approximately ... '[midnight]'.  
25 And OFM or Fire Marshal's office:

1                    "... is deploying 3 members to  
2                    the scene."

3                    With the ETA being approximately  
4                    5:30 p.m.

5                    So that was the state of the official  
6                    information within the government at that point in  
7                    time, right?

8                    A.     This was the best information  
9                    available to the government, yes.

10                    Q.     And if we go back to the first  
11                    page of this document, Exhibit No. 8128, we can see  
12                    that you forwarded that on at 6:14 p.m. to your  
13                    colleagues in the Premier's office so that they  
14                    would be kept up to speed; right?

15                    A.     That's correct.

16                    Q.     And if you turn to the next tab,  
17                    sir, tab 23, Exhibit No. 8129, this is an e-mail to  
18                    you from Peter Cleary at MOH, which I take is the  
19                    Ministry of Health?

20                    A.     Yes, it is.

21                    Q.     And what position did Mr. Cleary  
22                    occupy?

23                    A.     Mr. Cleary was the person  
24                    responsible for issues management in the Office of  
25                    the Minister of Health.

1 Q. And at 6:41 p.m. he sends you  
2 this e-mail which says:

3 "FYI, roof has collapsed at  
4 a mall about 150 kilometres from  
5 Sudbury. O responded ..."

6 "O" stands for Orange, the medevac  
7 service?

8 A. Yes, that is what he meant.

9 Q. (Reading):

10 "O responded but was released  
11 later without transporting any  
12 patients.

13 CBC reports that they don't  
14 have info on injuries or missing  
15 people.

16 The roof that caved is where  
17 customers and staff park, cars  
18 have fallen through a hole.

19 State of emergency has been  
20 declared."

21 Do you know why Mr. Cleary sent you  
22 this e-mail?

23 A. I believe it likely that Mr.  
24 Clearly would have read -- my understanding of this  
25 is that he would have likely read a CBC story and he

1 likely also would have received information from his  
2 officials and was sharing those with the Premier's  
3 office.

4 Q. And if you turn to the next tab,  
5 Exhibit No. 8130, you can see Mr. Cleary sent you  
6 another e-mail just 8 minutes later, at 6:48 p.m.  
7 saying:

8 "Latest - sounds like" -- it  
9 should be "there" -- "are  
10 wounded and the hospital said  
11 they're okay to manage so far.  
12 Possibly 2 deceased at this  
13 point."

14 And he sent that to you, to  
15 Ms. MacKenzie and to Seirge LeBlanc.

16 What position did Mr. LeBlanc occupy  
17 at the time?

18 A. Mr. LeBlanc was both the Press  
19 Secretary, I believe, as well as the person  
20 responsible for issues management in the Office of  
21 the Minister of Community Safety and Correctional  
22 Services.

23 Q. In Minister Meilleur's office?

24 A. Yes.

25 Q. Is this the first time that you

1 had heard that there may have been fatalities?

2 A. Yes, I believe this is the first  
3 time there had been mention of possible fatalities.

4 Q. And at tab 26, Exhibit No. 8132,  
5 if we go to the second e-mail on the page,  
6 Mr. LeBlanc responds to the recipients of  
7 Mr. Cleary's e-mail, that is you, Ms. MacKenzie, and  
8 also to Mr. Cleary, at 7:00 p.m. saying:

9 "The report I've received  
10 doesn't state anything about  
11 deaths. Just that at least one  
12 is trapped under debris; the  
13 wounded are getting treatment  
14 but mobile."

15 And then he cut and pasted the report  
16 from the Emergency Operations Centre to which  
17 Mr. Cleary responded to you and to Mr. LeBlanc, and  
18 Ms. MacKenzie:

19 "O."

20 That is orange:

21 "... provided me that intel  
22 based on real-time  
23 communications, so although it  
24 isn't anything official  
25 (a qualified possibly), it's



1                   worth sharing what's going  
2                   through the back channel air  
3                   waves (which has been a source  
4                   of leaks in the past weeks).  
5                   Your info is way more official."

6                   What was your reaction to the  
7                   disparity in the information you were getting?

8                   A.     I agreed with Mr. Cleary that  
9                   information such as this is important to share as  
10                  well as important to indicate the source and the  
11                  nature of the information.  It's important to have  
12                  a distinction between what is confirmed and what is  
13                  suspected so the two aren't conflated and  
14                  misinformation occurs as a result.

15                  I also was aware that the Minister's  
16                  Office at Community Safety as well as Emergency  
17                  Management Ontario were not, through the PEOC,  
18                  emergency information notification, were not  
19                  confirming -- were not officially confirming any  
20                  fatalities and so ...

21                  Q.     So you wanted information from  
22                  as many sources as possible but you also needed to  
23                  know the reliability of each of the pieces of  
24                  information; is that fair?

25                  A.     It's fair that I wanted -- that

1 I wanted information, as much good information as  
2 possible, and did want to -- that would include  
3 information such as this, that was being passed on  
4 from unconfirmed sources or from the media, but also  
5 very much wanting the best information possible from  
6 emergency -- from the emergency response apparatus  
7 of the government, including whatever would be --  
8 they would be able to gather and/or confirm.

9 Q. So, because hopefully they'd  
10 have the best information, in the ideal world?

11 A. Yes.

12 Q. And if you turn to tab 19,  
13 Exhibit No. 8126, continuing the chronology of  
14 information you were getting, the second -- the  
15 e-mail -- the second e-mail on the page from  
16 Mr. Killorn to you and to Mr. Kaderdina at 7:32 p.m.,  
17 and Mr. Killorn was the issues management person in  
18 the Minister of Labour's office?

19 A. Yes.

20 Q. And Mr. Killorn wrote:

21 "Hey John: Here is the most  
22 recent update we got from staff:  
23 - MOL has a structural engineer  
24 on the way; however, it will  
25 take approximately 7 hours to

1 arrive at the scene.

2 - We have not confirmed  
3 whether any workers are missing  
4 at this time.

5 - The preliminary information  
6 we have received at this time  
7 indicates the following:

8 -9 unaccounted for

9 -2 people trapped

10 -14 people taken to hospital."

11 Did you understand why the MOL would  
12 have been sending a structural engineer?

13 A. I didn't know the specific  
14 reasons, although I would have believed that a --  
15 given my understanding that the Ministry of Labour  
16 would be providing assistance in a situation like  
17 this to -- through Emergency Management Ontario, it  
18 is likely that one had been deployed to assist in  
19 some way with the response.

20 Q. You then responded to him at  
21 7:40 p.m. and asked him to check to see if there  
22 were any reports or MOL inspections of the mall or  
23 the mall's roof and whether any orders had been made  
24 against the mall recently.

25 Why were you interested in that

1 information?

2 A. I believed that -- that the  
3 Ministry of Labour may have played a role in  
4 inspections or in pursuing complaints as -- as far  
5 as sort of the operational history of the mall and  
6 wanted to -- wanted the Ministry of Labour to better  
7 understand the history of their involvement with the  
8 mall, should that information become important in  
9 the future.

10 Q. If you turn to tab 29, Exhibit  
11 No. 8134.

12 In the second e-mail on the page, it  
13 is an e-mail you sent to your colleagues in the  
14 Premier's office at 7:41 p.m. in which you shared  
15 the information you had received from the Ministry  
16 of Labour and you wrote:

17 "Officials have not confirmed  
18 any numbers and media have not  
19 reported any deaths. Not from  
20 EMO or OPP, and I've asked for  
21 more info: but an indication  
22 this could be quite serious.  
23 Will keep folks posted."

24 And at the top of the page we can see  
25 that Ms. Miller, having received your e-mail then

1 forwarded it on to Ms. Codd-Downey and Ms. Sobers,  
2 and Ms. Codd-Downey, as we know, was with the  
3 Premier at that time, right?

4 A. I believe so. Either  
5 Ms. Codd-Downey or Ms. Sobers would have been, yes.

6 Q. Then if you turn to tab 30, the  
7 next tab, Exhibit No. 8135, the second e-mail from  
8 the top of the page is from Ms. Codd-Downey to Laura  
9 Miller, Tracey Sobers, David Livingston, Wendy  
10 McCann, Neala Barton and John Brodhead.

11 You've told us about the other  
12 people. Who was -- what position did Ms. Barton  
13 occupy?

14 A. Ms. Barton was the Press  
15 Secretary to the Premier.

16 Q. And John Brodhead?

17 A. Mr. Brodhead was the  
18 Deputy Chief of Staff responsible for policy.

19 Q. And Ms. Codd-Downey said to that  
20 group at 8:03 p.m., "P" -- P means the Premier?

21 A. That's correct.

22 Q. (Reading):

23 "P asks that someone send him  
24 an update tomorrow morning, also  
25 please include info on our

1 provincial response.

2 Also he wanted to put it out  
3 there that maybe he should phone  
4 the Mayor at some point."

5 That e-mail was then responded to by  
6 Ms. Miller at 8:12 p.m. in an e-mail that you were  
7 copied on in which she wrote:

8 "John O'Leary will provide  
9 that update for him tomorrow  
10 morning."

11 And that was at 8:12 p.m., so at  
12 8:12 p.m. you were tasked with the job of providing  
13 an update to the Premier the next morning; right?

14 A. Yes.

15 Q. And if you turn to tab 33,  
16 Exhibit No. 8138 going to the second last e-mail you  
17 e-mailed Ms. Conrad, just bring it up a bit, please  
18 at 8:17 p.m. saying:

19 "Debbie will need an update  
20 first thing in the morning  
21 please of any actions overnight,  
22 or any other developments that  
23 we don't get this evening."

24 She responded that she had just heard  
25 back from EMO, and she wrote:

1 "Neither OPP nor local  
2 Community Emergency Management  
3 Coordinator are willing to  
4 confirm numbers at this time.  
5 They are still working to verify  
6 injured and missing."

7 To which you responded at 8:27:

8 "Thanks. Will need please any  
9 of those details as well as the  
10 full picture of our Provincial  
11 response and support. Really  
12 hope this doesn't become so much  
13 worse."

14 And she responded at  
15 8:29 p.m.:

16 "I know - I hope not too.  
17 Have asked for all Provincial  
18 supports."

19 So you were putting together the  
20 basis of your report to the Premier the following  
21 morning; correct?

22 A. Yes.

23 Q. And if we turn to the next tab,  
24 which is tab 34, Exhibit No. 8147 -- sorry -- well,  
25 I've got the -- I've got the right exhibit here but

1 the wrong tab, so why don't we just look at the  
2 screen.

3 So this is an e-mail -- no, I'm  
4 sorry. It's tab 34 which is Exhibit No. 8139.

5 You received another e-mail at  
6 8:34 p.m. from Mr. LeBlanc to advise that he had  
7 still no update. So that at the -- that was the  
8 state of your knowledge at the end of the day on the  
9 23rd, you knew that there was potential for  
10 fatalities. You'd received no information about  
11 that. You knew that there was a team from the OPP,  
12 UCRT on the way, and also from the urban  
13 search-and-rescue team from the Toronto police and  
14 other services; right?

15 A. Yes.

16 Q. And did you communicate with any  
17 other ministries on the morning of the 24th of June?

18 A. The morning of the 24th?

19 Q. Right, when you were putting  
20 together your report for the Premier?

21 A. I believed that I would have  
22 relied on Cabinet Office. I had tasked Cabinet  
23 Office with supplying the comprehensive, sort of  
24 full picture of supports throughout the government.

25 So I would have relied primarily upon



1     them, I believe, for work towards that end.

2                     Q.     I just found that document I was  
3     hoping to show you.  It is Exhibit No. 8146 and it  
4     is at tab 41.

5                     So this is the -- your discussion  
6     with Ms. Conrad the night before, as you were  
7     putting together the request to the Cabinet Office  
8     to get the information.  And she responded to your  
9     last e-mail, which we had looked at, at 10:36 she  
10    wrote and asked you:

11                    "What time tomorrow morning  
12                    would you like the update of  
13                    tonight's events?"

14                    And you responded at 10:56:

15                    "Whatever works.  6:00 a.m. to  
16                    6:30 is probably best."

17                    So you were expecting work to go on  
18     throughout the course of the night to put together  
19     this information; right?

20                    A.     I was fully expecting there to  
21     be ongoing developments with respect to the  
22     emergency response, given that it was in a --  
23     I assumed that the work would be taking place --  
24     I believed the work that would be taking place would  
25     be around the clock, and as such, knowing that it is

1 certainly an early in the morning, it was important  
2 information and I wanted it as soon as possible.

3 Q. And if you turn to tab 47,  
4 Exhibit No. 8152. This is an e-mail which you sent  
5 on the morning of the 24th at 7:56 a.m. to your  
6 colleagues in the Premier's office with the subject  
7 line:

8 "Elliot Lake Update."

9 And it's fair to say that you  
10 received no significant new information from what  
11 you had known the night before; is that fair?

12 A. It's fair to say the information  
13 was very consistent with the information I had  
14 received the previous night.

15 Q. If you go down to the second  
16 last bullet you wrote:

17 "Ministry of Labour  
18 investigators have not yet begun  
19 their work, are standing by  
20 until emergency operations and  
21 any rescues conclude. There has  
22 been some speculation that the  
23 roof had been leaking and  
24 repairs had recently concluded,  
25 but we won't know the cause

1                   until MOL can investigate."

2                   What was your understanding of the  
3 role of the Ministry of Labour during the course of  
4 an emergency response?

5                   A.    I believed that the Ministry of  
6 Labour would be as needed drawn upon to provide  
7 assistance to the emergency responders.

8                   Q.    Did you have any information  
9 at all or had you directed your mind to the issue of  
10 whether the Ministry of Labour had the ability to  
11 control or stop the way in which a rescue operation  
12 was being carried out?

13                  A.    It's not something that I had  
14 been thinking about, no.

15                  Q.    And if you turn to tab 56,  
16 Exhibit No. 6639, this is an e-mail from Ms. Conrad  
17 to you on the 24th of June at 10:16 a.m. and she  
18 reports that:

19                               "The Elliot Lake community  
20 control meeting had concluded."

21                  Did you understand that the community  
22 control meeting -- what the Community Control Group  
23 was?

24                  A.    I knew what the Community  
25 Control Group was in a general way. I didn't know

1 specifics about the Community Control Group.

2 Q. And what was your understanding  
3 of what they were, in a general way?

4 A. My understanding was that the  
5 Community Control Group would have included senior  
6 emergency response officials such as the Fire Chief  
7 or the Chief of Police, the Mayor and other -- and  
8 other members potentially of Council who would be  
9 involved in leading and coordinating the  
10 community-wide response to the situation.

11 Q. And the second bullet point in  
12 this e-mail at 10:16 a.m. on the 24th of June was:

13 "No identification or  
14 confirmation of numbers of  
15 potential victims at this  
16 point."

17 So that was the state of the  
18 knowledge that the Premier's office and since this  
19 came from Ms. Conrad, the Cabinet Office knew about  
20 potential victims at that time; right?

21 A. Yes.

22 Q. If you turn to tab 90, Exhibit  
23 No. 6630, this is an e-mail, first of all, at the  
24 bottom of the page from Ms. Conrad to you and to  
25 Ms. Miller at 11:31 on the 24th of June, in which

1 Ms. Conrad says:

2 "John - Stewart had already  
3 spoken to Dan and at 1135 hours  
4 the Premier can call Bruce  
5 Ewald's cell ..."

6 And he gives the cell number:

7 "Bruce is tracking the Mayor  
8 down and intends to be beside  
9 the Mayor at 1135 hours. Is  
10 this doable?"

11 And then Ms. Miller then sent you  
12 an e-mail at 11:33 a.m. saying:

13 "Premier has just connected  
14 with the Mayor. Thank you for  
15 your assistance on this front."

16 So, that means that as at 11:33 a.m.  
17 the Premier had spoken to Mayor Hamilton; right?

18 A. Yes.

19 Q. And had there been some  
20 difficulty in contact -- in the Premier contacting  
21 the Mayor?

22 A. I would say that it took --  
23 several hours elapsed while attempts to connect the  
24 Premier and the Mayor took place.

25 Q. Thank you. If I could turn to

1 tab 100, sir, which is Exhibit No. 8196, and turn to  
2 the second page, the second e-mail from the top.  
3 Mr. LeBlanc e-mailed you and colleagues at the  
4 Premier's office on the 24th at 6:34 p.m., and  
5 writes:

6 "Updated EL news release  
7 below.

8 Latest from Elliot Lake  
9 officials. While they don't say  
10 definitively, they do indicate  
11 that it appears that there  
12 appears to be a casualty. They  
13 also say it will take 10 - 12  
14 more hours to stabilize the  
15 site.

16 CP reports that there is at least one  
17 casualty."

18 Is this the first time that the  
19 Premier's office had received information that there  
20 was a casualty at least more definitively than  
21 the -- I think it was called "back channel  
22 discussions" that you'd heard about the day before?

23 A. I believe that this news release  
24 was the most -- was the first most official  
25 notification that there was a potential fatality,

1 yes.

2 Q. So the Premier's office was not  
3 advised before the press release went out?

4 A. We were certainly not advised  
5 that the press release was going out.

6 Q. And you were not advised that  
7 the City had concluded that there was a potential  
8 casualty before the press release went out?

