

Elliot Lake Commission of Inquiry

DAY 105

September 19, 2013



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ELLIOT LAKE COMMISSION OF INQUIRY

--- This is Day 105 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 19th day of September, 2013, commencing at 9:00 a.m.

REPORTED BY: Lisa M. Barrett
CRR, RPR, CSR

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

2

3 MR. WALLACE: Good morning,
4 Commissioner.

5 THE COMMISSIONER: Good morning,
6 Mr. Wallace.

7 MR. WALLACE: Commissioner, today we
8 are joined by Sergeant Scott Fowlds of the Toronto
9 Police Service.

10 THE COMMISSIONER: I've been reading
11 about you, Sergeant.

12 THE WITNESS: Oh, oh. You've been
13 reading about my dog.

14 THE COMMISSIONER: More about your
15 dog than you perhaps.

16 THE WITNESS: Yes.

17 SERGEANT SCOTT FOWLDS: SWORN

18 EXAMINATION-IN-CHIEF BY MR. WALLACE:

19 Q. Good morning, Sergeant.

20 A. Good morning.

21 Q. I understand, sir, that you
22 started your working career as a mechanic and you
23 are, in fact, a licensed mechanic?

24 A. Yes, I am.

25 Q. And you did that for

1 approximately 10 or 11 years prior to entering the
2 Toronto Police Service?

3 A. Yes, I did.

4 Q. And you joined the Toronto
5 Police Service in 1990?

6 A. Yes.

7 Q. And you currently hold the rank
8 of sergeant?

9 A. Yes, sir.

10 Q. And you were a general constable
11 between 1990 and 1994?

12 A. Yes, I worked out of one of the
13 divisions in Scarborough.

14 Q. In Scarborough. And you joined
15 the canine unit in 1994 and you remained with that
16 unit until 2007 at which time you became a sergeant;
17 is that correct?

18 A. Yes, it is.

19 Q. And then when you were promoted
20 to sergeant, you were put on the road, you were
21 a road sergeant in 2007, and in 2009 you returned to
22 the canine unit?

23 A. Yes, I did.

24 Q. And you returned there,
25 obviously as a sergeant, and within the canine unit,

1 you were a supervisor; is that correct?

2 A. Yes, it is.

3 Q. Now, as a supervisor -- does
4 that mean as a supervisor that you are involved in
5 the training of the dogs?

6 A. No, we have a training sergeant
7 at the unit, and as a supervisor we're in charge of
8 a platoon or a group of people, and we also handle
9 a dog. So when I went back in January, I went up to
10 Gravenhurst with the OPP and did an 8-week course to
11 train my bomb dog, and then when I came back to
12 Toronto, I did a -- I believe it was a 10-week
13 course, 10 to 12-week course with my general service
14 dog, Ranger, and then I went out on the road and was
15 responsible for the platoon, supervising them and
16 also attending calls and working the dog.

17 Q. So in your role as a supervisor,
18 you had primarily two functions, that is that you
19 are the supervisor of a number of individuals, but
20 you also handle a dog yourself?

21 A. Yes, I do.

22 Q. Now, why don't you tell us
23 a little bit about the type of dogs that the Toronto
24 Police Service has? And I'm not really referring
25 here to the breed but rather the purpose for which

1 you have the dogs.

2 A. We have several different types.
3 We have a general service dog.

4 Q. Which is what?

5 A. Which is used for general patrol
6 with the officers. They're trained for building
7 searches, tracking, apprehension work, handler
8 protection and all round articles, evidence
9 gathering, and by that, I mean if someone losses
10 something or a piece of evidence is lost, we will
11 use the dog to locate it.

12 Q. This is what we see on
13 television when they're tracking an alleged
14 perpetrator who has fled and is hiding someplace,
15 they will use a dog to find that person?

16 A. Yes.

17 Q. As opposed to someone who is
18 missing?

19 A. They can also use a dog for
20 missing people also.

21 (Technical difficulty)

22 Q. I understand in addition to
23 general service dog, the Toronto Police Service have
24 cadaver dog?

25 A. Yes, we do.

1 Q. And explosive dog?

2 A. Yes.

3 Q. And dogs trained in narcotic
4 searches?

5 A. Yes, they do.

6 Q. And also dogs trained in search
7 and rescue?

8 A. Yes.

9 Q. Now, are some of the dogs
10 cross-trained in the sense that a dog would be
11 a general service dog as well as trained in
12 searching for explosives or are they specialized and
13 segregated in that fashion?

14 A. We have -- one of the general
15 service dogs is trained for explosives. One of our
16 search-and-rescue dogs is also trained for
17 explosives.

18 Q. And the search-and-rescue dogs
19 with the Toronto Police Service, these are different
20 dogs than those attached to TF-3?

21 A. The only one that's not attached
22 to the task force is my dog Ranger. The other dogs,
23 for the search-and-rescue end of it are all attached
24 to the TF-3.

25 Q. Now, tell us a little bit about

1 the training that a general service dog would
2 receive in the Toronto Police Service.

3 A. The course is approximately 16
4 weeks long.

5 Q. Who gives the course?

6 A. We have a training staff of our
7 own. Right now the training staff is two training
8 constables and a training sergeant. It's been that
9 way at least since -- in the early to mid-90s, we
10 had our own training staff and went from there where
11 there was some constables and sergeants.

12 It is a 16-week long course. It is
13 done in the city. Some of the basics are done at
14 our unit. We have different obstacles and search
15 boxes that are set up for the dogs to be trained how
16 to locate human scent. We do a lot of training
17 throughout the city. We're in the parks, in
18 backyards and things like that where the dogs are
19 actually going to work.

20 Q. And how old are the dogs when
21 they start the training program?

22 A. Typically anywhere between 12
23 and 18 months old.

24 Q. And would the -- each dog is
25 assigned a handler; is that not correct?

1 A. Yes, it is.

2 Q. Would the dog and the handler,
3 would they be -- would the handler have that dog
4 prior, like at their house --

5 A. No.

6 Q. -- prior to the training?

7 A. No, we purchase our dogs off of
8 brokers so the brokers bring them in. A lot of our
9 dogs come from Europe, the brokers will bring them
10 in from Europe. We'll have a choice of several
11 different dogs we'll look at. From there, we'll
12 pick one or two of the dogs, and we'll test them for
13 a week or so to see which one it is. We send them
14 out to the vets to be checked, to make sure there is
15 no physical problems with the dog.

16 Then the new handlers will work with
17 the dog doing some basic obedience and bonding, some
18 fetching with the ball, and then after about a week
19 or two, and the dog has some obedience in him, we'll
20 allow the handlers to take the dogs home.

21 Q. And then the dog would stay with
22 the handler throughout the rest of the training?

23 A. Yes.

24 Q. And then once the dog is --
25 passes the training, the dog would remain with the

1 handler at the handler's home?

2 A. Yes.

3 Q. And you joined TF-3 in 2001,
4 I understand?

5 A. Correction on that. I thought
6 it was 2001. It was actually probably around the
7 middle of 2002.

8 Q. And at that time, in 2001, were
9 you involved in training within the canine squad?

10 A. Yes, I was.

11 Q. Now when you joined TF-3, did
12 they have any search-and-rescue dogs?

13 A. No, they did not.

14 Q. And what happened between you
15 joining and you being deployed to Elliot Lake with
16 a search-and-rescue dog? How did that program get
17 going?

18 A. We -- there was a lot of talks
19 between Toronto Fire and the Toronto Police Service,
20 which I wasn't part of. They came to us and the
21 decision was made that the Toronto Police Service
22 were going to be part of the team and we were going
23 to supply the training, the Toronto Fire -- or Task
24 Force 3 actually, were purchasing the animals. At
25 the time we had done everything for general service

1 dogs. I was sent on several different seminars,
2 2003 I believe it was, I went to Reno Nevada for
3 a NASAR, seminar, it is National Search and Rescue
4 Association down in the States.