9 A. That's correct.

10 Q. And if you turn to the first  
11 page of this e-mail, at the bottom of the page,  
12 Mr. LeBlanc had forwarded to you the earlier e-mails  
13 and responded and said -- sorry, the one above that,  
14 from Mr. LeBlanc to you at 7:28 p.m, and wrote:

15 "I assume that you know about  
16 the telecon with CO/PO ..."

17 First of all, what's CO/PO?

18 A. These are abbreviations for  
19 Cabinet Office/Premier's Office.

20 Q. He writes:

21 "I assume that you know about  
22 the telecon with CO/PO for

23 7:45 this evening, Dan Hefkey

24 Commissioner of Community

25 Safety, will explain state of

1 play and what's happening on  
2 ground."

3 To which you responded immediately at  
4 7:43:

5 "Yup, I asked for it."

6 What does that mean? That you had  
7 asked for this call?

8 A. I had expressed to Mr. LeBlanc  
9 and to Debbie Conrad as well, that various pieces of  
10 information were being supplied from various  
11 sources, and I was very interested in having the  
12 most up-to-date and current information as possible.

13 Ms. Conrad asked if it would be  
14 helpful to organize a teleconference with  
15 Mr. Hefkey. Was that something that I would be  
16 interested in, to which I said, "Yes, I would.  
17 Please undertake to set that up as soon as  
18 possible."

19 Q. And if you go to the e-mail  
20 immediately above the one I just read to you,  
21 Mr. LeBlanc responded at 8:35 p.m. and said:

22 "And I will from here on out.

23 Information is critical and  
24 realize that these calls are so  
25 informative."



1                   To which you responded at 20 minutes  
2 after midnight:

3                   "No worries, you guys are on  
4 top of stuff. But getting into  
5 a situation where media is  
6 saying one thing, and our  
7 updates say another, that's  
8 something we need to clear up.  
9 Lots of media and lots of  
10 rescuers leads to lots of news,  
11 but lots of confusion over the  
12 actual state of affairs."

13                  I read that as you expressing some  
14 frustration at the way in which information was  
15 being provided; is that a fair conclusion?

16                  A. I would say that I was concerned  
17 with different information being reported through  
18 government channels, as well as through sources such  
19 as the media or others, that -- at this -- at this  
20 point of the day, continuing to be unconfirmed and  
21 unaligned.

22                  Q. Now I wonder if you could turn  
23 to -- there's a volume in front of you called --  
24 which says "Volume 10". In fact, I think it's on  
25 your left-hand side there, and turn to tab 1100,

1 which is Exhibit No. 9139.

2 Now, can you tell us what this  
3 document is and what are these pages from?

4 A. These pages are handwritten  
5 notes that I took.

6 Q. And when did you take them? Not  
7 specifically but generally when did you take them?

8 A. I took them at the time of the  
9 incident and at the time, I suppose, throughout the  
10 following several days.

11 Q. And I see that there's been  
12 portions redacted. What was the idea behind the  
13 redactions?

14 A. That information is not -- the  
15 information is not germane to this -- to the  
16 purposes of this -- to the purposes of this Inquiry.  
17 It would have been notes that I would have taken  
18 about other -- other issues.

19 Q. And it looks like these notes  
20 are in a notebook; is that right?

21 A. Yes.

22 Q. And was it your practice to take  
23 notes in a notebook, as things happened?

24 A. Generally speaking, yes.

25 Q. So you had a record of them so

1 you could refer back to them to see who said what,  
2 and what things had been decided at particular  
3 times?

4 A. I would say that I -- I mean,  
5 yes, particularly in this situation, yes.

6 Q. Right. And this document is in  
7 your handwriting. If you turn to the next tab which  
8 is Exhibit No. 9140, tab 1101, this is a typed  
9 document -- well, let's wait till we have it --  
10 which starts off "Notes from John O'Leary".

11 And I understand this is  
12 a transcription of your handwritten notes; right?

13 A. Correct. This is  
14 a transcription of the handwritten notes that  
15 I prepared.

16 Q. Now, we can see on the typed  
17 version which I'm going to generally be referring  
18 you to because it is easier to read.

19 A. Thank you.

20 Q. Although I should say your  
21 handwriting is a lot better than some we've looked  
22 at in this Inquiry.

23 But on the typed versions, sometimes  
24 there's a series of asterisks with "next page"  
25 written in brackets. I take it that that means if

1 you had looked at the handwritten notes, the  
2 asterisks would appear where -- the asterisks from  
3 the typewritten notes were the end of the page in  
4 the handwritten notes?

5 A. Yes, that's what I attempted to  
6 signal.

7 Q. And if you go to the second  
8 page of Exhibit No. 9140, just by way of  
9 illustration, under the words "Grant Lone N Bay Fire  
10 Chief" there is a solid line drawn across the  
11 page and I understand if we go to your handwritten  
12 notes there is a solid line drawn there as well,  
13 right?

14 A. Yes.

15 Q. And tell me, what was your  
16 practice? What did this solid line mean?

17 A. It signaled the conclusion of  
18 one set of exchanges so that I wouldn't -- I guess  
19 when I took notes I attempted to signal that was  
20 a conclusion of that exchange or that portion of  
21 notes being taken and the beginning of the next one,  
22 so I would be prepared to take notes and not get  
23 them mixed up.

24 Q. And if we go back to the first  
25 page of Exhibit No. 9140, there is halfway down the

1 page, there's a note underlined it says, "Call with  
2 Dan Hefkey", and are these the notes you took during  
3 the call with Mr. Hefkey at 7:45 p.m. on the 24th of  
4 June?

5 A. Yes.

6 Q. And could I ask you to go  
7 through them line by line and with reference to the  
8 notes, explain to us what Mr. Hefkey said to you,  
9 with reference to your notes and your recollection.

10 A. Okay, I'll do my best. The  
11 notes "Updates - times of events, press releases,  
12 continuity of operations, who to contact for  
13 Meilleur", were notes that I put on the page prior  
14 to the conference call getting underway as items  
15 that I wanted to either address or discuss in  
16 addition to whatever was going to be provided to me  
17 by way of briefing in the call itself.

18 Q. Okay.

19 A. Beginning:

20 "Members of OPP Urban Rescue  
21 Team + 37 Toronto HUSAR team on  
22 the ground."

23 That is the beginning of the update  
24 that -- this is now the beginning of the update that  
25 Mr. Hefkey provided to me on the conference call.

1 Q. I should have asked you: Who  
2 else was on the call?

3 A. So, I believe that the others  
4 who were on the call were Debbie Conrad from the  
5 Cabinet Office. I also believe that members of  
6 the -- of Minister Meilleur's office, Mr. LeBlanc, I  
7 believe Mr. Chanzy were also on the call.

8 Q. I interrupted you. Carry on.

9 A. (Reading):

10 "Step 1 = make scene safe,  
11 plan to move debris."

12 Would you like me to explain what  
13 I mean by that?

14 Q. Yes.

15 A. So Mr. Hefkey is explaining to  
16 me that the members of the UCRT, as well as the --  
17 as well as Task Force 3, 37 members of Task Force 3  
18 have arrived in Elliot Lake and are at the scene,  
19 that their first step is to make the scene safe for  
20 them to conduct rescue operations and that they plan  
21 to move debris, again to make it safe for workers or  
22 anyone else alive in the rubble, that the UCRT and  
23 Task Force 13 (sic) would be operating on rotating  
24 shifts working 24 hours a day.

25 He provided additional clarification

1 as to the role of any canine units and the dogs  
2 would be working for an hour and then resting.

3 He said that they would be working on  
4 12-hour shifts over a 24-hour period, and that that  
5 would be how they would be continuing to do so.

6 This was characterized as a rescue  
7 operation.

8 Q. And what did you understand that  
9 to mean?

10 A. That the objective of the UCRT  
11 and Task Force 3, that their objective was to rescue  
12 anyone who may be alive within the debris of the  
13 Algo Centre Mall.

14 Q. Okay.

15 A. (Reading):

16 "The lead on the ground =  
17 Elliot Lake emergency folks, we  
18 are there to support it."

19 Is a reference to who is in charge,  
20 so Mr. Hefkey would have explained to me that the  
21 Elliot Lake emergency responders were the -- were in  
22 charge, were leading the effort, and that any  
23 Provincial assets that were deployed, such as UCRT  
24 would be in support of Elliot Lake emergency  
25 response. He said that there was great relations

1 between any Provincial assets and the Elliot Lake  
2 emergency response team.

3 He also said that it was important  
4 that we don't want to compromise anything that the  
5 Elliot Lake emergency responders are doing.

6 Mr. Hefkey cautioned me:

7 "Do not release figures: must  
8 be confirmed ..."

9 And it is for the local government to  
10 determine.

11 Mr. Hefkey conveyed to me a sense  
12 both from himself and as well as from the  
13 Elliot Lake emergency responders that it would be  
14 inappropriate to release any information with  
15 respect to victims or injuries or others associated  
16 with this incident and that it was the role of the  
17 local government to determine when and how those  
18 decisions would be made.

19 Q. Did he explain to you why that  
20 was so?

21 A. I don't believe so.

22 Q. Okay.

23 A. He then shared with me that they  
24 had -- that there was one confirmed death. He said  
25 that there were likely others.



1 Q. Turning the page.

2 A. Mr. Hefkey then told me that the  
3 emergency responders had heard tapping and that they  
4 knew where it was. He told me that they estimated  
5 three people were trapped in the debris. He said  
6 that once -- it should read "once HUSAR has  
7 confirmed all fine will turn into recovery."

8 This is -- the note I have taken here  
9 is -- it was reflecting that he explained to me that  
10 once HUSAR had confirmed that all victims had  
11 been -- anyone who was alive had been rescued that  
12 it would turn into a recovery operation.

13 He told me that the Coroner's office  
14 was standing by and were ready when needed. He  
15 then, again, reiterated the reluctance -- the  
16 general reluctance amongst the Elliot Lake folks as  
17 well as any emergency responders and I assume those  
18 in responsibility in Elliot Lake as well as himself  
19 to, I believe, to share numbers, that it could  
20 ratchet up speculation and sort of provoke anxiety.

21 The next three bullets, I believe,  
22 are questions I had asked. I had asked: so what  
23 exactly collapsed? And was told that a segment of  
24 the structure had collapsed. I think it's possible  
25 I or someone else on the call asked: Do we know

1 where the victims are? And was told: We don't know  
2 if they are close together or not.

3 I then asked how long do -- if there  
4 are live victims in the debris, how long did they  
5 have? How long could they survive? Mr. Hefkey told  
6 me that they can last several days, particularly if  
7 they did have access to water and he estimated  
8 between three to five days.

9 Q. Did he tell you where he got  
10 that estimate from?

11 A. No. The reference to Grant  
12 Lone, North Bay Fire Chief, I believe is a reference  
13 to, I would have been informed that, you know --  
14 I honestly don't remember. It may have been he had  
15 offered support or assistance of some sort,  
16 I assume.

17 Q. And was this the first detailed  
18 information then that the Premier's office had had  
19 about the situation, that is at 7:45 p.m. on the  
20 24th of June?

21 A. This was the most definitive  
22 information the Premier's office certainly had  
23 received, including the first reference to things  
24 such as tapping and certainly a confirmed fatality.

25 Q. Now if I could have you turn to

1 tab 130 which is Exhibit No. 8223.

2 A. Pardon me, which volume?

3 Q. Sorry, Volume 2.

4 A. And which tab, again, sir?

5 Q. Tab 130. And this is  
6 a situation report from the Provincial Emergency  
7 Operations Centre. And this is -- it says:

8 "Information current as of  
9 2000 hours, 8:00 p.m."

10 And it comes out on the Listserv at  
11 8:32 p.m.; correct?

12 A. I received it at 8:32 p.m.,  
13 correct.

14 Q. And this is an updated situation  
15 report and it reports in the fourth bullet which is  
16 bolded:

17 "The area is still unstable  
18 and dangerous as of 2012, June  
19 24, 1700 hours, the estimation  
20 by on site emergency crews is  
21 that there will be approximately  
22 10 to 12 hours of further  
23 stabilization effort required  
24 before a rescue crew will be  
25 able to go in. Examination of

1 the scene continues to indicate  
2 that this is still a rescue.  
3 Evidence has been uncovered that  
4 suggests there may be  
5 a casualty."

6 So, this was the state of official  
7 information within the government as at that point  
8 in time; right?

9 A. This is a summary of official  
10 information within the government, yes.

11 Q. Now, we saw a reference earlier  
12 to the Premier wanting to -- or considering speaking  
13 to Mr. Mantha.

14 Did he, in fact, speak to Mr. Mantha?

15 A. He did speak with Mr. Mantha  
16 through the incident, yes.

17 Q. And if we turn to tab 128, which  
18 is Exhibit No. 8221, the second page, we can see  
19 there is an e-mail there from Laura Miller to you  
20 and some of your colleagues at the Premier's office,  
21 at 7 -- at 19:19 or 7:19 p.m. on the 24th, in which  
22 Ms. Miller writes:

23 "P spoke to Mantha. Two

24 follow-up items:

25 (1) Mantha is very interested

1 in relocating some government  
2 service offices (federal and  
3 provincial) which are no longer  
4 accessible because of the  
5 damage. P believes he will call  
6 upon our government to get  
7 involved in this with funding.  
8 He says he already has alternate  
9 space picked out - some  
10 previously abandoned space  
11 located nearby.

12 (2) He mentioned that he would  
13 like somebody's phone number so  
14 he can contact them directly.  
15 He already has some 'liaison's'  
16 phone number but he is  
17 unsatisfied with this. P said  
18 he should stay in contact with  
19 Madeleine Meilleur and that  
20 Premier would look into the  
21 phone number issue for him. Can  
22 we give him a number closer to  
23 our government? Is it  
24 Madeleine's office he should be  
25 connecting with?"

1                   And if we turn over to the previous  
2 page, there are e-mails between you and your  
3 colleagues about this issue of providing Mr. Mantha  
4 with a phone number. And at the top of the  
5 page Ms. Miller writes at 8:08 p.m. p.m.:

6                   "I don't want to provide  
7 multiple points of contact.  
8 I think we need to identify one  
9 person specific to this issue -  
10 someone who will be responsive  
11 to his concerns."

12                   And if you turn to tab 169, which is  
13 Exhibit No. 8260, you can see at the bottom of the  
14 page there is an e-mail which was sent by you to  
15 Mr. LeBlanc and Mr. Chanzy on the 25th of June at  
16 8:46 a.m. and you wrote:

17                   "Guys I'm thinking that to  
18 assist the MPP with questions or  
19 concerns he has about the  
20 situation in EL, that it makes  
21 the most sense for him to have  
22 a one-window contact with CSCS.  
23 Thomas, don't know who in your  
24 office is the best to work with  
25 him; but whomever it is, I want

1 to make sure they are senior  
2 enough to understand and handle  
3 his needs appropriately. CSCS  
4 can notify this group with the  
5 contact from him, the questions  
6 and concerns he has, and let us  
7 know what the response back to  
8 him was. But with CSCS as the  
9 window, you are in the best  
10 position to know what can be  
11 confirmed and what can't, and  
12 can ensure he's getting in touch  
13 with the emergency officials  
14 that might have the right info.  
15 Does that sound good to  
16 everyone?"

17 And Mr. Chanzy responded at  
18 9:05 saying:

19 "As you know our Minister  
20 reached out to him yesterday.  
21 I have full confidence in our  
22 MPP liaison to answer any of his  
23 inquiries appropriately, but  
24 given the exceptional  
25 circumstances, I can follow up

1 with him directly this morning  
2 and be his contact person for  
3 MCSCS. OK? We've met in the  
4 past. We have a French  
5 connection."

6 And I take it by that he means that  
7 Mr. Mantha is a francophone, as is Mr. Chanzy;  
8 right?

9 A. I believe they are both Franco  
10 Ontarians, yes.

11 Q. And you accepted Mr. Chanzy's  
12 volunteering?

13 A. Absolutely.

14 Q. And so, Mr. Mantha was set up  
15 with a direct contact with Mr. Chanzy, the Chief of  
16 Staff, to Madeleine Meilleur?

17 A. I believe that Mr. Chanzy  
18 reached out directly to Mr. Mantha to let him know  
19 about that. The two of them certainly spoke and it  
20 was made clear to Mr. Mantha that if he had  
21 questions or concerns with seeking any information  
22 that Mr. -- at this time Mr. Chanzy would be in the  
23 best position to assist.

24 Q. And if you turn to tab 171,  
25 Exhibit No. 8262, you can see that you accepted Mr.



1 Chanzy's offer.

2 And why was it that you thought it  
3 was important that Mr. Mantha have somebody at or  
4 near the top of the Minister's office to whom he  
5 could speak?

6 A. I wanted to ensure that there  
7 would be as few links in the chain as possible for  
8 someone of the -- someone important such as  
9 Mr. Mantha, that there would be a high degree of  
10 responsivity to his questions and to his -- any  
11 concerns or information that he wanted to share or  
12 that he was seeking from us.

13 I also believed it was important that  
14 the Chief of Staff themselves take this role on, to  
15 demonstrate to him the very serious nature, and the  
16 very serious way in which the Ontario government and  
17 the Minister was treating this very serious  
18 situation.

19 Q. If I could have you turn to  
20 tab 175, Exhibit No. 8266, and to the second page,  
21 you can see about halfway down the page there is  
22 an e-mail from Marla DiCandia, who was the Director  
23 of Tour and Outreach for the NDP in Ontario, to  
24 Ms. Sobers on the 25th of June at 10:07 a.m., and  
25 she wrote:

1                    "I hope you can help me,  
2                    Michael Mantha, MPP Algoma spoke  
3                    with the Premier over the  
4                    weekend regarding the situation  
5                    in Elliot Lake. Premier stated  
6                    that he would ensure Mr. Mantha  
7                    have direct contact with  
8                    Meilleur and Wynne for  
9                    assistance/questions for his  
10                   constituents."

11                   And Ms. Sobers passed that e-mail on  
12 to you at 10:15 that morning; right?

13                   A.     That's correct.

14                   Q.     And if you turn to the next --  
15 to the first page, at the bottom of the page at  
16 10:23 a.m. you e-mailed colleagues in the Premier's  
17 office and Mr. Chanzy, and noted that Mr. Chanzy was  
18 going to offer direct contact with Mr. Mantha that  
19 morning. And then you said in the two points below:

20                   "1) Continuity of government  
21 services: It appears all  
22 government services are  
23 continuing to be available in  
24 Elliot Lake. The ServiceOntario  
25 location was not in the mall,

1                   although it is nearby. We are  
2                   confirming it's open and  
3                   conducting regular business  
4                   today. The federal government  
5                   will need to co-ordinate its own  
6                   operations, but like us will be  
7                   looking to ensure those services  
8                   are provided.

9                   2) To make sure that he has  
10                  one window into the government  
11                  and its response, Thomas will be  
12                  his single key point of  
13                  contact."

14                  And then if you go to the top of the  
15                  page you can see that Mr. Chanzy e-mailed at  
16                  10:39 a.m. saying:

17                  "I've talked to Michael. He  
18                  is meeting with business leaders  
19                  and members of the local chamber  
20                  of commerce as we speak to  
21                  assess the impact on local  
22                  businesses.

23                  Contrary to what we've heard  
24                  so far, he says that there are  
25                  government offices in the mall,

1 including provincial ones. (He  
2 mentioned social services). He  
3 has questions about how we'll  
4 continue to deliver services in  
5 the area.

6 His priority right now is to  
7 make a list of affected  
8 businesses. He'd like to know  
9 if they may have access to  
10 special funding to compensate  
11 businesses and help relocation."

12 And if you turn to tab 176, Exhibit  
13 No. 8267, at the top of the page there is an e-mail,  
14 second e-mail on the page from you to Shannon Fuller  
15 at the Cabinet Office and with a copy to Debbie  
16 Conrad.

17 Who was -- what position did  
18 Ms. Fuller occupy?

19 A. I believe that Shannon Fuller  
20 was a Director of Communications within a Cabinet  
21 Office.

22 Q. And you wrote to her:

23 "The local MPP insists that  
24 there are provincial services  
25 that are impacted. I think he's

1                   probably right, he has an office  
2                   of his own in the mall: Maybe  
3                   it's a CYS ..."

4                   CYS, what's that?

5                   A.    CYS stands for Children or Youth  
6                   Services, the Ministry of.

7                   Q.    (Reading):

8                   "...or CSS."

9                   A.    Which is the Ministry of  
10                  Community and Social Services:

11                  Q.    (Reading):

12                  "... or a transfer payment  
13                  agency delivering service on our  
14                  behalf. Can we just please  
15                  canvass Ministries to confirm  
16                  either they or their partners  
17                  are not impacted?"

18                  So it looks here like you are -- you  
19                  want to make sure that if there are any agencies or  
20                  services of the Ontario government that were  
21                  affected by the collapse, that the Premier's office  
22                  knows about it; right?

23                  A.    I had earlier been informed that  
24                  there was no impact, that there had not been  
25                  an impact to government services. And I had -- for

1 example, the ServiceOntario location I'd been  
2 told -- had confirmed that it was open.

3           Given the information from  
4 Mr. Mantha, I believed that -- I believed that he  
5 likely had very keen insight into this extent, that  
6 it may have been possible that by being told the  
7 government services are continuing to be offered,  
8 officials were correct as far as services -- offices  
9 of various ministries in those communities but it  
10 was -- a possibility existed that a local service  
11 agency may have had an office that would -- like  
12 a transfer payment partner who would be delivering  
13 front line care on behalf of a Ministry, that they  
14 might be impacted or closed and as such, I asked for  
15 all of our Ministries to be canvassed to confirm --  
16 to confirm further details throughout the  
17 government.

18           Q.    And if you go down to the bottom  
19 of the page, there is an e-mail from you to  
20 Ms. Conrad of earlier that morning, 9:21 in which  
21 you say in the second paragraph:

22                   "Didn't respond last night,  
23                   I hit save not send! But that  
24                   was very valuable I think: It's  
25                   frustrating when media says one

1                   thing and our own folks say  
2                   another, just raises question is  
3                   it bad info to the media, or is  
4                   it our folks not telling us.

5                   Really helpful to hear the  
6                   facts. Thanks a lot for setting  
7                   it up and on such short notice."

8                   By "setting it up" are you referring  
9                   to the phone call to Mr. Hefkey?

10                  A.    Yes.

11                  Q.    And can you explain to us the --  
12                  what your concern was that you were talking about  
13                  there?

14                  A.    I think, as I mentioned a little  
15                  earlier, there were many different pieces of  
16                  information being provided by many different  
17                  sources, including through official channels within  
18                  the provincial government and others, and it was  
19                  very helpful to have Mr. Hefkey provide the --  
20                  a full complete picture with the level of detail  
21                  that he did. It was very helpful to receive that.

22                  Q.    And when you combine that --  
23                  your sense of frustration that you're expressing  
24                  there, with the differing information you're getting  
25                  from Mr. Mantha, and -- from within the government

1 as to the effect of service in Elliot Lake of the  
2 mall collapse, is it fair to say that you were  
3 concerned about the information you are getting  
4 through official channels?

5 A. I would say that I wanted to  
6 ensure that whatever information was being shared  
7 through -- it was my expectation that whatever  
8 information was being gathered for -- confirmed or  
9 suspected, for public dissemination or not, it was  
10 my expectation that whatever intelligence and  
11 information we had about this situation, would be  
12 shared with myself and with the Premier's office.

13 Q. Because the Premier should know?

14 A. If it's information that could,  
15 in any way be helpful in terms of the provincial  
16 response to provide the utmost assistance, yes, he  
17 should know.

18 MR. DOODY: I'm about to turn to  
19 a different topic, Mr. Commissioner. Perhaps this  
20 would be an appropriate time?

21 THE COMMISSIONER: Thank you, we'll  
22 take our morning break, Mr. Registrar.

23 --- RECESS AT 10:27 A.M.

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

25 THE COMMISSIONER: Mr. Doody.



1 MR. DOODY: Thank you,  
2 Mr. Commissioner.

3 BY MR. DOODY:

4 Q. I should have asked you, Mr.  
5 O'Leary, when I was going through your background,  
6 where are you working now?

7 A. I currently work for a company  
8 in the private sector.

9 Q. All right. Taking you back to  
10 the events of June 25th, did you listen to the press  
11 conference which was held at noon on the 25th?

12 A. I believe I did.

13 Q. And if I could ask you to turn  
14 to tab 180 in Volume 2, which is Exhibit No. 8270.

15 THE COMMISSIONER: 270?

16 MR. DOODY: Exhibit No. 8270.

17 BY MR. DOODY:

18 Q. This is an e-mail which you sent  
19 to your colleagues at 12:18 p.m. on the 25th of  
20 June, and the "re" line is "Elliot Lake, News  
21 Conference Summary."

22 And I take it that this is your  
23 summary of what was said at the press conference?

24 A. Yes.

25 Q. And it was sent to your

1 colleagues in the Premier's office, including Ms.  
2 Ms. Codd-Downey, and would I take it from your  
3 earlier evidence that this means it would have been  
4 passed on to the Premier or do you know?

5 A. I don't know if it was -- if it  
6 was passed on or not. I did so -- I did so to  
7 ensure that Becky remained informed.

8 Q. And at the noon press  
9 conference, if we go about halfway down the page,  
10 I see that you've put in your e-mail, a question:

11 "Any fatality requests?"

12 And the answer:

13 "One fatality confirmed. No  
14 identification, a sighting of  
15 an arm or leg, have not gone  
16 near victim, focus is on  
17 rescue."

18 Am I correct that this was the  
19 first -- to your knowledge -- the first public  
20 confirmation that there had been a fatality?

21 A. Yes.

22 Q. And your colleagues in the  
23 Premier's Office sent e-mails with their own --  
24 Premier's Office and other Ministers' offices sent  
25 e-mails with their own summaries of what they'd

1 heard; right?

2 A. That's correct.

3 Q. And so just going through them  
4 quickly, if you go to the next tab, 181, Exhibit No.  
5 8271, this is Mr. LeBlanc's summary of -- of what he  
6 heard, and he sent that to Ms. McCann, to you, to  
7 Mr. Chanzy, to Ms. MacKenzie and to Brian Teefy.

8 I don't think we've seen that name  
9 before. What position did Mr. Teefy hold?

10 A. Mr. Teefy was a special  
11 assistant in the -- of policy in the Office of the  
12 Premier.

13 Q. And he also sent it to Ms.  
14 Miller, and at tab 182, Exhibit No. 8272, Ms. McCann  
15 responds to the entire group confirming what Mr.  
16 LeBlanc had reported, and at tab 184, Exhibit No.  
17 6961, Mr. Flood, who I think you told us worked in  
18 the Ministry of Community Safety and Correctional  
19 Services; correct?

20 A. Yes.

21 Q. And he sent around a summary, as  
22 well, and at tab 189, Exhibit No. 6962,  
23 an individual by the name of Robert Di Giovanni from  
24 the Cabinet Office sent around what is described as  
25 a transcript.

1 Do you know what position  
2 Mr. Di Giovanni held at the time?

3 A. I believe that Mr. Di Giovanni  
4 works in the Issues Management Team within Cabinet  
5 office.

6 Q. And so would it be fair to  
7 conclude from the e-mail traffic that this -- what  
8 was happening in Elliot Lake was the subject of --  
9 continued to be a subject of great interest to the  
10 Premier's Office?

11 A. Yes.

12 Q. And if you turn to tab 191,  
13 Exhibit No. 8279, there is an e-mail -- the second  
14 e-mail on the page, from Mr. Rehman, Ahmed, at the  
15 Ministry of Labour, to you and some of your  
16 colleagues, about the history of the inspection of  
17 Ministry of Labour at the mall site and he sets out  
18 the history and talks about a complaint made in  
19 December.

20 And you respond at 1:57 p.m. asking:

21 "What was the December  
22 complaint? Why was it not on  
23 the list? Are we sure this is  
24 an exhaustive list?"

25 Why were you interested in this

1 information?

2 A. This information, similar to  
3 earlier questions that I had asked of the Ministry  
4 of Labour, I wanted to gather information about the  
5 inspection history of orders and of any other  
6 related information with respect to the -- to the  
7 history of -- potential history of the Ministry of  
8 Labour's involvement with the mall, to gather that  
9 information should it become -- wanted to do so  
10 proactively before -- before it became I guess  
11 needed, or if there was a situation were to arise  
12 where this information would be important to have on  
13 hand, I wanted the Ministry of Labour to have it on  
14 hand.

15 Q. And if you turn to tab 193,  
16 Exhibit No. 8281, at 2:40 p.m. you received  
17 an e-mail from Ms. Fuller in the Cabinet office at  
18 2:40 p.m. on the 25th of June, outlining the  
19 information which the Cabinet office had received  
20 from various ministries within the government on the  
21 provincial services which were impacted. And I take  
22 it that this was a -- the result of your queries of  
23 earlier that day, to make sure that there was firm  
24 information about the situation given Mr. Mantha's  
25 intelligence on the point?

1 A. Yes.

2 Q. Now, did you receive a telephone  
3 call from Ms. Conrad just before -- around 10 to  
4 3:00 in the afternoon on the 25th of June?

5 A. Yes, I did.

6 Q. What did she tell you?

7 A. Ms. Conrad informed me that --  
8 Ms. Conrad informed me that a decision had been made  
9 to call off the rescue, and that rescue operations  
10 would be moving to a new phase, to a recovery phase  
11 and that the building -- I believe that the -- that  
12 the remaining -- the remainder of the building would  
13 subsequently be demolished.

14 Q. And did she tell you why this  
15 had happened?

16 A. I don't recall -- I don't recall  
17 specifically. I think it was a -- to my memory it  
18 was a relatively brief conversation where this  
19 information was shared.

20 Q. And if I could have you turn to  
21 Exhibit No. 9140, at tab 1101 in volume 10, the very  
22 last tab, to the third page, page that ends -002 in  
23 the bottom right-hand corner.

24 Right at the top of the page there's  
25 a note there:

1 "From Hefkey."

2 Can you tell us what those notes  
3 refer to?

4 A. These are notes that I took at  
5 the time of my conversation with Debbie Conrad.

6 Q. And it says in the first bullet:

7 "Closing down the site, load  
8 around escalator."

9 Does that refresh your memory as to  
10 what she told you?

11 A. Yes, it does. She would have  
12 told me that the -- this is the -- a reference to  
13 the load around the escalator and the condition of  
14 the escalator presenting a danger to the First  
15 Responders on the scene.

16 Q. And can you recall what was  
17 meant -- or what -- why you wrote down:

18 "No First Responders"?

19 A. "No First Responders" would be  
20 in connection with the subsequent bullet:

21 "Too dangerous to work,"

22 -- that First Responders could not be  
23 deployed into this area because it was too dangerous  
24 for them to continue working.

25 Q. And if you turn to tab 194, in

1 Volume 2, Exhibit No. 8282, this is an e-mail from  
2 you to Mr. Livingston. Mr. Livingston, again -- to  
3 refresh our memories -- was Mr. McGuinty's Chief of  
4 staff?

5 A. Yes.

6 Q. To Laura Miller, who was the  
7 assistant -- or Deputy Chief of Staff Communications  
8 and to Wendy McCann who was the Communications  
9 Officer?

10 A. Her -- her title was Executive  
11 Director of Communications.

12 Q. And the subject line was:

13 "Urgent: Elliot Lake."

14 And you wrote:

15 "Bad news from emergency  
16 officials. The structure and  
17 debris is too unstable for work  
18 to continue. Emergency  
19 responders are about to be  
20 pulled back, and work will halt  
21 on the site. The mission will  
22 turn from rescue to recovery:  
23 That means attempts to retrieve  
24 anyone trapped in the debris,  
25 including at least one person



1 confirmed to be alive as of this  
2 morning, is stopping. Emergency  
3 officials are trying to track  
4 down the Mayor now. I've asked  
5 our officials to brief me via  
6 conference call as soon as they  
7 are able. Once crews pull back  
8 and work stops, it will become  
9 evident to the public at the  
10 scene that the rescue operation  
11 has been abandoned. They are  
12 going to have to communicate  
13 this, but I'm not clear yet how  
14 they plan to do so, will get  
15 that picture on the conference  
16 call.

17 I will circulate the info  
18 when I have it. Likely to  
19 happen very shortly."

20 What was your reaction to this news?

21 A. I was disappointed with the  
22 development and knew it was a very difficult  
23 decision.

24 Q. And what did you do as a result  
25 of getting this information?

1           A.    Upon receiving the information  
2    from Debbie, from Ms. Conrad, I immediately  
3    requested a briefing with -- with Dan Hefkey, that  
4    a conference call be organized to confirm and to  
5    provide more detail as to Ms. Conrad's news.

6           Q.    And that call took place at  
7    3:15?

8           A.    Approximately, yes.

9           Q.    And who else was on the call?

10          A.    So, I believe that in addition  
11   to myself, Ms. Conrad, and Mr. Hefkey, that members  
12   of the Minister Mayor's Office were on the call, in  
13   addition, believed to communications officials  
14   within the Ministry of Community Safety and  
15   Correctional Services.

16          Q.    If I could take you again, to  
17   Exhibit No. 9140, tab -- the very last tab of  
18   volume 10, to the third page that ends -002, there  
19   is a note there:

20                        "3:20 p.m., Hefkey & OFM."

21                        Are those your notes of this call?

22           A.    Yes they are.

23           Q.    And can you tell us, do they  
24   start at that line, 3:20 p.m.?

25           A.    That is -- that is the beginning

1 of the notes for this call, yes.

2 Q. And where -- where do the notes  
3 of that call end?

4 A. I believe that they end at  
5 "local service folks."

6 Q. At the end of that page?

7 A. It would be the end of "local  
8 service folks" or "investigate work of missing  
9 person."

10 Q. Now, and can if you take us  
11 through your notes, and with the help of the notes,  
12 give us your recollection of what was said on this  
13 call and by whom.

14 A. The call would have opened with  
15 me thanking everyone for being on the call and  
16 immediately asking Mr. Hefkey to provide a --  
17 an update.

18 Mr. Hefkey would have then begun the  
19 notes being "A failure to ..." would be the  
20 beginning Mr. Hefkey's update.

21 Mr. Hefkey expressed that there was a  
22 -- an emotional sense of a failure among rescue  
23 workers that they had a sense of -- sense of sort of  
24 disappointment and a sense that they had let folks  
25 down.

1           He's expressed that there had been so  
2 much hope earlier in the day from signs such as --  
3 such as the tapping. He expressed that -- that the  
4 Mayor, that the Fire Department, or the Fire Chief  
5 and Task Force 3 would now be in the best position  
6 to communicate the -- to communicate the news, and  
7 that he was unclear on what -- on what -- he was  
8 unclear about what time that would take place.