5 It was a week long seminar where we
6 just went on what they called canine tracks. So we
7 were meeting with all the different trainers and
8 handlers that have been doing this for years, mostly
9 volunteer, to find out what they were doing, what's
10 different, what type of things they were
11 encountering.

12 We'd been lucky in the city that we
13 hadn't had anything at the time so we weren't used
14 to anything like that.

15 I was sent on a couple of other
16 conferences, another NASAR one in California,
17 involved with several SARS scene conferences, which
18 are the Canadian Search-and-rescue Secretariat held
19 and I can't remember which year -- I was going to
20 say 2005 we went down to Texas, but it was for the
21 canine search specialist course, but at the time we
22 did not bring our dogs down with us.

23 Q. In 2005 did TF-3 have any dogs?

24 A. Yes, we did.

25 Q. Who was training the dogs in the

1 search-and-rescue?

2 A. I was, along with one of the
3 handlers and cum indoor training section and I was
4 helping out with scenarios and different things like
5 that.

6 Q. So, the -- explain for us the
7 difference in terms of the skill set of a general
8 service dog and a search-and-rescue dog. How
9 does -- if they are both trained to find people,
10 how -- what differentiates a general service dog and
11 a search-and-rescue dog?

12 A. The biggest difference between
13 the two is the search-and-rescue dogs have no
14 apprehension training and the agility and comfort
15 zone with the dog working on unsteady surfaces, up
16 and down different rubble piles, boulders, things
17 like that, has to be worked on more so the general
18 dogs don't have that opportunity to go through all
19 the collapsed buildings or buildings that have been
20 taken down throughout the city, so we would use the
21 lots that people had taken -- large buildings --
22 down and left all the rubble, we were using that for
23 the dogs to be comfortable walking around and then
24 we would take people and hide them close to the edge
25 and then you take them and hide them a little bit

1 deeper, leave them a little bit longer, don't let
2 the dogs see them and then the dogs just become more
3 comfortable working around that apparatus and areas.

4 Q. Would I be right in saying that
5 the skills that -- they both share the ability to
6 find people; the difference between the general
7 service dog and the search-and-rescue dog is the
8 terrain in which they're use to operating?

9 A. Mostly, yes.

10 Q. Would that be the big difference
11 in the --

12 A. That would be the big training
13 difference, not that a general police dog could do
14 the same type work if it was necessary and that's
15 what you have but when we have the opportunity to
16 have a dog that's very comfortable, you don't have
17 to worry about any insecurities in the dog, you
18 know, being used to running up and down hills and
19 that, all of a sudden trying to find voids in
20 buildings and things moving on them, it just makes
21 more sense to have the dog trained for that.

22 Q. So, the training that a TF-3 dog
23 would receive or a dog that's going to get
24 search-and-rescue training, how long is that and who
25 gives that training?

1 A. The Toronto Police Service
2 supplies that training through the training staff.
3 The --

4 Q. So it would be the same people
5 that are training the general service dogs --

6 A. General service dogs.

7 Q. -- are going to be training the
8 search-and-rescue dogs?

9 A. Yes, they are.

10 Q. Okay.

11 A. With us, the trainers, as it
12 stands right now, both the trainers that work in
13 that office as training constables, are also members
14 of Canada Task Force 3, they both handle dogs that
15 work for Canada Task Force 3 so they understand
16 already where you need to work more on for agility
17 and how to set up hides for the dog when you are
18 training so things work properly.

19 Q. So in the case of dogs, let's
20 put some context in this, Ranger.

21 A. Yes.

22 Q. Your dog Ranger.

23 A. Uh-hmm.

24 Q. Does Ranger perform work for the
25 Toronto Police Service?

1 A. Yes.

2 Q. But as a general service dog?

3 A. No, he no longer is a general
4 service dog patrolling the streets. He had
5 a bulging disk which had to be surgically removed.
6 In the time from the surgery to the time he came
7 back to work, I'd taken over the HUSAR sergeant's
8 position, the sergeant that was there before had
9 moved on. I took over that position and the
10 decision was made that when he came back from injury
11 after his surgery that he would be transferred over
12 and start doing the heavy urban search-and-rescue.

13 Q. So what does Ranger do for
14 Toronto Police Service?

15 A. Missing people.

16 Q. Okay.

17 A. And we do a lot of different
18 training and stuff, but he does no general patrol
19 work whatsoever.

20 Q. So the -- for example, the
21 apprehension part of general service work is taken
22 off his plate?

23 A. Yes.

24 Q. Now, my understanding is that
25 you actually received Ranger in March or April of

1 2009.

2 A. Yes.

3 Q. And as you've told us he had
4 original -- first had originally been trained as
5 general patrol dog.

6 A. Yes, he was.

7 Q. Or general service dog. And
8 then he developed the spinal problem that you told
9 us about, and at that point in time he transferred
10 over, became search-and-rescue dog?

11 A. Yes.

12 Q. Now, describe the training that
13 Ranger would have received because it was Ranger
14 that you had with you at Elliot Lake; correct?

15 A. Yes, it was.

16 Q. So tell us about the training
17 that Ranger had received as far as search-and-rescue
18 is concerned.

19 A. When we started doing the
20 search-and-rescue course, he was brought in so that
21 he was more comfortable around different agility
22 items, uneven planks, ladders, climbing up ladders,
23 climbing across ladders. He would have had -- done
24 a lot of searches on rubble piles, that we would
25 have found through construction sites up in Bolton,

1 the OPP's training site, where people would be put
2 in amongst it, to bring up his confidence working
3 around gravel, pieces of wood that are sticking up,
4 rebar and everything else so that he was completely
5 comfortable at what he was doing.

6 Q. And how long did the training
7 last?

8 A. With Ranger? I believe it
9 started -- I'm going to say --

10 Q. Around December?

11 A. It was finished in December.

12 Q. Yes.

13 A. And I think it started
14 September, October.

15 Q. Now, is this -- is this
16 training, like five days a week, eight hours a day
17 sort of thing or is it one day a week?

18 A. No, it's five days a week.

19 Q. Right.

20 A. And we work an eight hour shift.
21 Of course you'd have to give the dog some downtime.
22 With Ranger because he already had the basis of all
23 the search, he had his search patterns, he had found
24 several people when he was a general patrol dog, the
25 course was quicker because we could concentrate --

1 we didn't have to start working, teaching him how to
2 find people and how to bark on human scent, he was
3 already there, we could spend more time on the
4 rubble pile and agility and therefore the course was
5 shorter in length.

6 THE COMMISSIONER: How old is the
7 dog?

8 THE WITNESS: Ranger is about 6 to 6
9 and a half years old.

10 BY MR. WALLACE:

11 Q. During the training time that
12 Ranger was being trained, he's being trained with
13 you; correct?

14 A. Yes, he is.

15 Q. And so that means that your time
16 is -- as a Toronto Police officer is being spent
17 exclusively in the training of this dog?

18 A. Yes, it is.

19 Q. Now, my understanding is that
20 he's been trained to work off lead?

21 A. Yes, he has.

22 Q. And how does that work? How
23 does the dog get instructions when working off lead?

24 A. Well, we started because of
25 his -- any of the search-and-rescue dogs, his

1 background it was just quicker because he was
2 already trained off lead, we give them the command
3 to search and they already know that they're going
4 into an area where they're going to go look for
5 someone, if it's a building they're trained to
6 search room by room with a search pattern that you
7 do by repetition.

8 In an open area they are looking for
9 the freshest human scent so they are just running
10 around until they hit a scent pool and then they
11 follow that cone to where the person is and start
12 barking at them.