9           I asked -- so what are -- what  
10 exactly are the next steps now that the rescue is no  
11 longer continuing.

12           Mr. Hefkey explained that at this  
13 point the steps that would be taken would be purely  
14 to -- to provide safety for those who are -- you  
15 know, who are on the rubble pile and those working  
16 on the -- on the scene.

17           He described that heavy equipment  
18 would begin to be -- that they would begin to use  
19 heavy equipment in the course of -- in the course of  
20 work at the site, that this work would -- that this  
21 work would bring less of a focus to preserving the  
22 integrity of -- of whatever bodies of victims may be  
23 within the debris.

24           He expressed that to an outside  
25 observer, that they would continue to see people

1 working on the rubble pile, that there wouldn't --  
2 that there wouldn't -- that there would not be a  
3 perceptible change in status.

4 I then asked how many people -- or  
5 how many victims did we believe may be within the  
6 rubble or were believed to be within the rubble.

7 Mr. Hefkey told me between three to  
8 five people.

9 Q. Did you ask him what the views  
10 were of the -- what the views were on the likelihood  
11 of there being anybody still alive?

12 A. I don't remember asking that at  
13 this point.

14 Q. And do you recall him saying  
15 anything about that?

16 A. I don't.

17 Q. Okay. Sorry. Carry on.

18 A. Mention was also -- was then  
19 made of bereavement supports, that there would be  
20 bereavement counsellors would be made available to  
21 the emergency workers, which I understood to be both  
22 the -- the local Elliot Lake Emergency Responders in  
23 addition to the UCRT in addition to Task Force 3, as  
24 needed. That bereavement supports would also be  
25 made available to -- to members of the public, and

1 that these -- that the bereavement counsellors  
2 themselves were local -- a local service  
3 organization and were local to the -- to Elliot Lake  
4 and the region.

5 The subsequent, sort of, next -- next  
6 two bullets, I believe, were also a sense of --  
7 I think that they are kind of in connection with  
8 this in terms of next steps to be -- to be taken,  
9 and who -- what next steps would be undertaken, that  
10 included sort of notification of next of kin.

11 Once -- I guess after bodies have  
12 been identified, the role of the Ontario Fire  
13 Marshal, given that this situation and given the  
14 condition, I suppose, of the area would be a hazard,  
15 and that as a result the Ontario Fire Marshal would  
16 have the ability to investigate. And the final  
17 bullet I believe that I took here was "investigate  
18 work of missing person."

19 Q. And what does that mean?

20 A. Don't -- I don't really know.

21 Q. Did Mr. Hefkey say anything  
22 about the equipment that he expected the team would  
23 use in the next steps?

24 A. Only that -- Mr. Hefkey only  
25 indicated that it would be heavy equipment.

1 Q. Did he say where it would come  
2 from?

3 A. Not that I remember, no.

4 Q. Now, if I could have you turn in  
5 the next volume, Volume 3, to Tab 201 which is  
6 Exhibit No. 6964.

7 And at the bottom of the page, you  
8 can see there is an e-mail from you --

9 MR. DOODY: Sorry. Yeah, if we could  
10 bring it up a little. Thank you.

11 BY MR. DOODY:

12 Q. From you to Ms. Miller and  
13 Ms. McCann at 3:27 p.m. and you simply say in the  
14 subject line:

15 "We need to huddle on  
16 Elliot Lake ASAP please. This  
17 is urgent and is going to  
18 require a statement I believe  
19 from the Premier."

20 Then Ms. Miller responds instantly  
21 saying:

22 "Are you free now?"

23 Ms. McCann responds to that saying:

24 "Yes."

25 And then if we move the page down

1 a little -- you respond:

2 "Am not free, on phone with  
3 Commissioner of Emergency  
4 Management, will be done shortly  
5 and will come over to Whitney."

6 So, this e-mail exchange with  
7 Ms. McCann and Ms. Miller was done while you were on  
8 the phone with Mr. Hefkey?

9 A. Yes.

10 Q. And Ms. Miller responds:

11 "We'll be in 6501. Please  
12 come pull us when needed."

13 So, Whitney refers to the Whitney  
14 Block.

15 A. Yes.

16 Q. And that's a different building  
17 from where your office was?

18 A. Yes.

19 Q. And so what did you do after you  
20 got off the phone with Mr. Hefkey?

21 A. I immediately left my office and  
22 made my way to -- to the Whitney Block, 6501 is a --  
23 is a meeting room, conference room, and I there went  
24 to meet Laura and Wendy.

25 Q. Was anybody else in that



1 meeting?

2 A. I don't recall who.

3 Q. And if I take you back to  
4 Exhibit No. 9140, tab 1101, starting at the bottom  
5 of the page that's on the screen that ends -002,  
6 that is the third page at the tab, there are notes  
7 immediately following your notes of your  
8 conversation with Mr. Hefkey, and they start:

9 "Confirm this is unanimous."

10 Do you recall when you took those  
11 notes?

12 A. I would have taken these -- I  
13 would have taken these notes in the -- a combination  
14 of times. These notes were to gather together  
15 questions that were being put to me for further  
16 information from my colleagues. And so it would  
17 have been in a combination of a conversation that  
18 I would have then had with Ms. Miller and with  
19 Ms. McCann, in addition to e-mails that I was  
20 receiving from others at approximately the same  
21 time.

22 Q. And if you turn over the page,  
23 can you tell us where those notes from those  
24 combinations of sources ends?

25 A. So it's -- it would have ended

1 with below:

2 "How do you know three to five  
3 people's names?"

4 And the dash -- the dash there,  
5 I believe.

6 Q I'm sorry. I've lost that.

7 THE COMMISSIONER: Previous page,  
8 I think.

9 THE WITNESS: On page -3.

10 BY MR. DOODY:

11 Q. Did you look on the next page?

12 Do you know when those notes were taken?

13 A. So those -- the notes taken,  
14 beginning -- I believe, beginning "emotions running  
15 high ..."

16 Q. Sorry, the previous page.

17 MR. DOODY: The page that ends -003  
18 is the one we're looking for Ms. Kuka. Yeah, okay.  
19 Oh, mine are numbered wrong. Turn to the next page,  
20 if you could, Ms. Kuka. Yeah, that's the page the  
21 witness is looking at.

22 BY MR. DOODY:

23 Q. Carry on.

24 A. Sorry, so -- your question was,  
25 where did these -- these come from:

1 "Emotions running high"

2 I believe to:

3 "HUSAR-return to Toronto, will  
4 stay there longer."

5 I believe is from a subsequent  
6 telephone conversation that I had with Mr. Hefkey.

7 Q. All right. So tell us what --  
8 going back to the conversation with Ms. Miller and  
9 Ms. McCann, tell us what took place there.

10 A. Don't clearly remember the --  
11 sort of the words that we used and the -- but the  
12 discussion was around what I had been informed, and  
13 I certainly would have provided the information from  
14 the notes that I had taken with Mr. Hefkey at that  
15 subsequent telephone call. I would have provided  
16 those details to Ms. Miller and to Ms. McCann.

17 Q. And what was their reaction?

18 A. I believe that we were all  
19 reacting very -- very professionally, but we all  
20 shared, I believe too, the sense of disappointment  
21 at this -- at these difficult decisions that -- that  
22 I had expressed earlier.

23 Q. And did anyone have any thoughts  
24 about what to do going forward?

25 A. I believe that there were

1 a number of additional questions that were being --  
2 that were being asked in terms of gathering more  
3 information about -- about this -- this news.

4 Q. And did you gather more  
5 information?

6 A. I did.

7 Q. If you turn over to the  
8 page that ends -004 -- yeah, that's the page that  
9 we're looking at.

10 You said that those notes at the top  
11 of the page that start:

12 "Emotions running high ..."

13 -- were in a subsequent conversation  
14 with Mr. Hefkey, do you recall when that happened?

15 A. I believe that it was  
16 approximately 20 to 5:00 in the afternoon.

17 Q. And can you tell us -- with  
18 those notes to assist -- what you were told?

19 A. Yes. So, I would just -- just  
20 add by way of context, there had been the knowledge  
21 that there was going to be a five o'clock press  
22 conference.

23 I went to Debbie Conrad's office in  
24 order to watch that teleconference. I didn't want  
25 to travel back to my office and miss it. So,

1 Mr. Hefkey, with the additional questions that I had  
2 to ask, we arranged for -- we telephoned Mr. Hefkey.  
3 And so myself, Ms. Conrad and Mr. Hefkey would have  
4 been on the phone, asked a number of these sorts of  
5 questions. It would have been expressed to me, you  
6 know, that emotions are running high right now.

7 Was informed that it was the MOL  
8 engineer who had explained to HUSAR Commander -- the  
9 Commander of Task Force 3, in his -- in the Task  
10 Force 3 Commander's responsibility included rescue  
11 activities that were taking place at the rubble  
12 pile. The explanation was that the situation was  
13 too unstable for a rescue to continue and  
14 a recommendation was then made. Bill decided to  
15 suspend operation is -- as was explained to me is  
16 that Inspector Neadles had made the decision to --  
17 had made the decision to discontinue rescue  
18 operations; that the -- they were unable to -- that  
19 the First Responders and the rescuers were unable to  
20 confirm if anyone was deceased within the -- in the  
21 debris, but that to continue the -- they would not  
22 be able to continue the rescue without -- without  
23 killing that person, if they were still alive, in  
24 the course of attempting that rescue.

25 That the next steps -- we now learned

1 that the next steps would also see the scene, the  
2 Algo Mall scene would be turned over to the control  
3 of the local Elliot Lake Fire Chief.

4 Q. Then on the next page --

5 A. And so the next page --

6 Q. -- not the next page of the  
7 exhibit, but --

8 A. Yeah.

9 Q. -- go to the next page in your  
10 handwritten notes.

11 A. So, then, additional questions  
12 that had been asked -- that had been asked of me,  
13 we're told that the HUSAR leader and by this, the  
14 leader of Task Force 3, that he was the Incident  
15 Commander -- was told that he was the Incident  
16 Commander and that all work -- all rescue work had  
17 been done by him.

18 Q. What did you understand to be  
19 meant by the term "Incident Commander"?

20 A. Well, with the additional  
21 information, it was explained to me that he was in  
22 charge of and responsible for the rescue operations,  
23 the rescue itself.

24 Q. Okay, and then the line that  
25 says:

1 "Yes they will have a united  
2 front" what did you recall that  
3 meant?

4 A. I asked whether the decision  
5 that would be announced would be -- that there would  
6 be a unite the front among those who would be  
7 responsible for the -- responsible for the decision  
8 and those involved in the -- what had been a rescue.  
9 Was told by Mr. Hefkey, well they want to prolong  
10 it, they want to attempt a rescue.

11 Q. Who is "they"?

12 A. So, I don't recall --  
13 I shouldn't say -- I don't remember these word,  
14 I suppose, precisely. I've reported them as such  
15 and so I'm confident that I was told this, at this  
16 time I was receiving -- I want to say rumour,  
17 unconfirmed reports about next steps from various  
18 individuals.

19 At this time I had been informed that  
20 Task Force 3 would be leaving the community, and  
21 returning to Toronto. The reference to "They want  
22 to prolong it" want to attempt a rescue" would have  
23 been with respect to the UCRT team of the OPP.

24 Q. Okay, and did Mr. Hefkey tell  
25 you that or did you get that somewhere else?

1           A.    It would have been -- throughout  
2 this, this information all came, including this,  
3 would have come from Mr. Hefkey.

4           Q.    Okay, and did Mr. Hefkey comment  
5 on that, the fact that HUSAR would be leaving, but  
6 UCRT wanted to attempt a rescue?

7           A.    The only real kind of memory  
8 I would have about this was, I was assured that  
9 the -- I was assured that the news being -- that the  
10 news that they would make that the rescue had been  
11 called off, would be -- that there would be a united  
12 front and that ...

13          Q.    Okay, did you speak with -- that  
14 afternoon or evening -- with Mr. Livingston, the  
15 Premier's Chief of Staff?

16          A.    Yes, I did.

17          Q.    And why did you do that?

18          A.    I wanted to make sure that  
19 Mr. Livingston, as the Premier's Chief of Staff and  
20 senior-most advisor in the Premier's office, had  
21 a chance to ask me any questions and so that we had  
22 an opportunity to describe to Mr. Livingston what,  
23 potentially, our -- the response from the Premier  
24 should be.

25          Q.    And if you turn to tab 206,



1 Exhibit No. 6966 --

2 A. Yes.

3 Q. -- the bottom e-mail which was  
4 sent first, was sent by you at 4:30 p.m. to  
5 Ms. Miller and Ms. McCann, and the subject line is:

6 "Spoke to David

7 Only comment he made was, is  
8 it right for the [Premier] to  
9 issue a [statement] today or  
10 should it be the Minister?

11 I still think it's the [Premier]  
12 on this, if you guys feel  
13 otherwise, he says he'll back up  
14 our call."

15 First of all, the time, 4:30 p.m.,  
16 I take it, given that you said your second  
17 conversation with Mr. Hefkey was about 20 to 5:00 or  
18 so, this was before that?

19 A. Just before that, yes.

20 Q. But you had told Mr. Livingston,  
21 I take it, that the rescue had been turned into  
22 a recovery?

23 A. I had, yes.

24 Q. And Ms. McCann was of the view  
25 that the Premier should issue a statement; right?

1           A.     That's right.  In the  
2 conversation -- so, in the conversation with Laura  
3 and with Wendy, we had -- we did discuss whether Mr.  
4 -- whether Premier McGuinty should be making  
5 a statement following the news of -- the news that  
6 we believed and had been told would be announced,  
7 that two people had died in the -- at 5 o'clock and  
8 that rescue efforts were not going to proceed.

9           Q.     And if you turn to tab 232 which  
10 is Exhibit No. 6976, at the third page, the  
11 page that ends -1345 in the bottom right-hand  
12 corner, you can see there is an e-mail there from  
13 Johnathan Leigh, whose title appears to be,  
14 Assistant Director Communications Operations,  
15 Cabinet Office to Ms. McCann and to an individual by  
16 the name of Lloyd Rang.

17                     Do you know what position Mr. Rang  
18 occupied at that time?

19           A.     Lloyd -- I don't recall --  
20 I don't remember what his title was, whether it was  
21 the principal speechwriter, writer and responsible  
22 for sort of all kind of written materials, speeches  
23 and things of that nature, for the Premier.

24           Q.     So, Mr. Leigh was writing to Ms.  
25 McCann and Mr. Rang, saying.

1                    "We're hearing rumblings of  
2                    another statement - apparently  
3                    authorities have determined no  
4                    further victims will be brought  
5                    out alive."

6                    And this is at 3:42 p.m. and he says:

7                    "I believe O'Leary is getting  
8                    in touch with Laura and Wendy so  
9                    we await instructions on how we  
10                    handle this."

11                    And at 352 Ms. McCann responded to  
12                    him saying:

13                    "Yes. Will be in touch after  
14                    meeting."

15                    And Mr. Leigh responded immediately  
16                    saying:

17                    "I will start writing."

18                    Now, I understand that you were not  
19                    part of that exchange. Did you learn that that  
20                    there was a press release being drafted?

21                    A. Yes, we did.

22                    Q. And had a decision been made to  
23                    issue a press release at the time the drafting  
24                    began?

25                    A. A decision had been made to

1 prepare, to prepare a statement from the Premier  
2 that would react to this.

3 Q. Right.

4 A. Authorization to issue any such  
5 statement had not been granted.

6 Q. And did you watch the 5:00 p.m.  
7 press conference?

8 A. Yes, I did.

9 Q. And if you go to tab 214,  
10 Exhibit No. 8297. The second e-mail is from you to  
11 your colleagues in the Premier's office at  
12 5:29 p.m., and it is essentially a summary of the --  
13 or purports, perhaps, to be a transcript of the  
14 press conference; correct?

15 A. It is. I tried to take it as  
16 close to verbatim notes as possible, yes.

17 Q. And so you sent that around at  
18 5:29 p.m., and Ms. McCann responded at 5:30 saying:

19 "What I heard was that the guy  
20 who was alive at noon might  
21 still be alive, but they're  
22 going to tear down the building  
23 anyway."

24 Did you speak to her about what she  
25 was expressing there?

1           A.    I didn't telephone her.  I don't  
2 think that I did follow up with her on that.

3           Q.    If you turn to tab 221, Exhibit  
4 No. 8302.  This is an e-mail from Ms. McCann to  
5 a group of you and your colleagues at the Premier's  
6 office at 5:51 p.m., and she writes:

7                    "This from CBC ... pegging the  
8                    destroying of the building on  
9                    the MOL."

10           And she then pastes in something from  
11 the CBC which says:

12                    "1) At the Elliot Lake mall  
13                    collapse, rescue teams say  
14                    engineers have told them the  
15                    building is still too unable to  
16                    enter.  The Ministry of Labour  
17                    will order the owner of the  
18                    building to destroy damaged  
19                    areas where two bodies are  
20                    located."

21           You've told us that in your previous  
22 notes of your conversation with Mr. Hefkey, that  
23 you'd been told that the mall would be turned over  
24 to the Elliot Lake Fire Department, and this  
25 indicates that the CBC was reporting that the MOL

1 would tell the owner to destroy the building where  
2 the bodies were located. Was that the first you'd  
3 heard of that possibility?