13 We also do some open searches in the
14 wooded areas on line, we will keep the dog on
15 a 30-foot line so that you have -- you are right
16 with him and depending on -- if I'm up here I will
17 probably do most of my searches on line in the woods
18 because he doesn't do well with bears. On a rubble
19 pile --

20 Q. Like a lot of us.

21 (LAUGHTER)

22 A. Yeah, exactly. On a rubble pile
23 it's not safe for him to be on a lead at all because
24 there are so many jagged things that the 30-foot
25 line could get there, or if he goes to jump over,

1 say, a 3-foot opening and I'm at the 30-foot end of
2 that lead, he's going to yank me forward, so I could
3 end up impaling myself or something. So, a line on
4 the pile, in our opinion, isn't safe for the dogs or
5 the handlers.

6 Q. How do you give the dog
7 directions? Like how do you instruct the dog?

8 A. We do a directional. There is
9 a -- where, by hand and voice, we can have the dog
10 move to the right, move to the left, go back or come
11 forward. That is done -- of course, the dog has to
12 be looking at you, so a lot of times you'll just get
13 his attention and then you'll either motion and say
14 "right" or "left", "back" or -- sorry, we use "go".
15 "Back", to us, is a training where the dog comes
16 back to the handler or toward the handler.

17 Q. So, is the signal to the dog, is
18 it both the hand signal and the voice simultaneously
19 or can it be one or the other?

20 A. It can be one or the other.

21 Q. Right.

22 A. But I use both.

23 Q. So if it could be sound only,
24 why does the dog have to be able to see you?

25 A. Well, because I use both. I use

1 the hand signals also.

2 Q. Okay.

3 A. He doesn't have to. I can use
4 the voice commands only, but I like to have him see
5 me so that I can sort of break whatever is going on
6 and make him -- not make him but give him the idea,
7 like, okay, pay attention to me and now we've got to
8 go over here.

9 Q. What sort of training -- so,
10 Ranger completed his training in December of 2011.
11 What sort of testing goes along with that at the end
12 of the training, to say that Ranger is qualified,
13 I guess is the word?

14 A. We do a -- your typical
15 obedience. We check for dog aggression, human
16 aggression, because the dogs can't have any of those
17 either two things because at times you could be
18 working a large area where the dog is working with
19 another dog and the last thing you want in the
20 middle of a pile or in the middle of an area is
21 a dog fight.

22 You end up checking him for his
23 obedience, his agility and we actually go up and
24 find a location where there is a large enough rubble
25 pile, where we place some people in and the dog and

1 the handler have no idea where they are, they are
2 given a certain area to start the dog off with. He
3 goes up and has to independently indicate on the
4 victim that's in the rubble pile. Indication is by
5 barking and then we're allowed to go up to the pile
6 and then send him off to find the second victim.

7 Q. So, this is -- a test that the
8 dog has to --

9 A. Has to pass.

10 Q. Has to pass?

11 A. Yes, sir.

12 Q. How many victims and how many
13 does he or she, as the case may be, how many do they
14 have to find to pass?

15 A. In the Canadian Standard, there
16 are two levels. There is a Level 1 and a Level 2.

17 In the Level 1 there are two victims
18 the. The dog must find both of them and they are
19 not allowed to have any false indications, which is
20 he can't go over to one area and bark, bark, bark
21 and no-one be there.

22 In the Level 2 there could be up to
23 six victims, and the dog's allowed to not indicate
24 on one of the six victims.

25 Q. So, in Level 1 --

1 A. Two people.

2 Q. He has to be two for two?

3 A. Yes.

4 Q. With no false positives?

5 A. Yes.

6 Q. And in Level 2 he has -- he or
7 she has to be five for six, again --

8 A. Depending how many people are
9 actually out there. The handlers aren't advised how
10 many people are. They are given -- in the Level 2
11 there is two large separate piles and there can be
12 up to six people in each -- in both piles.

13 Q. Now, by the time that Ranger and
14 you went to Elliot Lake, what level had Ranger
15 achieved?

16 A. He had achieved his Level 1.

17 Q. Did Ranger ever get Level 2?

18 A. Yes, he did.

19 Q. And when was that?

20 A. September of 2012.

21 Q. So a couple of months after
22 Elliot Lake?

23 A. Yes, and the reason he didn't
24 have it before was -- we go out to Brandon Manitoba.
25 It is where the Manitoba task force is out of and

1 they are the national training site.

2 We have a third party testing done by
3 the handlers and the trainers in Manitoba and it
4 wasn't available until September.

5 Q. So, is Level 1 done locally?

6 A. Yes, we did that locally.

7 Q. But Level 2 is done in Brandon?

8 A. Yes.

9 Q. Once Ranger had received the
10 Level 1 certification in September, I assume there
11 is some form of ongoing training that the dogs
12 receive going forward?

13 A. Yes, they do.

14 Q. And what is that?

15 A. Every second Wednesday is a --
16 we call a HUSAR canine training day. So it doesn't
17 matter what everybody on the team is doing -- if the
18 trainers are training a general dog or drug dog or
19 explosive dog, that day is specifically for training
20 for the HUSAR dogs, and that could be from doing
21 area searches in the woods, to doing building
22 searches, to going to Bolton or some other rubble
23 pile that we locate, and doing searches on the
24 rubble.

25 Q. What about exercises? Are there

1 any exercises that are conducted that are above and
2 beyond this every second Wednesday program?

3 A. There are exercises that the
4 task force holds quarterly every -- it's on
5 a Saturday only. It is a 10-hour training day where
6 the whole team -- not the whole team but members of
7 the team can get together and train, starting the
8 beginning of January in 2012, I started going to all
9 the Saturday ones and we started incorporating the
10 dog stuff. Before it was mostly the rescue stuff
11 that was being done. We started incorporating dog
12 searches where we were using confined space for the
13 dogs to find people.

14 Two-fold for that, one it gave the
15 dog extra experience in what he was doing but it
16 also allowed the team members to see what the dogs'
17 capabilities actually were and to be able to work
18 with the dogs on the team.

19 Q. Therefore, by the time the
20 Elliot Lake deployment had taken place, I assume
21 that you and Ranger had participated in two of these
22 quarterly exercises?

23 A. Yes, the day of the Elliot Lake
24 collapse we were actually out with the group in a
25 wooded area in Scarborough doing some exercises with

1 some low angle rescue, using the dog to locate
2 a victim and some compass and GPS work with the team
3 also.

4 Q. And if I've understood you
5 correctly, he now is strictly a Task Force 3 dog
6 except he works for the Toronto Police Service in
7 missing persons searches?

8 A. Yes.

9 Q. So --

10 A. Sorry, basically what it means
11 is that the Toronto Police Service owns the dog. We
12 paid for him originally in 2009 and the Toronto
13 Police Service is responsible for his food, his vet
14 bills and things like that, where the Task Force
15 dogs were paid for by the Task Force and their food
16 and vet bills are covered by the Task Force.

17 Q. So as you've told us earlier, he
18 is unique in that regard?

19 A. Yes.

20 Q. And on a daily basis does he go
21 to work or does he stay at your house? What -- if
22 he is not truly a general service dog how does he
23 spend his days?

24 A. He comes to work with me every
25 day. I work a Monday to Friday shift. So every

1 morning he comes in. We will do some training at
2 the unit, off site, and different paperwork. He's
3 utilized when the divisions have missing people or
4 need assistance, looking for different -- not
5 evidence because he's not an article dog but if they
6 are looking for a missing person in wooded areas or
7 anything like that, they'll call and we can head
8 out.

9 We also use him a lot for public
10 events, demonstrations, school visits, things like
11 that because I have the opportunity where I'm not
12 covering the road with him.

13 Q. Can you discuss with us the
14 variables that would affect the dog's ability to
15 detect a human scent? What are the factors that
16 make it easier or harder for a dog to detect scent?

17 A. The humidity helps. The more
18 humid it is, it keeps the scent down allowing the
19 dogs to -- the pool just builds.

20 Rain can wash it away. It would have
21 to be awfully, awfully heavy rain.

22 I have, with Ranger, when he was
23 a general dog, I have tracked in a downpour and not
24 had any problems and it was 30 minutes old.

25 Wind plays a big portion on where the

1 scent comes from. If it's really windy out the dog
2 could actually start indicating way before he's
3 actually found the person because the scent is being
4 blown into him.

5 It is normal to -- when you have the
6 opportunity to use the wind to your advantage,
7 instead of having it start so that it's at your
8 back, you turn around and you go into the wind,
9 giving the dog the opportunity to basically cheat.

10 Q. In a situation like that, where
11 the source of the scent would, say, be a hundred
12 metres further away from the dog than at the point
13 in time that the dog would detect the scent --

14 A. Uh-hmm.

15 Q. -- does the dog keep going as
16 the scent gets stronger or the minute the dog gets
17 the scent it indicates?

18 A. No, the dog will continue until
19 he goes right to source. Our dogs are trained to
20 bark at the source of the scent, so they will go
21 right to where the person is, and start indicating
22 where that person is.

23 Q. So if you've got your dog out
24 there, and you are in one of these windy day
25 situations --

1 A. Uh-hmm.

2 Q. -- how do you know that the dog
3 has detected the scent, but not come to the place
4 where the person is? What's the dog doing that
5 tells you that?

6 A. A lot of times if they're on
7 line, you can feel it in the line, you can see it in
8 their body language. Sometimes they will pick up
9 their heads and their ears get a little bit higher,
10 their tail starts wagging. Each dog has its own way
11 of telling the handler and that's why it's important
12 that each -- we just don't go in and grab Rover
13 today because he did a good job yesterday. So you
14 get to learn to read your dog and the pace picks up,
15 oh, something is there, they start working quick --
16 higher pace to get to where the source is coming
17 from.

18 Q. And what does Ranger do that
19 tells you that they have come across a person,
20 a live person?

21 A. I've actually seen him going --
22 just out for a walk, looking for people, and I've
23 actually seen him lift his head and start sniffing
24 the air and then he just starts picking up his pace,
25 if he's on line, he gets a much stronger tension on

1 the line, and I start having to almost run behind
2 him.

3 And if he's picked up the scent, his
4 whole body language changes. Instead of just being
5 your normal everyday German Shepherd, going out to
6 go to the washroom, he's much more intense. He's
7 pulling tight. If he's off line he is starting to
8 pick up his pace quite quickly.

9 Q. And when he arrives at the place
10 where the person is, what does he do -- if he can't,
11 if you're looking in a rubble situation,
12 search-and-rescue where he can't see the person?

13 A. Right.

14 Q. What does he do that tells you
15 that he's found somebody?

16 A. He starts barking. And while he
17 is barking, his tail is wagging like crazy.

18 Q. And is the dog stationary or is
19 the dog running around in a circle?

20 A. Usually he stands still in one
21 area. The only time he's moved around, not running
22 around in circles but moving around, is when the
23 ground's not stable as per a rubble site where he
24 may be on an angle or something he's trying to get
25 comfortable with.

1 Q. And Ranger is only trained to
2 find living human beings?

3 A. Yes, he is.

4 Q. Number one, does Task Force 3
5 have any cadavers dogs?

6 A. Yes, they do.

7 Q. Were any cadaver dogs deployed
8 to Elliot Lake?

9 A. No, they weren't.

10 Q. Does Task Force 3 have any dogs
11 that are cross-trained, that is that are trained for
12 both cadaver and living people?

13 A. No, they don't.

14 Q. And are you able to help us with
15 the issue of how long after a person has died would
16 they -- would the dog still detect the scent of
17 a living person? Do you have any information there?

18 A. None whatsoever. I know there's
19 been a lot of different tests done, and different
20 people have different opinions. Some say that a dog
21 gets it immediately. Some say that it's in
22 24 hours. I haven't seen any solid information or
23 have any knowledge of it myself.

24 Q. Now, dealing with the deployment
25 and just prior to that, do you have the same

1 training as other members of TF-3?

2 A. I believe I do.

3 Q. And do you have any additional
4 training? I know you've got the skills of a canine
5 handler and that's the purpose for which you're
6 there, but do you have any skills above and beyond
7 the regular members of TF-3?

8 A. Not that -- from my
9 understanding, and I don't have my training list
10 from what the TF-3 is, but whenever I'm on any of
11 the courses or anything else, other than the
12 specific canine stuff, I get the same training as
13 they do for the breaching, the lifting, everything
14 else.

15 Q. So, I would assume that on
16 a deployment you're not going to be exclusively
17 doing canine searches?

18 A. No.

19 Q. And you do have the ability to
20 get involved in shoring and those types of
21 activities?

22 A. Yes, sir.

23 Q. And I understand, sir, that
24 you're required, as part of the program, to do
25 approximately 50 hours per year of either core

1 and/or maintenance training?

2 A. Yes, we are.

3 Q. Now, you were deployed to
4 Elliot Lake on the 23rd of June, and I understand
5 that you had actually been involved in a training
6 day on the 23rd?

7 A. Yes, we were.

8 Q. Now, if you could pick it up
9 from the point in time when you arrived there,
10 I understand when you arrived in Elliot Lake, that
11 the team received a briefing from Staff Inspector
12 Neadles?

13 A. Yes, they did.

14 Q. Were you present at that --

15 A. No, I wasn't. We had gone up in
16 several different vehicles and ...

17 Q. Sorry, I had understood
18 everybody went up on the bus; that's not the case?

19 A. No, most of the team went up on
20 the bus. There was myself and Brian -- I'm sorry,
21 I can't remember his last name, he is one of the
22 medics, he drove up with me because I took one of
23 our scout cars that had the dog kennel in the back
24 of it.

25 And when we were up in Elliot Lake,

1 I understand on the bus they were advising everybody
2 and I never entered the bus.

3 Q. So what was the first thing that
4 you were tasked to do?

5 A. When we -- when we arrived at
6 first, we were all tasked to go and have something
7 to eat. We'd been driving all night. We went and
8 ended up eating breakfast, went back to the mall.
9 Staff Inspector Neadles came up to me and advised me
10 I was on Team 1. I asked him which team was that.
11 And he said, "Unfortunately it's the team that
12 starts right now," because he'd known that we hadn't
13 slept all night, we'd been going all day yesterday.

14 We were tasked, myself, Jim Lawson,
15 Sergeant Jim Lawson and Sergeant Dave Zammitt were
16 tasked with doing the recce of the building.

17 Q. Let me stop you there. Let me
18 ask you: Was that the first tasking you had
19 received?

20 A. Yes.

21 Q. Were you made aware of what the
22 overall plan was for TF-3?

23 A. Not that I remember, no.

24 Q. In any event, you and the other
25 two Toronto Police Services officers -- they're

1 search specialists as well, as I understand it?

2 A. Yes, they were.

3 Q. You were tasked to do
4 a reconnaissance of the building?

5 A. Yes.

6 Q. And was this a search of the
7 building with or without Ranger?

8 A. I had made a decision, when we
9 were given this task that I was not going to take
10 Ranger the first time, the reason being I had no
11 idea what the inside of the building looked like,
12 what hazards, what dangers there were, so I had
13 advised the other two sergeants that we weren't
14 taking the dog. We were going to do a walk through
15 the building first, and then we would use the dog
16 afterwards.

17 Q. And what happened, if anything,
18 on this reconnaissance?

19 A. It would have been -- we were
20 walking through the building on the second floor, in
21 around, I believe, 9:30 in the morning.

22 Q. Okay.

23 A. Sergeant Lawson was doing
24 a call-out which is something that we usually do,
25 calling out for people. "If you can hear me call

1 out to my voice, make a sound," whatever it was.

2 And as you do that, you take a break
3 in between. It is not a constant talk, talk, talk,
4 talk. We heard a tapping sound.

5 Q. Let's -- are you able to tell us
6 what -- you were on the second floor of the mall;
7 correct?

8 A. Yes.

9 Q. What side of the mall; do you
10 know?

11 A. I believe from where the
12 Foodland was, we would have been on that side of the
13 mall. I'm getting all mixed up. Right, the
14 north/east, south/west of the actual mall but we
15 were on that side on the second floor.