4 A. So, I believe that Inspector  
5 Neadles, during the press conference, may have made  
6 reference to both of these, that I think that he had  
7 said that the mall would be -- that the site would  
8 be ... would revert to the Fire Chief and  
9 subsequently there would be -- various orders would  
10 be issued by the Ministry of Labour that would  
11 result in the mall being demolished.

12 Q. You are quite right. And  
13 I stand corrected. If you go back to tab 214 at  
14 Exhibit No. 8297 you can see that in your e-mail  
15 summarizing the press conference about  
16 three-quarters of the way down, it notes that Mr.  
17 Neadles says:

18 "I had to make that decision.  
19 Having done that, it turns the  
20 facility over to authorities.  
21 MOL becomes actively involved.  
22 They issue an order, for owner  
23 to hire an engineer firm to  
24 destroy the area, knowing 2  
25 bodies are in the area. Dealing

1 with integrity removal of  
2 deceased would be in plan."

3 And that's what Ms. McCann quotes the  
4 CBC as having picked up on; right?

5 A. Yes.

6 Q. And then if you turn to tab 222  
7 at Exhibit No. 8303, you then at 5:51 p.m. send an  
8 e-mail to Mr. Kaderdina and Mr. Killorn, with the  
9 Ministry of Labour, in the Minister's office, with  
10 a copy to the Mr. Chanzy in the Ministry of  
11 Community Safety and Correctional Services office  
12 saying:

13 "Fahim, please speak with  
14 Thomas, and have your DMO speak  
15 with CSCS-DMO ..."

16 DMO is?

17 A. Deputy Minister's Office.

18 Q. (Reading):

19 "... to coordinate the next  
20 steps. Media is going to start  
21 notify you on the next steps in  
22 the recovery work. Will need  
23 ASAP pls key msgs on what MOL  
24 will be doing this at this at  
25 this point. This is very urgent

1                   pls."

2                   Why were you expressing urgency about  
3 this?

4                   A.     The news that the Ministry of  
5 Labour would be issuing various orders, as the next  
6 phase, as the recovery phase began, I anticipated  
7 that there would be subsequent media questions to  
8 the Ministry of Labour to ask for further details in  
9 terms of their level of involvement, and I asked  
10 these two offices to work very closely together  
11 to -- so that we would all understand precisely the  
12 role and precisely the steps that the Ministry of  
13 Labour would now be undertaking.

14                  Q.     And if you turn to tab 226,  
15 which is Exhibit No. 8307, there is an e-mail there  
16 from Mr. Tom Zach at the Ministry of Labour. Do you  
17 know what position Mr. Zach occupied at the time?

18                  A.     At that time, I don't think  
19 I knew what his position was.

20                  Q.     In any event, he sent an e-mail  
21 to you and Ms. Conrad at 5:58 p.m. saying:

22                             "No such order was issued by  
23 MOL according to our Operations  
24 area. Standby for further  
25 info ..."



1 I take it that he's referring to the  
2 order which Mr. Neadles had spoken of in the press  
3 conference? At least that's what you understood.

4 A. Yes.

5 Q. And turning to tab 231, Exhibit  
6 No. 8312. I should have taken you to this and  
7 avoided the last one because it's included in it,  
8 but reading up from the bottom of the page after Mr.  
9 Zach sent you the e-mail at 5:58 saying:

10 "No such order was issued by  
11 MOL."

12 You responded at 6:00 p.m. saying:

13 "Not issued yet, but is a next  
14 step not mol issuing an order?

15 You are only now taking on

16 an active role on the scene."

17 What did you mean by that?

18 A. By?

19 Q. By "MOL is only now taking on  
20 an active role"?

21 A. Prior to this and during the,  
22 sort of, rescue phase of the operation, my

23 understanding was that the Ministry of Labour was

24 providing assistance to emergency responders on

25 an as-needed basis, according to the information

1 that Inspector Neadles had provided at his  
2 previous -- at the media availability, the Ministry  
3 of Labour was now taking on a more active role in  
4 terms of various orders that would now be issued by  
5 the Ministry.

6 Q. Okay, and Zach responded at 6:03  
7 saying:

8 "They are currently exploring  
9 options but have not issued  
10 an order such as the one  
11 suggested in the media. I am  
12 waiting for further details.  
13 Stand by."

14 And at 6:21 he sent an e-mail saying:

15 "The only information that has  
16 been conveyed to me is that MOL  
17 will be working with the City  
18 and the Coroner re: Next steps.  
19 No orders have been laid. They  
20 are meeting tonight at 8 pm."

21 What was the involvement of the  
22 coroner, to your understanding, in respect to the  
23 situation?

24 A. I had previously been informed  
25 that a coroner was on standby, if and when -- at the

1 time, if and when any victims' remains had been  
2 located, and that they would move into their  
3 custody, I suppose.

4 Q. I understand there will be  
5 evidence led about issues raised on the evening of  
6 June 25th, about which, if any, provincial agency  
7 would have the authority to deal with the situation  
8 of a deceased or potentially a live person still  
9 being in the rubble, and what agency had the  
10 authority to deal with that.

11 Were you aware of that discussion?

12 A. No.

13 Q. If you turn to tab 233, Exhibit  
14 No. 8313, going down to the third e-mail from the  
15 top, Mr. Chanzy sent an e-mail to you, Mr. Kaderdina  
16 and Mr. Killorn saying:

17 "Yes, I would need msg on next  
18 steps before I call the local  
19 MPP this evening as I was  
20 planning to do."

21 And then at 6:19 p.m. Mr. Kaderdina  
22 sent an e-mail to Mr. Chanzy and you, saying:

23 "FYI - no orders have been  
24 issued yet, so not sure where  
25 CBC is getting their info that

1 MOL is saying building has to be  
2 demolished."

3 And then in the top e-mail at  
4 6:34 p.m. you sent an e-mail to Mr. Kaderdina, Mr.  
5 Chanzy and Mr. Killorn with a copy to Ms. McCann  
6 saying:

7 "So this is what we need MOL  
8 to clarify asap in terms of what  
9 next steps are going to be. No  
10 order has been issued, yet.  
11 Will you be issuing an order?  
12 Is that the process now? What  
13 is the process? Have you taken  
14 over the scene, has your  
15 investigation begun etc. How  
16 are we going to be sharing info  
17 w the public abt what role,  
18 a stmt in the morning? The  
19 emergency responders today told  
20 the media that the decision to  
21 suspend the rescue, even with  
22 the chance that someone was  
23 alive buried in the rubble, was  
24 made based on MOL advice, and  
25 that next steps involve MOL

1 taking over an investigation,  
2 issuing an order to the owner,  
3 to hire a firm and submit a plan  
4 to MOL for approval to clean up  
5 the site, including removing  
6 debris and demolishing any part  
7 of the building that may need to  
8 be demolished. Fahim, can we  
9 jump on a quick call w you to  
10 discuss further asap?"

11 So, I take it from that that you were  
12 still trying to sort this out.

13 A. Yes.

14 Q. And did you speak to Mr.  
15 Kaderdina?

16 A. I did.

17 Q. And what did he tell you?

18 A. I think we had a conversation  
19 that was very similar to this exchange, in terms of  
20 so Mr. Kaderdina asking, you know, What is the  
21 information that you need? What is the -- what are  
22 leading to these kind of questions? And he  
23 reiterated that officials in the Ministry of Labour  
24 had informed him that no orders -- that no orders  
25 had been issued and in the absence of -- in the

1 absence of orders and with reports that orders were  
2 going to be issued, asking me to kind of clarify --  
3 clarify the position.

4 Q. If I could turn to the subject  
5 of the press release, if I could take you back to  
6 tab 232 at Exhibit No. 6976, and the second page,  
7 second e-mail from the top at 5:30 p.m. on the  
8 25th of June, after the press conference, Mr. Leigh,  
9 from the Cabinet Office e-mailed Ms. McCann, Mr.  
10 Rang, and Mr. McLaughlin -- sorry, David McLaughlin  
11 from the Premier's office, I don't think we've heard  
12 that name. What was his role?

13 A. Mr. McLaughlin was also  
14 a speechwriter for Premier McGuinty.

15 Q. And Mr. Leigh wrote:

16 "Watched it."

17 Referring to the press conference.

18 "Not sure I heard enough to  
19 release the statement we've got.

20 Thoughts?"

21 And then moving up, and this is  
22 an e-mail from Ms. McCann to Mr. Leigh and the  
23 others, but not you, and Ms. McCann wrote at 5:35:

24 "You did. He said they are  
25 moving from rescue to recovery

1 and that there are one dead, two  
2 more unaccounted for and maybe  
3 one of this group is still  
4 alive. As well, confusion as to  
5 who is considered missing.

6 I think the statement stands.

7 Lloyd?"

8 Turning over to the previous page,  
9 Mr. Rang responds in answer to Ms. McCann's query:

10 "If that is what he said, send  
11 it."

12 Then Mr. Rang sent another e-mail,  
13 about half an hour later at 6:23 p.m. saying:

14 "Let me know when it's teed up  
15 to go with translation, etc.  
16 Don't push the button just yet  
17 though. Want to talk to Wendy  
18 first."

19 To which Mr. Leigh responds at  
20 6:25 p.m.:

21 "We are standing by."

22 And in Mr. Lloyd's e-mail of  
23 6:25 p.m. he includes you on the list of recipients.

24 So this is the first time in this  
25 e-mail chain, that you are getting that -- you are

1 getting involved; right?

2 A. Yes.

3 Q. And the next e-mail, five  
4 minutes later at 6:30 p.m. is from Ms. McCann to  
5 everyone, including you saying:

6 "We aren't going to issue that  
7 statement. And it's unlikely  
8 we'll want a different one  
9 tonight. Thanks."

10 Can you explain to us what caused the  
11 decision to not issue the statement to be made, that  
12 Ms. McCann refers to?

13 A. I can't.

14 Q. And then Mr. Leigh responds:

15 "Standing down."

16 Now, in terms of the statement, if  
17 I could have Exhibit No. 9648. And this should be  
18 stapled, Mr. O'Leary, at tab 288 of your brief. Now  
19 this is -- this is a document that's -- that says at  
20 the top:

21 "Draft 01. Elliot Lake  
22 statement - evening 06 25 12.  
23 Written by Johnathan Leigh."

24 And it starts off by saying:

25 "This evening Premier Dalton



1                   McGuinty released the following  
2                   statement:

3                   'Like all Ontarians, I was  
4                   saddened to learn that efforts  
5                   in Elliot Lake have moved from  
6                   rescue to recovery.

7                   This news comes as a terrible  
8                   blow to the people of  
9                   Elliot Lake, and especially to  
10                  those who have yet to learn of  
11                  friends and family still  
12                  missing. Our thoughts and  
13                  prayers go out to them and we  
14                  will continue to stand by as we  
15                  await final word on the  
16                  victims.' "

17                  Is this a draft that Mr. Leigh was  
18                  working on that's referred to in the previous  
19                  emails?

20                  A.     Yes.

21                  Q.     Did the Premier ever see this?

22                  A.     I don't believe he did, no.

23                  Q.     I think you've told us this  
24                  already, can you tell us why it was not sent?

25                  A.     Why it was not issued?

1 Q. Yes. Not issued. Correct?

2 A. Because the Premier had not  
3 approved it.

4 Q. And if we turn to tab 234 --

5 THE COMMISSIONER: Are you saying  
6 that the Premier -- he hadn't disapproved of it; he  
7 simply hadn't approved it?

8 THE WITNESS: So, your Honour, I'd  
9 say that Premier McGuinty, prior to statements being  
10 released in his name, one of the sort of --  
11 certainly before that would happen, the Premier  
12 would review it, and -- or would sign off on it, so  
13 it never reached him for approval and ...

14 THE COMMISSIONER: Never reached him,  
15 so it's not a question of his having disapproved of  
16 it; it is simply that he hadn't seen it?

17 THE WITNESS: Right.

18 THE COMMISSIONER: I'm with you.

19 BY MR. DOODY:

20 Q. And that e-mail chain that we  
21 looked at a second ago where Ms. McCann says that  
22 statement:

23 "No statement will be released  
24 tonight."

25 And Mr. Leigh responded by saying:

1 "Okay, I'm standing down."

2 I take it he never -- this was not  
3 revisited. I was going to say he didn't stand up,  
4 but that wasn't quite the right thing to say. Was  
5 this --

6 A. That would have concluded --  
7 that would have concluded the approval process for  
8 that statement.

9 Q. Thank you. Now, if we could  
10 have you turn to tab 234, which is Exhibit No. 6977.  
11 This is a release -- I see you've printed it --  
12 I was going to ask you if you've got it. Obviously  
13 you've got it.

14 It is a release from the Provincial  
15 Emergency Operations Centre which was sent to you at  
16 6:36 p.m. on the 25th of June. And it indicates  
17 that it's information current as of 1600 hours or  
18 4:00 p.m.

19 And this is a situation report, and  
20 the new information which is bolded in the fourth --  
21 fifth bullet, it says:

22 "One person is confirmed to  
23 have died in the collapse. This  
24 person has not yet been  
25 identified.

1                   - As of 1500hrs ... operators  
2                   with the HUSAR team have  
3                   determined that the mall  
4                   structure is too unable for  
5                   responders to safely continue  
6                   with rescue operations. As  
7                   a result, rescue operations will  
8                   immediately transition to  
9                   recovery and demolition  
10                  operations.

11                 - The PEOC has deployed an EMO  
12                 Field Officer to Elliot Lake to  
13                 provide advice, assistance and  
14                 liaison to the community.

15                 - The Ontario Commission of  
16                 Community Safety, Dan Hefkey, is  
17                 expected to visit Elliot Lake  
18                 tomorrow ..."

19                 So this then was the official  
20                 notification within the Ontario government of the  
21                 decision to transition to recovery and demolition;  
22                 correct?

23                         A.     Yes.

24                         THE COMMISSIONER:   Sorry, what is the  
25                         time of that SITREP?

1                   Come down a bit Ms. Kuka, please.  
2                   That's at 6:36 p.m.

3                   MR. DOODY: It is sent out at 6:36  
4                   and it says the information is current as of  
5                   1600 hours.

6                   THE COMMISSIONER: 4 o'clock in the  
7                   afternoon. Thank you.

8                   BY MR. DOODY:

9                   Q. If I could have you turn to  
10                  tab 240, sir, which is Exhibit No. 8318. You sent  
11                  an e-mail, looking at the first e-mail -- sorry, the  
12                  second e-mail on the page, the first in time, you  
13                  sent an e-mail to Ms. Conrad at 6:47 p.m. on the  
14                  25th saying:

15                         "Who is in command of the  
16                         scene right now? The local fire  
17                         chief?"

18                         And Ms. Conrad responded that she  
19                         thought it was the Fire Chief, but she would check.

20                         Why were you looking for that  
21                         information?

22                         A. I believe that I had been asked  
23                         who was responsible at that point in time. Given  
24                         the transition to a recovery, who was responsible  
25                         for the scene.

1 Q. And if I could have you go back  
2 to tab 212, which is Exhibit No. 8296. Turn to the  
3 second page. Is that the second page? So the  
4 second e-mail from the top on the second  
5 page from -- lower it, please. Lower. That's it,  
6 from Bradley Hammond.

7 Have you told us -- at the Premier's  
8 office, have you told us what Mr. Hammond did?

9 A. Mr. Hammond's title was  
10 Associate Press Secretary.

11 Q. All right. And he sent this  
12 e-mail on the 25th of June at 6:57 p.m. to you and  
13 a number of your colleagues at the Premier's office.  
14 And the "re" line was:

15 "Elliot Lake: stmt by HUSAR  
16 Commander and transcript of  
17 press conf."

18 And he wrote:

19 "The line in the story about  
20 wanting mining rescue staff to  
21 participate seems to have stuck.  
22 CBC just phoned asking for  
23 comment - wants to know if the  
24 Premier thinks rescue is being  
25 called off too soon. She

1 specifically referenced 9/11 and  
2 people being pulled from that  
3 well after the incident.

4 On Twitter I've had people  
5 reach out and ask if a mining  
6 rescue team could be deployed -  
7 that they're experts and could  
8 find people. Any word on when  
9 we'll have a statement? I worry  
10 we're going to wear a decision  
11 made by experts."

12 And that's responded to by Ms. McCann  
13 at 7:08 p.m. and she responds, as you can see from  
14 the top of the page:

15 "No statement tonight from the  
16 Premier. But MOL is working on  
17 one that will outline the steps  
18 that resulted in the decision  
19 and next steps. Aiming to have  
20 it tonight, but can't commit to  
21 that."

22 And then turning over to the first  
23 page, Ms. Miller replies to Ms. McCann's e-mail at  
24 7:11 p.m. and says:

25 "I'm wondering about him

1 saying tonight that he is asking  
2 HUSAR to stay on site and for  
3 more experts to get on site and  
4 determine if there is another  
5 way."

6 And then you responded at 7:21 p.m.  
7 saying:

8 "Maybe a call w the provincial  
9 emerg mgmt commish and the HUSAR  
10 chief to walk him through this  
11 and discuss possible options?"

12 Who were you suggesting speak to the  
13 Provincial Emergency Management Commissioner? That  
14 would be Mr. Hefkey, right?