16 Q. That would be the east side.

17 THE COMMISSIONER: When you refer to
18 "we" heard tapping sounds I'd prefer if you tell me
19 what you heard specifically?

20 THE WITNESS: Okay.

21 THE COMMISSIONER: Thank you.

22 So when you say "we heard tapping
23 sounds" is that something that you heard?

24 THE WITNESS: Yes, it is, sir.

25 THE COMMISSIONER: Rather than what

1 somebody else told you?

2 THE WITNESS: Yes, sir.

3 THE COMMISSIONER: Go ahead.

4 MR. WALLACE: Just give me one
5 second, please.

6 BY MR. WALLACE:

7 Q. If we could have firstly, just
8 to situate the sergeant, Exhibit No. 7946. This is
9 a diagram, as you'll see in a second, of the first
10 floor of the building and then it shows Foodland and
11 then I'll show you the second floor.

12 So you've got Foodland, you can see
13 that in that photograph there --

14 A. Yes, sir.

15 Q. -- of the plan? And if we go to
16 Exhibit No. 7945 directly above, we've got the food
17 court; does that refresh your memory? This is on
18 the second floor?

19 A. Yes, I'm just trying to -- most
20 of the stuff -- oh, okay, I see the escalator there.
21 From here -- I'm not sure.

22 MR. WALLACE: Marc-Andre, do you have
23 the laser pointer there?

24 THE WITNESS: Is that it? Is that it
25 there?

1 BY MR. WALLACE:

2 Q. If you want to use that on the
3 big screen there?

4 A. I'm not pointing it the right
5 way. I take it that that is the entrance from where
6 the food court is -- not food court but the Foodland
7 is in, under here?

8 Q. Yes.

9 A. So in that case we were up and
10 around this area here (indicating).

11 Q. And you're indicating on the
12 east side, just west of the word "mall" up on the
13 second floor?

14 A. Yes.

15 Q. So you're looking down into the
16 collapse area?

17 A. Yes, we are.

18 Q. So if you could tell us again,
19 then how these events unfolded. You're up there,
20 the three of you are there?

21 A. Yes, sir.

22 Q. And there's been a call-out?

23 A. Yes.

24 Q. What's going on within the
25 building itself? Are you the only people in the

1 building?

2 A. Over in the section where -- on
3 the first floor near the reception desk.

4 Q. Yes, that's at the north end?

5 A. Okay, at the north end of the
6 building, further out they were doing some shoring
7 back there. They hadn't made it up to the area
8 where we were or up to the reception desk yet. They
9 were still doing stuff in the back that I recall.
10 It was just the three of us that were on the second
11 floor. And I heard a tapping sound. I looked at
12 both --

13 Q. Well, let's -- there was
14 a call-out; correct?

15 A. Yes, there was.

16 Q. Is there any procedure in doing
17 that, to make sure that the other -- the people
18 around are quiet?

19 A. Yes.

20 Q. When this happens?

21 A. Yes, after we heard the --
22 sorry, after I heard the tapping sound, Sergeant
23 Lawson called for an all quiet and he was -- we find
24 that when -- if one person does all the speaking,
25 then you don't get confused and someone is not

1 hearing different things from everywhere, not only
2 workers but any possible victims.

3 So, an all stop was called so there
4 was no noises whatsoever coming out. We continued
5 to call out.

6 Q. Like the Commissioner --

7 A. Sorry.

8 Q. Not all three of you called out,
9 I assume?

10 A. Sergeant Lawson continued to
11 call out.

12 Q. Right.

13 A. Again as he called out, "If you
14 can hear our voice call out or make a sound," again
15 I heard another tapping sound.

16 Q. Single?

17 A. I believe it was a single.
18 Sergeant Lawson then asked for two taps, but to wait
19 for a few seconds after he finished speaking.

20 And there were two --

21 Q. Do you recall what he said?

22 A. I believe it was "If you can
23 hear my voice tap twice shortly after I stop
24 talking."

25 And then I heard two taps. Then

1 Sergeant Lawson asked for three taps with the same
2 hesitation after he stopped speaking. I heard three
3 taps. Sergeant Lawson again asked for another tap
4 and I heard no more.

5 Q. After you got a response on
6 three, you said he asked for another tap. Is that
7 "a tap"?

8 A. Yeah, he had asked for another
9 --

10 Q. A single tap?

11 A. I don't remember if he said
12 "a single tap" or "can you make some more noise".
13 I'm not sure exactly what his wording was, but after
14 the third -- the group of three taps, I didn't hear
15 any more taps.

16 Q. Can you describe the sound that
17 you heard?

18 A. It was a hollow sound. It
19 wasn't -- like, if you take a piece of metal and hit
20 it against concrete, it wasn't that tinny sound. It
21 was a very hollow sound like when you tap on
22 concrete, and the concrete there had a -- a lot of
23 it had holes straight down the middle from its
24 design, so it was giving sort of a hollow sound to
25 it, as the person was tapping.

1 Q. Did it sound like concrete
2 hitting concrete?

3 A. No.

4 Q. Are you describing like
5 a person -- like flesh hitting concrete?

6 A. Yes.

7 Q. I wouldn't, just out of common
8 experience, think that that sound would travel very
9 far.

10 A. In some of the stuff we'd done
11 in training and people are tapping on the concrete
12 because of all the voids and everything, it seems to
13 travel fairly far. It was quiet. We were in more
14 of a bowl. We were not getting all the outside
15 noises from the traffic going through, and all the
16 noise from the -- from the people in the command
17 post and stuff like that.

18 So it was very -- to me it was very
19 distinctive. It was a tapping sound that I heard.

20 Q. I'm going to show you
21 a photograph.

22 This comes from Exhibit No. 7924,
23 Ms. Kuka and if you could go to photograph 45.

24 Now, just to situate you, Sergeant,
25 right at the bottom of the picture, of course, is

1 the collapse zone. The next floor up, that is the
2 food court area.

3 A. Okay.

4 Q. Does that depict where you and
5 your brother officers were?

6 Now, the north would be to the left
7 as you're looking at that picture so that the big
8 slab that you see to the right is at the south end.

9 A. Right. That would be in the
10 area that I was.

11 Q. So, if perhaps, you could take
12 the mouse there, and if we could activate this and
13 you can mark on that photograph where it was you
14 were.

15 MS. KUKA: Hold on. Sorry, I don't
16 know what's going on.

17 BY MR. WALLACE:

18 Q. Well, maybe we can get the
19 officer to indicate on the laser and we can describe
20 it on --

21 THE COMMISSIONER: You can describe
22 it orally.

23 BY MR. WALLACE:

24 Q. So if you can just indicate on
25 the big screen there, with your laser pointer, and

1 I'll --

2 A. I believe it was in this area
3 here (indicating).

4 Q. So you're describing the area
5 between the column with the yellow tag on it, and
6 you were north of that, and as in the picture, about
7 two-thirds of the way to the edge of the picture?

8 A. Yeah, I believe so.

9 Q. Now, the other thing -- how
10 close to the edge were you?

11 A. I would say we were between 2
12 and 5 feet back.

13 Q. From the edge -- there seems to
14 be a lot of debris that has collected on top?

15 A. Yeah.

16 Q. Are you standing behind that
17 debris that we see to the north of the column?

18 A. I honestly don't remember if
19 I was standing on debris or off to the side of it or
20 if we shoveled things over with our feet while we
21 were standing there. I cannot remember.

22 Q. Maybe we will go to the next
23 photograph in that exhibit. This photograph just
24 shows more of the collapse zone, so that perhaps you
25 can indicate for us --

1 MS. KUKA: It's working now.

2 MR. WALLACE: It's working now?

3 Using the mouse there --

4 MS. KUKA: Press the top button on
5 top of the mouse and that should --

6 THE WITNESS: There it is.

7 BY MR. WALLACE:

8 Q. Where was it that you believed
9 the sound was coming from?

10 A. We -- I couldn't pinpoint where
11 the sound was coming from so to mark it actually on
12 a page is going to be very difficult.

13 Q. Okay.

14 A. It was definitely in amongst the
15 rubble pile. If someone had have come up to me
16 right there and said, "Where do you think it is
17 coming from?" I could have just pointed it is coming
18 from down here, in amongst the rubble. I couldn't
19 say specifically either side of the car or close to
20 the -- this section down in here or anything, just
21 that it came from in the pile itself.

22 Q. So, you weren't able to pinpoint
23 it with any precision at all?

24 A. No, sir.

25 Q. You wouldn't be able to say how

1 far away you were then if you don't know where the
2 sound was originating from?

3 A. No, I can say where we were, 2
4 to 5 feet from the edge, but somewhere in the centre
5 of that collapse is where I heard the noise.

6 Q. So, were you able to sort of
7 rule out the periphery of the collapse zone? It was
8 somewhere in the middle. I'm not trying to put
9 words in your mouth here. I'm just trying to get
10 it --

11 A. No, and in my mind when I heard
12 those noises I knew that the noise was coming from
13 the collapse zone itself. It wasn't coming from any
14 of the side areas or anything at all. It was
15 strictly straight from the collapse zone.

16 Q. And that's as precise as you can
17 get it, is saying it came from the collapse zone?

18 A. From that area there.

19 Q. Once you've got that
20 information, you've made that observation, what did
21 you do?

22 A. I know that the Command was
23 notified. I did not notify the Command. I can --

24 Q. Were they notified by use of
25 a radio or did Sergeant Lawson or one of the other

1 officers, did he go and -- go to the command post?

2 A. I believe it was done by
3 Sergeant Lawson by radio.

4 Q. You did not do --

5 A. I did not do it.

6 Q. Did you hear him do it?

7 A. No.

8 Q. Okay.

9 A. No, if I remember correctly, at
10 that time I was still staying in the same position,
11 listening to see if we heard anything further.

12 Q. So, you wouldn't be able to tell
13 us what it is Sergeant Lawson told the Command?

14 A. No.

15 Q. So, once that was done, what did
16 you do?

17 A. We made our way -- the picture
18 is still up. I made my way down to the area of the
19 reception.

20 Q. Where the shoring was taking
21 place?

22 A. Where the shoring was taking
23 place.

24 Q. Okay.

25 A. In -- it's not working again.

1 I talked to -- I believe it was Chuck
2 Guy who was the team lead on the day shift which
3 I was working.

4 I had asked him how long it was going
5 to take to shore up most of the stuff in this area
6 here (indicating).

7 Q. You are referring to the north
8 end?

9 A. North end of the building by the
10 reception.

11 Q. Right.

12 A. There was a lot of concrete that
13 had fallen in that was being supported by a warped
14 wooden door frame. I couldn't get my dog in there
15 safely. The concern I had was the dog would make it
16 up there and knock something over and everything
17 would fall on all the rescuers. Chuck had advised
18 me that it was going to be several hours before he
19 could shore that up enough so that the dog could be
20 able to get up there and no-one else would be hurt.

21 Q. The idea being that you put
22 Ranger on the pile?

23 A. Yes, sir, that was the next step
24 in my mind of what I had to do. When he advised me
25 of that, because they hadn't got that far forward in

1 the shoring process, we started working around the
2 building, and I was trying to find a different
3 location to be able to deploy Ranger. We had -- I'd
4 been told that the Foodland area where the
5 insulators were, was a no-go area. Looking through
6 the glass doors, the four -- or the double glass
7 doors going through, the way that the collapse was,
8 was similar to being a ramp that the dog could get
9 up very easily and not have any issues with anybody
10 else being injured from -- if he had stepped on
11 something and stuff had shifted.

12 Q. Okay.

13 A. The decision was made to allow
14 myself, Ranger and Sergeant Lawson to enter the
15 area. And the reason for Sergeant Lawson being
16 there was, as my safety, if things got -- started
17 changing or anything like that, he was the one that
18 was watching the area while I was paying attention
19 to what the dog did.

20 Q. And so was the decision made to
21 deploy Ranger at this time?

22 A. Yes, it was.

23 Q. And what time would this have
24 been?

25 A. This would have been around

1 12:10, I believe.

2 Q. So this would have been 12:10 on
3 the Sunday?

4 A. Yes, the 24th.

5 Q. And as I understand it Ranger --
6 you entered the building from the ground floor on
7 the -- obviously at the Foodland side; correct?

8 A. Yes, we did.

9 Q. And you entered to the right of
10 the kiosk, the kiosk that was in the lobby of the
11 mall.

12 A. Yes, I did.

13 Q. And if we could have a look at
14 photo 15, in that exhibit. For your information on
15 the left-hand edge of it, that's the edge of the
16 lottery kiosk, is -- and so the escalator and stairs
17 are just directly behind the lottery kiosk.

18 Is that the type of configuration you
19 were talking about as far as the core slabs were
20 concerned?

21 A. Yes.

22 Q. And this is this ramp type --

23 A. Yeah, if you look, and it is
24 easier to see here than it is there, on the screen,
25 but if you look up in this area here (indicating),

1 you can see it looks more like a ramp where the
2 slabs have fallen down.

3 Q. And you're indicating just to
4 the left of the hanging piece of debris, that we see
5 going from the middle of the top of the picture
6 hanging down.

7 A. Yes.

8 Q. So, when you deployed Ranger,
9 where are you?

10 A. I would have been in front of
11 where this photograph was taken, closer to the
12 middle of the actual kiosk itself.

13 Q. Okay.

14 A. I removed his lead at the time,
15 and gave him the command to search. I let him go.
16 He made his way up through in here, and then up on
17 to the pile. From there, I saw him, from my vantage
18 point, I would have been probably just in front of
19 the garbage can up against the wall, just between
20 where the support for the escalator and the wall for
21 the kiosk is.

22 Q. So just in front of the garbage
23 can that's at the bottom left of that photograph?

24 A. Yes.

25 Q. Photograph number 15.

1 A. I saw Ranger run up the pile and
2 he was actually standing at the far end on top of
3 everything, looking at the rescuers that were doing
4 the shoring below. He checked up, went in -- like
5 a zig-zag pattern at the top there, searching
6 around, made his way back down towards my direction.

7 Q. Maybe what we'll do is we'll
8 switch to photo 46 that will allow us to see it from
9 above and you may be able to -- that may help you.
10 So, Ranger would have entered from the top of the
11 picture, a little above the car?

12 A. Yeah, I think he was -- entered
13 in around here (indicating).

14 Q. Okay.

15 A. When he entered --

16 Q. Indicating the area with the
17 slab that is to the east of the -- the big slab to
18 the east of the car, and almost parallel to the car.

19 A. Yes. When he entered he ran
20 right up to the top section where all the rubble was
21 piled up.

22 I believe under here is the barber
23 shop.

24 Q. Okay.

25 A. He was standing up there. He

1 was actually looking down at the rescuers doing the
2 shoring. He then --

3 Q. So he'd be looking north?

4 A. Yes. He turned around from this
5 location and started doing a zig-zag along the pile.

6 Q. So east to west?

7 A. East to west, and when he got in
8 around this area here --

9 Q. I'm going to get you to mark --

10 A. Sorry, if this is -- right in
11 around here --

12 Sorry, I must have done something
13 wrong. Okay, is it right or left click?

14 MS. KUKA: Hold the left button down
15 and you can go and circle.

16 THE WITNESS: Right in around this
17 section here (indicating). He -- I saw his head
18 snap and all of a sudden he made his way over to
19 this section here, and I saw him in around the --

20 BY MR. WALLACE:

21 Q. Which is the area with the slab
22 that appears, at least in this photograph, to be
23 leaning up against the car?

24 A. Yes, where there's a wire
25 railing of some type.

1 Q. Okay.

2 A. He was in that area there. He
3 started barking. I, from my vantage point, couldn't
4 see him. There was -- I call them the concrete
5 curtains, which other people advised me later they
6 were calling widow-makers. I made my way up, moving
7 closer into this section here (indicating), at the
8 south end of the building.