15 A. Yes.

16 Q. And the HUSAR Chief. Who were  
17 you suggesting speak to those two people?

18 A. Premier McGuinty.

19 Q. And why were you making that  
20 suggestion?

21 A. I believe if we wanted to -- in  
22 response to Laura's e-mail, him being the Premier  
23 saying tonight that he is asking HUSAR to stay  
24 and -- stay on site for more experts, et cetera --  
25 that if that was a direction -- if that was the



1 direction to take, that -- and to particularly ask  
2 HUSAR to stay on site, that a call with -- that  
3 a call should be arranged with Commissioner Hefkey  
4 considering the provincial assets that had been  
5 deployed to Elliot Lake, and considering -- and, as  
6 well, to include Inspector Neadles, given that he  
7 was the, you know, Commander of Task Force 3 and the  
8 person responsible -- responsible for making the  
9 decision to move to a recovery, that it would be  
10 appropriate for the Premier to first speak with the  
11 both of them, and hear the facts first-hand, and  
12 hear it for himself.

13 Q. Why were you suggesting that the  
14 Premier speak to them about what Ms. Miller is  
15 suggesting having HUSAR stay on site and get more  
16 experts involved, if Mr. Neadles had already made  
17 the decision?

18 A. I think that -- I think it's  
19 fair to say that while -- I think it's fair to say  
20 that we -- members of the Premier's office were  
21 having a very -- at the same time, the people of  
22 Elliot Lake were having a reaction about is there  
23 anything else that could be done, we were at the  
24 same time having a very similar reaction ourselves.

25 Q. And what can you tell us about

1 that? Did you have conversations, other than what  
2 we see in the e-mails?

3 A. I think that -- I think that  
4 really, from the moment that we had learned about  
5 this, we had tried to gather more information about  
6 what was happening, pursue what officials had  
7 indicated would be next steps to gather more  
8 information. As I said previously, we were all  
9 disappointed with the difficult decision that had  
10 been made, and that -- and we were having a very  
11 similar reaction to the people of Elliot Lake.

12 Q. So Ms. McCann responded to your  
13 suggestion at 7:23 p.m. saying:

14 "It would be good have p look  
15 engaged and even better for him  
16 to be giving faint hope, at  
17 least until the bad news sinks  
18 in."

19 To which Ms. Miller responded  
20 immediately:

21 "I didn't want to give false  
22 hope. But I also didn't want to  
23 give up hope."

24 To which -- if we could have that  
25 brought down, please, to which Ms. McCann responded

1 immediately:

2 "We had to be absolutely sure  
3 there was nothing more we could  
4 do."

5 What did you understand they were  
6 suggesting in those last few e-mails?

7 A. I think that they were --  
8 I think it's probably safest to ask them. I mean  
9 I really don't ...

10 Q. What did you take them to be  
11 talking about?

12 A. I took them to be reactions  
13 following my response to Laura's e-mail.

14 Q. Did you then speak with the  
15 Premier?

16 A. I did, yes.

17 Q. And when did you speak with the  
18 Premier?

19 A. I believe that a conference call  
20 was organized for approximately 7:30 p.m.

21 Q. And if we go back to Exhibit No.  
22 9140, tab 1101, and go to the page that ends -004,  
23 did you make notes of that call at 7:30 p.m. with  
24 the Premier?

25 A. Yes.

1 Q. Who else was on the call?

2 A. So, I note -- I know that  
3 Ms. Miller was on the phone call.

4 Q. Uh-hmm.

5 A. Mr. -- sorry, Ms. McCann, Mr.  
6 Brodhead, I believe, and I believe Mr. Livingston,  
7 as well, and it would have been organized by Ms.  
8 Sobers. I may be leaving someone out, but I believe  
9 in the materials there was a meeting invitation that  
10 had been sent out prior to 7:30 that would have  
11 included the invite list.

12 Q. And where on the page are your  
13 notes of this call?

14 A. I believe that it is to Rick,  
15 Orazietti, and it would conclude at the end of that  
16 page.

17 Q. So where it says:

18 "Have no reason to doubt  
19 experts, but need to bring in  
20 our side expertise."

21 A. Correct.

22 THE COMMISSIONER: Where is the  
23 Premier at this point?

24 THE WITNESS: I don't know where he  
25 physically was, your Honour.

1 BY MR. DOODY:

2 Q. And where -- was everyone on  
3 a phone or were some of you in a room together?

4 A. I can only speak for myself.

5 Q. Okay.

6 A. I believe I was in a room with  
7 Wendy McCann.

8 Q. So tell us, with reference to  
9 your notes, what you recall about that phone  
10 conversation.

11 A. I believe that the phone  
12 conversation opened with a -- with myself providing  
13 a high-level overview of what it was that we had  
14 learned to date, and what we believed the next steps  
15 would be.

16 I believe that someone asked  
17 a question as to whether or not Rick and Orazietti,  
18 which is a reference to Rick Bartolucci and David  
19 Orazietti.

20 Q. And what positions did they hold  
21 at the time?

22 A. They are both Members of  
23 Provincial Parliament.

24 Q. They were not in the Cabinet at  
25 that time?

1           A.    Minister Bartolucci was in the  
2 Cabinet at the time. I believe he was the Minister  
3 of Northern Development and Mines.

4           Q.    Okay.

5           A.    And a question as to -- I think  
6 they were asked, and I've written here, "Connect  
7 with them on next steps." My notes then read:

8                   "- MOL does not have control  
9 of the scene.

10                   - trying to get scene turned over.

11                   - If now, when invest ..."

12                   Which I believe is short form when  
13 investigation happens:

14                   "... can be an issue  
15 w/complying."

16           Q.    And who's making those comments?  
17 Is that you talking?

18           A.    I don't really -- I don't  
19 remember.

20           Q.    And then the next line:

21                   "MOL - 'best in the country'"

22                   Do you recall what that was about?

23           A.    These are questions that the --  
24 this would be the Premier speaking.

25           Q.    Uh-hmm.

1 A. Premier would have asked:

2 "So is ..."

3 Who is the best at this? Who was it  
4 that helped -- that responded in the wake of  
5 September 11th?

6 He asked, again, so, what does happen  
7 next. He then asked to us all:

8 "Do we owe it to the ppl in  
9 the community to take another  
10 look @ this?"

11 It's a -- yes, it's a demonstration  
12 of respect to them. We have no reason to doubt the  
13 experts -- it should read "experts", you know, but  
14 we need to bring in -- we need to bring in outside  
15 expertise.

16 Q. Outside expertise?

17 A. Yes.

18 Q. Okay. And how did that meeting  
19 conclude, that telephone call conclude?

20 A. That meeting -- that telephone  
21 call came to a stop when Premier McGuinty -- Premier  
22 McGuinty asked for a teleconference with,  
23 a teleconference with emergency responders,  
24 including, you know, with Dan Hefkey and with  
25 Inspector Neadles to take place that evening.

1 Q. And if you turn to Volume 3,  
2 tab 251 which is Exhibit No. 8324. There is  
3 a note -- an e-mail from you to Ms. Conrad and  
4 Mr. Hefkey at 8:04 p.m., with the "re" line of  
5 "Urgent 830 call" in which you say you'd like to  
6 change the call at 8:30 and cancel what you have now  
7 and re-purpose for a briefing for the Premier.

8 And you wrote:

9 "Premier would like to get on  
10 a call w you Dan and with the  
11 HUSAR incident commander to  
12 receive a briefing on today's  
13 developments and next steps.  
14 Would like this to go fwd at  
15 8:30."

16 And Mr. Hefkey had not been on the  
17 call at 7:30; correct?

18 A. Correct.

19 Q. So, I take it this would have  
20 been done shortly after the call with the Premier  
21 ended?

22 A. That's correct.

23 Q. And that call was arranged?

24 A. Pardon me?

25 Q. The call the Premier had asked



1 for, was arranged?

2 A. Yes.

3 Q. And if we turn to Exhibit No.  
4 9140, tab 1101, and if we go to the page that ends  
5 -004, is this the beginning of the notes that you  
6 made of that phone call?

7 A. Yes.

8 Q. I'm going to take you through  
9 it, but can you flip through the pages and tell us  
10 when the notes of that call ended?

11 A. It would conclude with:

12 "We need to get off phone &  
13 develop a plan."

14 Q. So that's just so that we can  
15 see that on the screens.

16 If you go to the page that ends -006,  
17 Ms. Kuka, and there is a solid line drawn across the  
18 page underneath those words:

19 "We need to get off the phone  
20 & develop a plan,"  
21 Right?

22 A. Yes.

23 Q. So that's where the notes of  
24 that call ended, and they start back on page -004.

25 Could you take us through those notes

1 and tell us what you recall was said at that  
2 meeting? First of all, the attendees.

3 Mr. Neadles was there --

4 A. Yes.

5 Q. -- on the phone. Mr. Hefkey was  
6 on the phone?

7 A. Yes.

8 Q. David Livingston, who was the  
9 Premier's Chief of Staff.

10 A. Yes.

11 Q. Ms. Miller.

12 A. Yes.

13 Q. Peter Wallace, who was the  
14 Secretary to the Cabinet?

15 A. Yes.

16 Q. And Mr. Livingston, who was the  
17 Deputy Minister of Community Safety; correct?

18 A. Correct.

19 Q. So this was a call, which had as  
20 attendees not only the Premier and his Chief of  
21 Staff, but also the Secretary to the Cabinet.

22 I take it -- well let me ask you: How  
23 common would it be for you to have taken part in  
24 a conference call with those three individuals?

25 A. It would have been unusual,

1 particularly at 8:30 at night.

2 Q. And can you tell us then -- take  
3 us through your notes and explain to us what you  
4 recall of the conversation.

5 A. Sir, I would only add that in  
6 addition to the folks there, I was on the call --

7 Q. Yes.

8 A. -- as was Debbie Conrad, as was  
9 Stene Hume (phon.) who was serving as the Chief of  
10 Staff to the Secretary of the Cabinet.

11 Q. Oh, okay.

12 A. The call opened with -- the call  
13 opened shortly after, I think 8:30 once all the  
14 other attendees had -- or the other folks had signed  
15 on to the call. There were brief -- I don't recall  
16 who it was. It may have been Mr. Davidson saying,  
17 you know, thank you very much, you know, Bill and  
18 Dan for getting on the call here.

19 We're looking to you to explain the  
20 decision to call off the search, you know, we  
21 understand it was a -- can you go from there?

22 Q. And if you go over the next  
23 page on the screen, please. Thank you.

24 A. And so Commissioner Hefkey and  
25 Inspector Neadles then began to provide the

1 information to those on the conference call, to the  
2 Premier, that was consistent with what had been made  
3 public at the earlier press conference.

4 The only note that I indicated here,  
5 from that kind of synopsis was "only viable  
6 alternative" which I made that note and not others  
7 because the -- I was well familiar with the  
8 information and didn't need to record that, although  
9 "only viable alternative" to me was a sort of new  
10 turn of phrase that had been used.

11 Q. And that came from who?

12 A. I don't recall. I don't  
13 remember now.

14 The Premier asked, "Is someone  
15 alive?" And was, I believe it was Inspector Neadles  
16 said "There is a remote chance, yes."

17 He explained that the OPP had a new  
18 piece of equipment that could be used to penetrate  
19 concrete to determine if someone below was  
20 breathing.

21 Q. Did he give any indication as to  
22 the reliability or otherwise of that, of how  
23 reliable that piece of equipment was?

24 A. No.

25 Q. Okay.

1 A. So it was by a crane.

2 Q. "XXX" means your handwritten  
3 notes were indecipherable?

4 A. The author of those notes, you  
5 know, wasn't able to read their writing.

6 The detection device on this piece of  
7 equipment indicated there was a faint heartbeat.  
8 A person called out and there was a -- the person  
9 who was trapped was reported to have tapped back  
10 twice.

11 Q. Sorry, I should have asked: Who  
12 is providing the information in these bullets?

13 A. This is Inspector Neadles.

14 Q. Thank you.

15 A. Canine search dogs were then  
16 sent into the debris. The day before the hits had  
17 been distinctive, but they were less distinctive  
18 that day, that the advice being received from  
19 medical doctors were that once three large pieces of  
20 concrete were removed, the person below could die --  
21 would die or could die right away, that he explained  
22 that the body goes into shock, and sudden shock and  
23 the person passes away.

24 Q. Do you recall whether he  
25 indicated the likelihood or probability of that

1 occurring?

2 A. I don't -- I don't remember now.

3 Q. Okay.

4 A. But had not solid info past that  
5 timeframe. They did not have any information beyond  
6 that as to whether or not someone was alive.

7 Q. Okay.

8 A. The Premier then asked: Can we  
9 go in? Is there any way you can go in?

10 Mr. Neadles said "No, sir."

11 Mr. Neadles indicated that he had  
12 sought advice from the Ministry of Labour -- from  
13 engineers with the Ministry of Labour and with Task  
14 Force 3. He explained that when the roof collapsed,  
15 they had removed a large beam, that the beam was  
16 close to where the two individual -- two individuals  
17 identified were, that a very large piece of concrete  
18 had fallen at this time and pressure had been  
19 applied down and out, that stresses were more than  
20 100 per cent over the limit, and that the -- was  
21 advised that the mall could really collapse at any  
22 time. If the mall did collapse, it would take  
23 everything for two and three floors down, and that  
24 Inspector Neadles would not put anyone into that  
25 situation.

1 The Premier then asked:

2 "So is anyone better at this?"

3 Inspector Neadles then answered that  
4 the people here -- meaning people in the community  
5 you know, believed that miners may be able to get  
6 the victims out and he indicated a mine is a mine;  
7 a building is a building. They are completely  
8 different things. You know, do you tear down the  
9 building?

10 He said we can't just tear it down;  
11 it could cause another collapse, so no-one else  
12 was -- or pardon me, could they -- meaning the mine  
13 rescue, could they tear the building down, no, no,  
14 they couldn't, it could cause another collapse. So,  
15 no, no-one else was better at this than Task Force  
16 3.

17 The Premier then asked: so could you  
18 actively dismantle the building, so if you actively  
19 dismantle the building then the worst sort of thing  
20 is that it comes down? And Inspector Neadles then  
21 answered: well, we could do so, we could dismantle  
22 the building if we had a proper demolition team,  
23 that they had done so in the past to recover bodies,  
24 that it was -- he described it as "easy". But if  
25 the person is alive and something falls then that

1 person would be dead when it falls.

2 I think Inspector Neadles -- I think  
3 it was Inspector Neadles that indicated that the  
4 Mayor was prepared to -- he kind of wants to explore  
5 options around how that would happen and expressed  
6 that Task Force 3 would be willing to stay.

7 Mr. Livingston then asked: so what  
8 about the military or the Federal Government? Is  
9 there anything that the Canadian government or the  
10 Canadian military could bring to bear?

11 My next note is that the Premier then  
12 said: we all sense, Bill, that you are trying your  
13 best -- and I would just add, again, this is  
14 an attempt for me to take notes as close to verbatim  
15 as possible.

16 Q. Could we just have the  
17 page turned. Thank you.

18 A. The Premier said: if there is  
19 anything we can do, even if there is a low chance,  
20 we are trying to save this person. As it stands  
21 now, the options on the table will definitely result  
22 in death. If there is a chance that they are still  
23 alive and there is a chance that we could dismantle  
24 the building, we owe it to them to try. It's very  
25 risky and we need to communicate it as such. It's



1 very risky, but we're willing to try.

2 Inspector Neadles then indicated that  
3 the families are there and they had indicated to him  
4 that they would be willing to sign a waiver that  
5 they would be prepared to do whatever it takes to  
6 restart the rescue, to rescue their loved ones.

7 Ian Davidson asked: Do you have the  
8 expertise? And Inspector Neadles said: No, but with  
9 an operator -- he indicated: No, we don't have the  
10 expertise here, but with an operator, and with other  
11 materials, you know, that we would need, that they  
12 would be able to do so.

13 Deputy Davidson asked if they  
14 could -- "they" being -- if they could get a list,  
15 and that we, as the Province would try to get it.  
16 Inspector Neadles said: We will do what we can.

17 At that point the Premier then said  
18 that, you know, that would be helpful. That we owe  
19 it to the community, with a life at stake, we owe it  
20 to them and, Bill, we will let you do that.

21 Commissioner Hefkey then said, you  
22 know, if -- we will provide anything -- anything  
23 that we kind of have to offer to assist you. Once  
24 we get that list we will go fast. We will move very  
25 quickly to track it all down.

1 Premier said, you know, time is the  
2 enemy. Whatever we need to -- whatever needs to go,  
3 whatever we need to get, you know, we will go and  
4 get them.

5 He then asked Inspector Neadles,  
6 Commissioner Hefkey and Deputy Davidson just to kind  
7 of confirm that it isn't possible to permit  
8 volunteers to assist in this.

9 Deputy Davidson then, you know,  
10 brought this portion of the conversation to a close  
11 by saying, no, no that he didn't think so, and, you  
12 know, told the Premier that at this point, you know,  
13 that he and the others needed to get off the  
14 conference call, really, to begin to develop a plan.

15 Q. And at the end of the call, what  
16 was the understanding?

17 A. The understanding that I had?

18 Q. Yes.

19 A. My understanding was that senior  
20 emergency officials along with on-the-scene  
21 emergency responders, would be working together to  
22 re-start the rescue operation.

23 Q. And, sir, from your perspective  
24 were the decisions taken in this phone call, and the  
25 actions of the Premier and the Premier's office, in

1 respect to looking at other options, were they  
2 a reaction to the public outcry that you've told us  
3 about?