9 Q. Yes, that's the south. Are you
10 still on the same side of the -- same spot -- you
11 haven't gone around the kiosk --

12 A. No, sir.

13 Q. -- and come around the other
14 side?

15 A. No, I stayed on the same side of
16 the kiosk.

17 Q. That's the east side.

18 A. I made my way up. I could hear
19 him barking. I could not see him. When I got up to
20 a vantage point where I could see him, I was still
21 moving in a bit. I called him. He came off of
22 here, got into around the mid point of where the car
23 was, went right back to where he had been before,
24 near the metal railing, continued barking and then
25 I called him again and he came right to me.

1 During the point that he went back
2 and started barking, Sergeant Lawson was yelling at
3 me. I hadn't realized I'd walked so far forward
4 that I was standing right underneath one of the
5 concrete curtains.

6 Q. Okay.

7 A. So I moved back, and we got the
8 dog off. Again, Command was notified that the dog
9 had a positive indication for live scent. I --
10 whenever the dogs are on any type of pile or do any
11 search we check them over. I noticed that Ranger
12 had cut himself above and to the side of the eye and
13 I believe it was his left eye from jamming his head
14 into the concrete, trying to get to the person.

15 Q. What I'd like you to do is, if
16 you could, please, is to mark using the mouse, the
17 area where Ranger indicated the live human scent.

18 A. Okay. On photograph 46.
19 I believe it was right in this area here
20 (indicating). Just at the front --

21 THE COMMISSIONER: We'll try and get
22 you some colour there.

23 THE WITNESS: Sorry.

24 I believe it was right in that area
25 there.

1 BY MR. WALLACE:

2 Q. Got it there?

3 A. Yeah, I believe it was in the
4 front -- just ahead of where the car was, and again,
5 towards the barber shop which I believe is the east
6 side.

7 Q. Yes.

8 A. Yeah, I believe that was the
9 area where it was, he was, because I remember the
10 shopping cart being around there.

11 MR. WALLACE: If that could be made
12 the next numbered exhibit please.

13 MS. KUKA: Exhibit No. 9672.

14 THE COMMISSIONER: Exhibit No. 9672.

15
16 EXHIBIT NO. 9672: Photograph
17 46 of Exhibit No. 7924 with
18 location identification marked by
19 witness

20 BY MR. WALLACE:

21 Q. And when you notified the
22 command post, the first question is: Who did you
23 notify?

24 A. I didn't directly, at that time,
25 speak to anybody in the command post.

1 Q. Oh, okay.

2 A. I know that Sergeant Lawson was
3 on the phone. I was checking my dog out and -- not
4 on the phone, sorry, on the radio. I was checking
5 my dog out for any injuries that he may have gotten.
6 He advised me that command post was notified.
7 I took Ranger back to his vehicle, and I believe
8 after that, I went into the command post. Staff
9 Inspector Neadles was there, and he asked me
10 a question similar to:

11 "I understand you had a live
12 hit. What do you think?"

13 I said "a hundred per cent" and he
14 said "because I'm just letting everybody know."

15 Q. That's interesting, when you
16 expressed it as a hundred per cent. So you had
17 a very high degree of confidence in the results that
18 you saw?

19 A. Yes, I did.

20 Q. Is it an all or nothing
21 proposition in terms of the confidence level, the
22 dog has a hit or doesn't have a hit; is that the way
23 it works?

24 A. The way I've seen Ranger work
25 before, finding people both as a general dog and as

1 a -- in training in search-and-rescue, I know the
2 difference of his interest or frustration over --
3 guaranteed. His bark was -- he has a very deep
4 bark, and he will not -- if he's trying to get to
5 source, he will do whatever he can to get to source,
6 and when he came out with the two cuts above his
7 head from slamming his muzzle into the voids made by
8 the concrete, I had no question that he was hitting
9 on live human scent.

10 Q. And you related that to Staff
11 Inspector Neadles?

12 A. Yes, I did.

13 Q. You indicated that he was
14 deployed about 12:10. How long would this process
15 have taken? How long would Ranger have been on the
16 pile?

17 A. He was probably on there,
18 I would say five to seven minutes. Time was
19 something, during that day, that I lost very
20 quickly.

21 Q. Okay.

22 A. And he hit the area, once he had
23 checked it out, I thought it was very quickly,
24 I wasn't paying attention to what time my watch
25 said.

1 I think we entered around 12:10 and
2 I believe it would have been 10 to 15 minutes later
3 that he had the indication.

4 Q. Now, you were working the day
5 shift. It's 12:10, 12:30'ish by the time you finish
6 with this; is Ranger deployed again during this
7 shift?

8 A. Yes, he is, but not on the
9 rubble pile.

10 Q. And where was he sent to?

11 A. After we took him back to the
12 car and gave him a short rest, I had actually been
13 talking to John Thomas of the Elliot Lake Fire
14 Service, I had requested to see if they had a local
15 vet because we didn't have one on our team.
16 I wanted the vet to see Ranger, just check the cuts
17 above his eye to make sure that it didn't need
18 stitches or anything else like that. So I probably
19 waited about 20 minutes. One of the local vets came
20 up and looked at him and said there was no problems
21 with him whatsoever, and then we took Ranger in --
22 I believe we started in the Zellers building, and
23 searched all the buildings throughout the mall.

24 As we got to the second storey, I put
25 him on a 30-foot line so that he wouldn't jump off

1 or get close to the edge and something collapse on
2 him so I could control him and make sure that he
3 wasn't hurt.

4 Q. And so this was a search of the
5 mall, but not the collapse area?

6 A. Not the collapse zone.

7 Q. What was the result of that
8 search?

9 A. He had no indications of anybody
10 whatsoever, anywhere in the mall.

11 Q. Was he deployed on the pile at
12 any time during that shift, besides the one time
13 you've told us about?

14 A. No, he was only on the pile some
15 time after noon on the Sunday.

16 Q. And then I understand that you
17 completed your shift. You went to bed roughly at
18 about 10:30 on Sunday night and at about 2 o'clock
19 in the morning you got a call that Ranger's services
20 were required?

21 A. Yes, I did.

22 Q. Why don't you tell us about
23 that.

24 A. I received a call from Sergeant
25 Phil Glavin.

1 Q. He's with Toronto Police
2 Service?

3 A. Yes, he's with Toronto Police
4 Service.

5 Q. He's the search specialist?

6 A. Search manager, search
7 specialist on the night shift portion. He advised
8 me that -- over the phone that he needed me to
9 attend the mall again, with Ranger. I attended
10 there and they said at the time they'd moved some
11 things off the pile, and that the OPP was shortly
12 going to be doing a search and they wanted Ranger
13 also to do a search.

14 I do not remember what time it was.
15 I know it wasn't at 2 o'clock. It may have been
16 later, around 4:00. The OPP went in with, I believe
17 it was Dare.

18 Q. And did you know what Dare was
19 trained for?

20 A. I knew that Dare was
21 a cross-trained dog.

22 Q. Okay.

23 A. As they were starting the
24 search, I left the area and went --

25 Q. Why did you do that?

1 A. I don't want to have any
2 preconceived notions of where other handlers are
3 getting indications or anything at all. The least
4 I know in that case the better off. I just want to
5 be going in with a clean slate so that I'm not
6 thinking for the dog, thinking okay, keep working
7 here, keep working there.

8 When I returned with Ranger, he had
9 finished doing his search. I didn't ask him how it
10 went, we had no conversation whatsoever. I believe
11 that he left with his dog to go put him back in the
12 kennel.