4 A. No, they were not. The  
5 reactions I think that we were having, were  
6 consistent with the sentiments, that we were seeing  
7 being expressed. We were already pursuing --  
8 I think it's safe to say that we were already  
9 pursuing options around this line.

10 Q. Now, if I could take you back to  
11 tab 279, in Volume 3, which is Exhibit No. 8346.

12 A. Sorry, which tab, sir?

13 Q. Tab 279 and at the top of the  
14 page there is an e-mail from Ms. Sobers to you and  
15 others, other of your colleagues in the Premier's  
16 office, and she wrote:

17 "Apparently Premier is on the  
18 phone with the PM."

19 I take it then that at that time,  
20 Mr. McGuinty was talking with Mr. Harper?

21 A. Yes.

22 Q. And what were you told by about  
23 that phone call?

24 A. I was not briefed on the outcome  
25 of the phone call. I understood subsequently that

1 the two of them had spoken as to whether or not any  
2 federal assistance could be provided, if it was  
3 later needed.

4 Q. And was that offer made by the  
5 Prime Minister?

6 A. I don't know.

7 Q. And at tab 285, Exhibit No.  
8 6954, if we go to the second e-mail, this is  
9 an e-mail from Ontario News. I take it that's the  
10 Government of Ontario's press release service.

11 A. Yes.

12 Q. At 10:20 p.m. on the 25th of  
13 June, releasing a statement from the Premier, and in  
14 it he -- he is said to have said:

15 "I have spoken to Emergency  
16 Management Ontario and the Heavy  
17 Urban Search and Rescue Team and  
18 have instructed them to  
19 determine if there is any other  
20 way possible to reach any  
21 victims without endangering our  
22 rescuers, including the use of  
23 equipment to dismantle the  
24 building from the exterior."

25 And I take it from your evidence

1 that's consistent with what you heard on the phone  
2 call; right?

3 A. Yes.

4 Q. And this press release was  
5 issued at that time?

6 A. This -- yes.

7 Q. If you turn to tab 287, Exhibit  
8 No. 6997. This is an e-mail from Ms. Conrad to you  
9 and others at 11:05 p.m. on the 25th of June, and  
10 she writes:

11 "I just got off the phone with  
12 mcscs officials. Here's what's  
13 going on:

14 - OPP will send a media person  
15 up first thing tomorrow morning

16 - MCSCS will also send  
17 someone to provide media support  
18 and coordination

19 - EMO is working with the MOL  
20 engineer to develop a plan to  
21 continue the search based on  
22 first responder safety and one  
23 that causes the least  
24 destruction

25 - Priestly Demolition has

1                   been contacted and may be on  
2                   route from Sudbury because they  
3                   have larger equipment and they  
4                   have worked with HUSAR in the  
5                   past on rescue ops."

6                   Stop there. Had you heard talk of  
7 Priestly Demolition before this e-mail?

8                   A. I don't believe so, no, no.

9                   Q. Do you recall whether it was  
10 discussed in the Premier's phone call, whether  
11 Priestly was discussed?

12                  A. The name "Priestly" was not  
13 used; only a reference to heavy equipment.

14                  Q. And then it goes on to say:  
15                    "- Dan is calling the feds to  
16 ensure they are ready to deploy  
17 if we need assistance.

18                  Vale Inco - has offered  
19 equipment and other resources as  
20 needed but will not send  
21 equipment in if civil engineers  
22 say it is unsafe. They are also  
23 trying to track down a mining  
24 engineer.

25                  - OPP incident commander on

1 site for security issues

2 - Dan will be going up at 5  
3 tomorrow morning

4 I will be on another call at  
5 8 am with the same group."

6 Does that accurately record what the  
7 game plan was going to forward, insofar as you were  
8 aware at that time?

9 A. Yes.

10 Q. Would it be fair to say that  
11 following the Premier's phone call, there was a more  
12 concerted approach on behalf of a variety of  
13 agencies of the Province, than there had been before  
14 that?

15 A. I think it's fair to say that  
16 a number of agencies of the Province worked very --  
17 worked very quickly and closely to develop this plan  
18 following that conversation.

19 Q. And that was different from what  
20 had happened prior to it; right?

21 A. I think prior to -- I can only  
22 speak to kind of the information that I had been  
23 given which was that a number of agencies sort of  
24 prior to that phone call, had been engaged in -- had  
25 been engaged previously in the rescue operation and

1 had been working through it. I don't -- immediately  
2 prior to the phone call, the plan had been -- the  
3 plan was, as I understood it, was certainly not for  
4 these agencies to be working together to develop  
5 a rescue operation.

6 Q. So on the morning of June the  
7 26th, which is the next day, the Tuesday morning,  
8 what did you do?

9 A. On Tuesday morning I gathered  
10 information together in order to, you know, brief  
11 officials and to gather information, officials  
12 within the Premier's office and gather information  
13 as to what had been undertaken.

14 I asked very early in the morning for  
15 updated information as to how -- as to steps that  
16 had been taken overnight and for the latest lay of  
17 the land and the latest update from emergency  
18 responders as to how this -- how the information as  
19 of 11 o'clock had further evolved.

20 Q. And if I could ask you to turn,  
21 in Volume 4, to tab 333, Exhibit No. 8394.

22 A. Pardon me, which tab, sir?

23 Q. 333, in Volume 4. In the second  
24 e-mail from the top I see on the 26th of June at  
25 9:14 a.m., Ms. Miller e-mails you, Mr. Hammond and



1 Ms. McCann and the "re" line is:

2 "PMSH authorizes Canadian  
3 forces - can you confirm?"

4 And she writes:

5 "Please note that Harper's  
6 Dcomm ..."

7 Which means "Director of  
8 Communications"

9 "... tweeted ..."

10 That's the first time I've used that  
11 word in a courtroom:

12 "@pmharper spoke w Premier  
13 McGuinty last night - we've  
14 outlined fed and CAF  
15 capabilities and are waiting to  
16 hear as to what would be  
17 useful."

18 And you responded to that at  
19 9:28 a.m., writing:

20 "Confirmed, our emergency  
21 officials have been in touch  
22 with the Canadian military.  
23 They have outlined what they  
24 could have that could be useful,  
25 whatever logistical or

1 operational support may be  
2 deemed necessary. They are  
3 standing by now. Emergency  
4 officials at the scene will  
5 determine what if any military  
6 assets can be useful. We are  
7 engaged with the military to  
8 support the operation, and can  
9 confirm they have pledged full  
10 support."

11 That was your understanding at the  
12 time, sir?

13 A. Yes.

14 Q. And, ultimately, was it  
15 determined whether military assistance would be  
16 useful?

17 A. I believe that a member of the  
18 Canadian Military did attend the -- did attend the  
19 scene in Elliot Lake, on the ground, although  
20 I believe also that the emergency responders and  
21 those leading the rescue operation determined that  
22 they would not need assistance from the Canadian  
23 Military.

24 Q. And if I could have you go back  
25 to Exhibit No. 9140 at tab 1101, the last tab, and

1 to the page that ends -007, there's an entry there  
2 about halfway down the page, underneath the second  
3 line of asterisks that says:

4 "Ian Carole Ritchie, Deb  
5 Conrad 25/6/12."

6 Can you tell us what that refers to?

7 A. This is a telephone conversation  
8 that I would have had with Deputy Davidson, and  
9 Debbie Conrad. Carole Ritchie, I believe, worked in  
10 Deputy's Davidson's office and so was also on the  
11 telephone call.

12 Q. Right.

13 A. The date, however, is incorrect.  
14 It should read, "26/6/12."

15 Q. And do you recall when you had  
16 that conversation?

17 A. I believe I had -- the  
18 conversation took place in the morning of the 26th.

19 Q. With reference to the notes, can  
20 you tell us what you recall about the conversation?

21 A. Ian Davidson was providing  
22 further information with respect to the developments  
23 and the operations underway.

24 The deputy informed me that three  
25 large pieces of equipment were being deployed and

1 that they were due to arrive in Elliot Lake between  
2 12 noon and 2:00 p.m. that day. He indicated that  
3 it would take two hours to set them up; that  
4 a mining engineer had not responded -- meaning  
5 a mining engineer had not responded to the scene in  
6 Elliot Lake but if we wanted to consult with the  
7 mining engineer we would be able to, and we would be  
8 able to bring them to Elliot Lake, ensure that we  
9 would be able to demonstrate that to the mining  
10 community.

11 Deputy Davidson spoke of Greg Baden,  
12 Baden, a world robotics leader who had equipment  
13 used in mining search and rescue, and that we would  
14 be able to use it -- the Province would be able to  
15 use it, if needed; that that would be deployed to  
16 Elliot Lake as of 12 noon that day.

17 Deputy Davidson indicated that the  
18 Ontario Fire Marshal was working on plans and that  
19 they would determine -- determine, sort of the next  
20 steps on how some of these assets could be deployed,  
21 once the materials arrived there.

22 He indicated that Commissioner Hefkey  
23 had been on the scene now for less than two hours.  
24 He confirmed that the Canadian Military had offered  
25 to supply anything that was believed needed, and

1 that they would be seeing kind of what is available.  
2 The deputy indicated that it was unlikely that the  
3 military would have the specific equipment that we  
4 would -- that would be needed for this.

5 He then -- he then provided some --  
6 a clearer understanding of precisely what the  
7 operation that would be undertaken by the  
8 emergency -- emergency responders and by those  
9 involved in the rescue on the scene would be. He  
10 said that the operation would be to -- he described  
11 it as pulling away the walls. Pull away the walls  
12 around this area, and they were developing different  
13 scenarios as far as what that would mean, based on  
14 the equipment that was available, but ultimately it  
15 would -- I mean -- meaning potentially lifting out  
16 the escalator, removing the materials and  
17 essentially deconstructing the scene itself.

18 THE COMMISSIONER: At that point,  
19 sir, had you seen something like the picture that's  
20 behind you? Had you received any photographic  
21 representations of what it was that you were  
22 describing?

23 THE WITNESS: So, your Honour, I had  
24 seen -- I had viewed media reports, and photographs  
25 that had been taken by various -- by various media

1 as well as video. I had also -- I had also Googled  
2 the mall, myself, using the address to take a look  
3 at things and had done some research through Google  
4 to get a sense of what the mall looked like.

5 THE COMMISSIONER: All right. Thank  
6 you?

7 THE WITNESS: You're welcome.

8 BY MR. DOODY:

9 Q. Sorry, and then the next line:  
10 "Will lift out escalator."

11 A. Yes, so it has -- as the deputy  
12 described it, that the walls would -- as I say, the  
13 walls would need to be removed and they were looking  
14 at different scenarios on how best to do that, that  
15 the escalator would be lifted out, that materials  
16 would be -- they would remove other materials and  
17 debris in the area and that essentially they would  
18 be deconstructing, disassembling the scene.

19 He further mentioned that Vale was  
20 standing by ready to assist, if possible. That  
21 there was an expert from Vale was on scene, full --  
22 I think, again is a reference to full support.

23 He mentioned that the Ontario  
24 Provincial Police were deploying stress -- I think  
25 stress councillors. I've indicated "stress people".

1 I think it was stress councillors.

2 He also indicated that an emergency  
3 response team had been deployed to Elliot Lake, by  
4 the OPP to perform crowd control.

5 Q. And then over the next page.

6 A. I believe that "energy team" is  
7 a typo and should read "emergency team."

8 Q. Uh-hmm.

9 A. He confirmed that Bill Neadles,  
10 Inspector Neadles would be the operational commander  
11 of this operation. He said that the Ontario  
12 Provincial Police had deployed a command centre,  
13 that it would be used to communicate and to  
14 coordinate on-scene decision-making.

15 Deputy Davidson confirmed that this  
16 would be described as a rescue operation.

17 Q. What does that mean, being  
18 called a rescue operation? Could you tell me why  
19 those words were used?

20 A. I think -- the Deputy was  
21 describing to me that what was taking place, the  
22 activities that were taking place at this time were  
23 appropriately described as a rescue operation, that  
24 they were conducting a rescue.

25 Q. And what did you understand that

1 to mean?

2 A. I understood it to mean that  
3 they were attempting to rescue, an undertaking to  
4 try to rescue anyone that may still be alive in the  
5 debris.

6 Q. All right. And do the notes end  
7 with the solid line there?

8 A. Yes, I believe that the  
9 Deputy -- the Deputy had explained to me those  
10 offices or individual that were involved within  
11 the -- in coordinating this, in coordinating  
12 provincial assets around this, and so that would  
13 include the Ontario Provincial Police, the Ontario  
14 Fire Marshal's office, Emergency Management Ontario,  
15 and Angela Stewart.

16 Q. And who was Angela Stewart?

17 A. So, I don't know what Angela  
18 Stewart's title is.

19 Q. Yes.

20 A. But she is an official within  
21 Emergency Management Ontario.

22 Q. And after speaking to -- well,  
23 whether before or after -- did you brief the Premier  
24 that morning?

25 A. I did brief the Premier that



1 morning, yes.

2 Q. Do you recall when that briefing  
3 was?

4 A. I think it was following this  
5 call.

6 Q. Okay.

7 A. I'm -- I don't want to give  
8 incorrect information but I ...

9 Q. Don't worry. I don't think  
10 anything turns on it.

11 A. No, but I think it's around  
12 10 o'clock, quarter after 10:00.

13 Q. And if I could take you to  
14 tab 359, Exhibit No. 8416, there is an e-mail from  
15 you, the third e-mail on the page is an e-mail from  
16 you to Ms. Miller and Ms. McCann at 11:51 a.m. on  
17 the 26th of June and you write:

18 "Brief update from officials.

19 Priestly is sending one large  
20 crane with 150ft reach from  
21 Toronto, a base for the crane  
22 from Aurora, a "shear" to cut  
23 through steel and a grapppler,  
24 both from Sudbury. All are in  
25 transit, arriving by

1 approximately 12 noon and into  
2 service by 2 pm.

3 Vale: has 2 engineers in  
4 Sudbury, their best and  
5 brightest, a mining and civil  
6 engineer. They are liaising  
7 with the HQ in Elliot Lake.

8 I've told Cabinet Office that if  
9 there is any benefit to them  
10 being in EL in person, to get  
11 them in a car.

12 Manitoba has a HUSAR team  
13 similar to Toronto's and they  
14 are standing by to attend to the  
15 scene. I have asked who needs  
16 to make the decision to activate  
17 them.

18 One robot from Sudbury is en  
19 route to EL, last update was it  
20 would be on scene by 12 noon.

21 Military: I have asked for Ian  
22 Davidson's advice on requesting  
23 someone from the military attend  
24 the scene. The emergency  
25 leaders there may not require

1 military assistance, but in the  
2 event they do, I believe it  
3 could be beneficial to having  
4 the armed forces in the  
5 community all ready to  
6 coordinate on the ground. If  
7 there is even a slim benefit to  
8 the rescue to having someone  
9 from the armed forces at the HQ,  
10 I have asked that be pursued.

11 Intel on scene says the Mayor  
12 is extremely pleased by the  
13 efforts.

14 One thing to note: Dan Hefkey  
15 has been excluded from the  
16 community's control group, the  
17 team working with Bill Neadles  
18 to lead the operation. He is  
19 being briefed and kept in the  
20 loop, but is not present when  
21 the control group meets. I have  
22 requested Ian Davidson consider  
23 what can be done about that, if  
24 there is a benefit to having him  
25 in the group (my sense is, there

1 IS)."

2 Can you explain to us what you meant  
3 by that?

4 A. I meant that I believed that it  
5 would be a benefit to having -- for the Commissioner  
6 of Community Safety to be participating in the  
7 Community Control Group meetings, if he was not  
8 already.

9 Q. Why was that?

10 A. Because as Commissioner of  
11 Community Safety, he is one of the senior most  
12 officials within the Province with respect to  
13 emergency management and operations, would have --  
14 may have expertise or knowledge or the ability to  
15 assist and as such, I thought that it would be  
16 appropriate for him to participate.

17 Q. And you went on to say:

18 "It may be something that the  
19 Premier and Mayor need to speak  
20 about but will get advice from  
21 Davidson.

22 Obviously a priority is the  
23 operational activity and the  
24 rescue itself, but I am  
25 concerned there has been no

1 communication from the emergency  
2 team to the community today, and  
3 it is now midday. I have asked  
4 Davidson to advise on this, to  
5 see what he can do to help speed  
6 up a communications plan on the  
7 scene. Lack of communication in  
8 a crisis can make a bad  
9 situation worse, and we need  
10 them to turn their minds to how  
11 the public and people of EL are  
12 being kept informed. I have no  
13 confirmation on when a press  
14 conference will be taking  
15 place."

16 And does that e-mail, sir, summarize  
17 what you understood to be the status as at noon on  
18 the 26th?

19 A. Yes.

20 Q. And did you then go to  
21 Elliot Lake?

22 A. Yes, I did.

23 Q. Why?

24 A. So given the involvement --  
25 given the serious nature of the incident, given the

1 concern and the serious way that the Premier  
2 McGuinty was involved at this point, I volunteered  
3 to go to Elliot Lake, if those -- if anyone believed  
4 that I could be helpful to the situation.

5 Q. And how did you feel you could  
6 be helpful?

7 A. So what I ultimately by -- I was  
8 to -- I was assisting with kind of in three  
9 different ways: Assisting with communications, to  
10 assist with communications in the area; to be the  
11 eyes and ears, I think of the Premier and the  
12 Premier's office to help gather and relay, transmit  
13 information in as close to real-time as possible, to  
14 make sure that that information is flowing clearly.

15 And I think, thirdly, to be, if  
16 necessary, if possible, if it would be helpful, to  
17 assist those leading the operation, leading the  
18 rescue, if they needed a piece of equipment, a piece  
19 of -- any kind of assistance of any of the number  
20 of, you know, provincial assets that had already  
21 been deployed, or more, that I would be there to  
22 very quickly escalate it, and identify that for  
23 officials in the government and within the Premier's  
24 office.

25 Q. And who did you go up with?

1           A.    I went with Johnathan Leigh from  
2 Cabinet Office.

3           Q.    And why did he go up?

4           A.    To assist me and to provide  
5 similar assistance.

6           Q.    When did you arrive?

7           A.    I arrived in the community on  
8 the evening of -- on the evening of the 26th.

9           Q.    And when did you -- how long did  
10 you stay?

11          A.    I returned to Toronto,  
12 I believe, kind of the late afternoon of the 28th.

13          Q.    And while you were in  
14 Elliot Lake did you do what you had planned to do,  
15 what you've described to us?

16          A.    I believe so, I hope so.

17          THE COMMISSIONER: Perhaps we can  
18 continue --

19          MR. DOODY: I was going to say,  
20 Mr. Commissioner, those are my questions.

21          THE COMMISSIONER: And that's the end  
22 of your examination?

23          MR. DOODY: It is.

24          THE COMMISSIONER: Thank you. We'll  
25 hear then from you, Ms. Champion, at 2 o'clock if you

1 have questions in-chief. Thank you.

2 --- LUNCHEON RECESS AT 12:44 P.M.

3 --- RESUMED AT 2:00 P.M.

4 THE COMMISSIONER: Good afternoon,  
5 everybody. Ms. Champion, any questions in-chief?

6 MS. CAMPION: No.

7 THE COMMISSIONER: Thank you.

8 Cross-examination, then. Yes. Go ahead, please.

9 CROSS-EXAMINATION BY MS. FILGIANO:

10 Q. Good afternoon, Mr. O'Leary. My  
11 name is Carolyn Filgiano, and I'm a lawyer for the  
12 Elliot Lake Mall Action Committee, and I'll be  
13 asking you just a few questions about your  
14 testimony.

15 We saw a series of emails between you  
16 and various members, other government members, and  
17 I just wanted to know who did you expect to receive  
18 information about the mall collapse from?

19 A. I expected to receive  
20 a variety -- information from a variety of sources  
21 including Cabinet -- including the Cabinet Office  
22 and officials there as well as officials and  
23 political advisers working in various Ministers'  
24 offices throughout the government.

25 I mean, I think, overall, I expected



1 that anyone in -- within the government, if they had  
2 information, and if that -- if the information was  
3 shared with others, that it would find its way to  
4 the Premier's office as well.

5 Q. And would that include  
6 information from Emergency Management Ontario?

7 A. Yes.

8 Q. So other than the SITREP  
9 updates?

10 A. If there was additional  
11 information to -- that they had developed, it was  
12 certainly my expectation that that would be shared  
13 with me, yes.

14 Q. And would you expect to know  
15 which provincial assets had been deployed in  
16 response to the collapse?

17 A. I did ask for information about  
18 provincial assets that were deployed and -- yes.

19 Q. And what information did you get  
20 about that?

21 A. I was informed -- excuse me.  
22 I was informed at various times of various  
23 deployments. So, for example, I was informed that  
24 the province had approved that -- the deployment of  
25 Task Force 3. I was informed that the heavy -- that

1 the UCRT team from the OPP had been deployed, and  
2 various other -- and at various other times, we were  
3 informed about other provincial assets that had been  
4 deployed.

5 Q. And prior to, I guess, what we  
6 would call the rescue being resumed, were you  
7 advised about any requests for heavy equipment or  
8 machinery, requests or offers of assistance in that  
9 area?

10 A. No.

11 Q. No? I just want to go back to  
12 June 25th. After you learned that the rescue  
13 operations were changing from a rescue to  
14 a recovery, was it your understanding that the  
15 Toronto HUSAR team -- so that would be TF-3 -- would  
16 be returning to Toronto?

17 A. So I was at one point that Task  
18 Force 3 would be returning to Toronto.

19 Q. And was it your understanding  
20 that that would be -- they would pack up and leave,  
21 so it would be relatively immediately?

22 A. Yes.

23 Q. Yes? And do you remember where  
24 you got this information from?

25 A. I don't.

1 Q. Was it a media report or from  
2 the press conference?

3 A. It was not a -- so I do remember  
4 that it was not a media report.

5 Q. Okay.

6 A. I believe -- I mean, I believed  
7 that it was something that had been shared with me  
8 via a government official. I believe, too, that in  
9 a -- I think I spoke this morning about comments  
10 that had been relayed to me that I believe indicated  
11 that the UCRT team was prepared to stay. I believe  
12 that it was at or around that same time.

13 Q. So that would have come not from  
14 Mr. Neadles' press conference, but from a government  
15 official?

16 A. Correct.

17 Q. And prior to the press  
18 conference at 5:30 on June 25th that we've been  
19 talking about, was there any discussion amongst your  
20 level, so amongst the Premier's office and other  
21 ministries that you were communicating with,  
22 about -- talking about alternative methods to  
23 rescue? Once you had heard that the rescue was  
24 going to be called off and before the press  
25 conference, was there any discussion of alternatives

1 or trying to get in touch with anyone at the scene  
2 to see if you could delay the press conference or  
3 anything of that sort?

4 A. I don't believe that we  
5 attempted to to delay the press conference.

6 I think that it is -- officials  
7 within the Premier's office, I mean, we would have  
8 -- you know, as we were relaying this information to  
9 each other, we would have had discussions about --  
10 kind of about -- about the information and about  
11 what we were being told.

12 We had certainly attempted to gather  
13 more information about precisely what was going to  
14 be taking place.

15 Q. Mr. Doody looked into this  
16 before, but prior to the e-mail string between you  
17 and Ms. Miller and Ms. McCann and Mr. Livingston,  
18 where Ms. Miller says, "Do you think we can maybe  
19 look into other options?" had there been any  
20 discussion of looking into other options?

21 A. I think that we had -- I'm  
22 not -- I can't speak to discussions that would have  
23 been -- that others may have had. For myself,  
24 I was engaged, I think, focusing primarily on trying  
25 to gather some information around what we believed

1 the next steps were going to be in the absence of  
2 any direction to change otherwise.

3 Q. So to the best of your  
4 knowledge, prior to that e-mail, there wasn't any  
5 plans in place for any alternative rescue plans?

6 A. To the best of my knowledge,  
7 there was no -- there were no other plans. That's  
8 right.

9 Q. At that point.

10 A. That I was aware of.

11 Q. And, in fact, a statement was  
12 being drafted to this effect, a Premier's statement?

13 A. To the effect?

14 Q. That we're going to continue  
15 with the next steps where the rescue has been called  
16 a recovery now, and we're going to progress forward  
17 on that understanding?

18 A. In the absence of other  
19 direction, we believed that it was -- the  
20 responsible thing to do would be to prepare  
21 something along those lines, yes.

22 Q. And Ms. Miller's e-mail, we can  
23 pull it up if that -- if it would make things  
24 easier, but that's Exhibit No. 8296. And that just  
25 shows that Ms. Miller sent this e-mail at

1 7:11 asking if there was any -- if there was another  
2 way, and that was about an hour and a half after the  
3 press conference, I would imagine.

4 And do you know why she would've made  
5 a suggestion like that, and why she wouldn't have  
6 just gone ahead with the regular plan?

7 A. I can't speak to -- I don't  
8 know. I think that it -- only in the most general  
9 way to say that -- as I mentioned, it's a bit of  
10 a reflection of the way we were feeling.

11 Q. And it wasn't in response to the  
12 public outcry following the press conference?

13 A. We were aware of the -- we were  
14 all aware of -- through social media and otherwise,  
15 as far as what was taking place and, you know, the  
16 sentiment and the feeling. It's something that we  
17 certainly took note of, but I would say at the  
18 same -- it was happening concurrently with the way  
19 we were already sort of understanding and processing  
20 the information. One did not sort of cause the  
21 other.

22 Q. Thanks. I'd also like to bring  
23 up Exhibit No. 8318. And that's messages between  
24 you and Debbie Conrad, in which you ask:

25 "Who is in command of the

1 scene right now? The local Fire  
2 Chief?"

3 And she responds:

4 "I think it's the Fire Chief.  
5 Will check."

6 Did Ms. Conrad ever get back to you  
7 about with that information, about who was the  
8 Incident Commander was or in command of the scene?

9 A. I know that it was made clear to  
10 me that the overall Incident Commander was the Fire  
11 Chief.

12 Q. Do you remember around what time  
13 that was made clear to you?

14 A. I don't.

15 Q. Do you think it was prior to the  
16 phone call with the Premier at 8:30?

17 A. Okay. I honestly -- I don't  
18 remember.

19 Q. You don't remember?

20 A. It's likely. I don't know.

21 Q. And why wasn't Chief Officer  
22 included on that phone call at 8:30 with the Premier  
23 and Mr. Neadles and an array of other people?

24 A. So when I requested that the  
25 teleconference take place, I certainly indicated two

1 people that -- and Commissioner Hefkey and Inspector  
2 Neadles, two people that I believe would be able to  
3 provide some assistance on the conversation,  
4 certainly Commissioner Hefkey given the provincial  
5 assets that had been deployed and the extent to  
6 which the province had been -- was assisting in the  
7 operation, and Inspector Neadles with respect to  
8 the -- to his leadership in terms of the rescue  
9 operation to date.

10 I -- it was -- I considered it,  
11 I guess, reasonable that those two officials would  
12 ensure that if there were other individuals that  
13 needed to be, kind of, on that call and could  
14 contribute from a command perspective or otherwise,  
15 that they would have been, I guess, included.

16 For example, you know, Deputy  
17 Davidson, as I mentioned, was on the telephone call.  
18 It's not someone that I had kind of indicated, you  
19 know, should've been there as well and obviously was  
20 for -- on the phone.

21 Q. So it was your understanding  
22 that if Bill Neadles wanted to have included Chief  
23 Officer in that phone call, he could have, and he  
24 had that opportunity to --

25 A. Yes.



1 Q. -- as far as you were concerned?  
2 Can we pull up Exhibit No. 8346, and  
3 that would be at page -003 of that Exhibit? If we  
4 could scroll down to the very first message. Yes.  
5 Right there.

6 And you will see it's an e-mail from  
7 Laura Miller to David Livingston, Wendy McCann,  
8 yourself, Bradley Hammond, and Tracy Sobers. And  
9 the first line of that e-mail reads:

10 "Premier completed call with  
11 EMO and HUSAR. They have clear  
12 direction to find  
13 an alternative."

14 Was it your impression after that  
15 phone call at 8:30 with the Premier and Mr. Neadles  
16 that the rescuers on the ground had clear direction  
17 to find an alternative?

18 A. It was my -- certainly the call  
19 concluded with those who had been involved in the  
20 rescue, beginning to plan to restart and to carry  
21 on.

22 Q. And was it your impression that  
23 Inspector Neadles and Mr. Hefkey had discussed  
24 rescue alternatives prior to that phone call?

25 A. No.

1 Q. No? So they didn't, as far as  
2 you know, have any plan going forward?

3 A. It's possible, but it wasn't  
4 something that I was aware of.

5 Q. Nothing that they articulated to  
6 you in that phone call?

7 A. I don't believe so, no.

8 Q. And to the best of your  
9 recollection, was the Premier the first to suggest  
10 tearing down the building to access the victims?

11 A. to the best of my knowledge,  
12 yes.

13 Q. That was the first time you'd  
14 heard that idea?

15 A. Yes.

16 Q. Thank you. I have no further  
17 questions.

18 THE COMMISSIONER: Thank you. Mr.  
19 Thorne? Nothing? Ms. McKenna? No. Going across  
20 the room, Ms. Parker?

21 MS. PARKER: Nothing,  
22 Mr. Commissioner.

23 THE COMMISSIONER: Mr. Cassan.

24 CROSS-EXAMINATION BY MR. CASSAN:

25 Q. Mr. O'Leary, my name is Paul

1 Cassan. I'm counsel for the City of Elliot Lake  
2 and, of course, the Elliot Lake Fire Department.

3 I just have a couple of questions  
4 with respect to the evidence that you gave when you  
5 were going through it with Mr. Doody.

6 You talked about the military coming  
7 to the scene and speaking with somebody. Do you  
8 know who it was that that person spoke to or who the  
9 military liaison was?

10 A. I don't know who that person  
11 was, no.

12 Q. Because we still have to hear  
13 yet, from Chief Officer, and I understand that he's  
14 going to say that he did not hear from anybody from  
15 the military. Did you do anything to verify that?

16 A. I all I can -- I remember seeing  
17 someone dressed in military fatigues and wearing  
18 a beret, I believe, at the scene, and so -- and  
19 I believe that there was also reference -- I think  
20 that there is reference in -- within the documents  
21 of confirmation that there had been a military  
22 liaison deployed.

23 Q. And same with respect to the  
24 VALE engineer, do you know who that was, or who they  
25 may have spoken to on scene?

1 A. No.

2 Q. Thank you.

3 THE COMMISSIONER: Re-examination.

4 MS. CAMPION: Very short

5 re-examination.

6 THE COMMISSIONER: Yes, go ahead.

7 RE-EXAMINATION BY MS. CAMPION:

8 Q. Mr. O'Leary, Ms. McKenna had  
9 asked you about the deployment of provincial assets  
10 to the Algoma Mall, and she asked you what  
11 information you had with respect to what provincial  
12 assets have actually been used.

13 Do you recall being asked that  
14 question?

15 A. Today? Yes.

16 Q. Yes. And can you just turn to  
17 your tab 211, which is Exhibit No. 8295, please,  
18 which is in Volume 3?

19 A. Pardon me. Which tab?

20 Q. Tab 211. And if you could go  
21 down to the second page where the e-mail starts.  
22 Thank you. This is an e-mail from Monsieur LeBlanc  
23 to you and other members of the Premier's office,  
24 and it provides a list of the provincial services  
25 that are being used in order to assist with the

1 situation in Elliot Lake.

2 Do you remember receiving this  
3 e-mail?

4 A. Yes.

5 Q. And you see there that there's  
6 a list that is provided by Monsieur LeBlanc?

7 A. Yes.

8 Q. And it's in response to what is  
9 called "a bliss request." Do you know what that is?

10 A. It was a media request -- or a  
11 request from the media, from a reporter named Paul  
12 Bliss for this information.

13 Q. And do you know what the purpose  
14 of this was for?

15 A. The purpose of this was to  
16 respond to his question of what the -- how the  
17 province was supporting the rescue efforts in  
18 Elliot Lake.

19 Q. And I'll just read it out for  
20 the record.

21 It provides a list of the following  
22 resources that were sent up to Elliot Lake:

23 "Thirty-seven members from the  
24 Toronto based heavy urban  
25 search-and-rescue, which is

1 HUSAR; one structural engineer;  
2 10 members of the OPP UCRT team,  
3 a chemical, biological,  
4 radiological, and nuclear  
5 response team; two medics;  
6 Emergency Management Ontario has  
7 deployed one field officer to  
8 support the municipality and  
9 offer advice and assistance; and  
10 four officials from the office  
11 of the fire marshals."

12 Does that reflect an accurate picture  
13 of the resources that had been deployed to  
14 Elliot Lake, to the best of your knowledge?

15 A. Yes.

16 Q. Thank you. Those are my  
17 questions.

18 THE COMMISSIONER: Mr. Doody?

19 MR. DOODY: I have no questions in  
20 re-examination, Mr. Commissioner.

21 THE COMMISSIONER: Thank you. Mr.  
22 O'Leary, thank you very much for having come back to  
23 Elliot Lake to give us the benefit of your evidence,  
24 which is valuable.

25 Have a good trip back.

1 THE WITNESS: Thank you.

2 THE COMMISSIONER: And with that,  
3 Mr. Doody, I gather you have no further evidence to  
4 offer this afternoon?

5 MR. DOODY: I'm embarrassed to say  
6 I do not, Mr. Commissioner.

7 THE COMMISSIONER: And we'll start  
8 with Dr. Feldman at nine o'clock tomorrow morning;  
9 is that correct?

10 MR. DOODY: Yes, Mr. Commissioner.

11 THE COMMISSIONER: Thank you. We'll  
12 rise until 9:00, Mr. Registrar.

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16 --- Whereupon at 2:17 p.m. the Inquiry proceedings  
17 adjourned to 9:00 a.m. on Wednesday, September 18,  
18 2013.

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REPORTER'S CERTIFICATE

I, LISA M. BARRETT, RPR, CRR  
CSR, Certified Shorthand Reporter certify;

That the foregoing proceedings were  
taken before me at the time and place therein set  
forth, at which time the witness was put under oath  
by me;

That the testimony of the witness  
and all objections made at the time of the  
examination were recorded stenographically by me  
and were thereafter transcribed;

That the foregoing is a true and  
correct transcript of my shorthand notes so taken.

Dated this 22nd day of September,  
2013

*Lisa Barrett*

NEESON & ASSOCIATES  
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CERTIFIED REAL-TIME REPORTER



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