13 I began the search of the rubble pile
14 with Ranger, in the area where the indication was
15 first shown on the photograph, he was all over, had
16 tons and tons of interest, kept going --

17 Q. Was he deployed in the same
18 fashion as you had done on Sunday about noon, that
19 is from the south end on this occasion?

20 A. No, it would have been from the
21 north end.

22 Q. So things had changed. The
23 landscape of the collapse zone had changed
24 considerably since noon?

25 A. Yes, it had.

1 Q. The shoring had progressed?

2 A. The shoring had progressed.

3 They were doing some rigging. The car was moved and
4 I'm not sure how many pieces of concrete but there
5 was a lot cleaned up.

6 Q. So the car was out of there,
7 some concrete had been removed, and as well, we know
8 and you probably observed this yourself, the beam
9 that had been hanging across, it had been removed at
10 this point in time?

11 A. Yes, it had. Yes, it had.

12 THE COMMISSIONER: Was the dog on
13 lead at this point?

14 THE WITNESS: No, he wasn't, sir, the
15 dog was off lead.

16 BY MR. WALLACE:

17 Q. So you are deploying him from
18 the north end?

19 A. Yes, sir.

20 Q. Go ahead, please.

21 A. He was going up and down --
22 where the indication was he was going up and down
23 the slabs in this area. He would get up to the very
24 top of it and then stop and go back down. In around
25 this area he was all over it, he kept going up and

1 going down.

2 I borrowed a --

3 Q. Can I just stop you? Am I right
4 in describing it that the area that he's showing
5 interest in is a wider area than you've indicated
6 that he indicated on earlier, but it includes that
7 area?

8 A. Yes, it is.

9 Q. Is that a fair description?

10 A. Yes, because like I said
11 earlier, the car was removed from there so the
12 landscape had changed from this picture but he was
13 still in the same area. I borrowed a puffer
14 bottle --

15 Q. What's that?

16 A. Which is a -- similar to a nasal
17 bottle filled with baby powder and what that's used
18 for is as I was walking through, I can squirt it.
19 The baby powder goes in the air and you can see how
20 the scent -- sorry, not how the scent, but how the
21 wind is moving in around the obstacles that are
22 there, and if it's being blown all up or blown down,
23 moved around, twirled, so I could have a better
24 understanding of why Ranger was going up and down
25 and all over trying to get to the area where the

1 source may have been coming from.

2 Q. So what did this tell you?

3 A. It was swirling a lot. So the
4 wind was coming in probably from the loading dock
5 doors and just being swirled around and around, and
6 the dog was all over in that same area, he never
7 left that area.

8 Q. Sorry, why don't you with your
9 laser just sort of indicate the directionality of
10 this swirling you are talking about? Is it actually
11 a circular motion?

12 A. Yes, it was a circular motion
13 that I was getting when I saw the baby powder so the
14 air was constantly churning in. It would go to the
15 south and then come to the north, go to the south,
16 come to the north. You could see that the way the
17 cloud of baby powder was making, that it was
18 actually making like a funnel shape to it.

19 Q. Now, this would be -- you'd be
20 approximately how far away from the area that Ranger
21 is working in? Because you're -- I assume you're
22 not on the pile?

23 A. When he first went in I wasn't
24 on the pile.

25 Q. Right.

1 A. When I saw that he was going
2 back and forth and back and forth trying to pinpoint
3 the source of what he was scenting, I walked
4 probably into around this area here because a lot of
5 this had already been cleaned up, so I was maybe
6 20 feet from the reception desk.

7 Q. And you're indicating more or
8 less, in the middle --

9 A. The centre area of the pile.

10 Q. The centre area of the pile. So
11 20 feet south of the reception desk in the centre
12 area of the pile?

13 A. Yes, in the centre of the pile
14 and that's where I used the puffer bottle to see
15 what was going on.

16 Q. And that would be approximately
17 how far away from the area that Ranger is working?

18 A. I would say 10 feet.

19 Q. Okay.

20 A. Ranger continued to work that
21 area with lots of interest, but at no time did he
22 ever have any indication. So he would go back and
23 forth, back and forth, back and forth, trying to
24 pinpoint what the source of the scent was but he did
25 not have enough scent there for him to indicate by

1 barking.

2 Q. So he never barked?

3 A. Never barked at that time
4 at all --

5 Q. In that time?

6 A. -- no, sir.

7 Q. And approximately how long was
8 Ranger working the pile?

9 A. I would say about 10 minutes.

10 Q. And what did you report --
11 I assume you reported the result?

12 A. Yes, I did.

13 Q. And who did you report it to?

14 A. I believe -- I remember seeing
15 Chris Rowland there. And they were still doing some
16 rigging. I can't remember if Mike McCallion was in
17 the group that was standing by the reception desk or
18 not. I reported that Ranger had lots of interest in
19 that same area that he had the indication the day
20 before but he had no indication.

21 Q. So, this was roughly speaking,
22 around 4:00 a.m.?

23 A. I believe so, yes.

24 Q. About the same time the OPP
25 deployed the LifeLocator device; did you see that?

1 A. No, I didn't.

2 Q. And had you been made aware of
3 the fact that they had deployed the LifeLocator
4 a little before midnight that night?

5 A. I'd heard they'd done some
6 electronic thing. I wasn't sure what they were
7 taking about but I never had any conversation with
8 them, or it was more like -- "Oh yeah, the OPP put
9 this machine on the pile," and I don't even remember
10 who said that. It would have been one of the guys
11 from our Task Force.

12 Q. Were you made aware of the fact
13 that the machine detected breathing?

14 A. I'd heard that, yes.

15 Q. And did anybody tell you where
16 they had detected the breathing?

17 A. Not that I recall, no.

18 Q. Now, so this work was taking
19 place when you were actually off shift; correct?

20 A. Yes.

21 Q. Because you were a day shift
22 person?

23 A. Yes, sir.

24 Q. Did you go back and join the day
25 shift in a couple of hours' time?

1 A. I remained on site. At one
2 point shortly after I'd put my dog away and checked
3 him out, I was back in around the rubble site. They
4 were doing some rigging and they were having
5 a problem getting a band underneath so I grabbed
6 a pry bar, helped them lift one of the small pieces
7 of concrete, they put the band in.

8 Chris Rowland told me to get off the
9 pile because they were getting ready to lift it.
10 I left and went back and I think that's when the day
11 shift was there, and went and spoke to Chuck Guy in
12 regards to what we had done during the evening when
13 they were sleeping and what was needed to be done
14 for the day shift.

15 Q. So, Chuck Guy was the day shift
16 leader?

17 A. Yes, he was.

18 Q. And so you brought him up to
19 speed as to what you had been doing --

20 A. Yes.

21 Q. -- as well as what you had seen
22 taking place that night?

23 A. Yes.

24 Q. On your day shift, what
25 assignment did you get, in the morning? So I assume

1 this is somewhere around 7 o'clock, 6, 7 o'clock in
2 the morning?

3 A. I honestly don't remember
4 exactly what we were detailed to. I know that in
5 the morning they were still doing shoring within the
6 building. I --

7 Q. Let me ask you -- sorry go
8 ahead. I don't want to interrupt you.

9 A. No, I remember now Sergeant
10 Lawson and myself were assigned to mark the building
11 for --

12 Q. What does that mean?

13 A. So that on the outside of all
14 exterior, after everything was checked, we mark the
15 building, "Go" or "No-go" areas with the FEMA
16 building markings and it was our job to make sure
17 that all the building and all the entrances were
18 marked, either people can use them or people can't
19 use them.

20 Q. And these are symbols that are
21 understood by search-and-rescue people?

22 A. Yes, they are.

23 Q. And so we are now on Monday, the
24 25th, the day shift.

25 A. Yes.

1 Q. You've been given this
2 assignment to mark the building. Did you have any
3 idea what the plan was as far as the TF-3, what --
4 other than saying we're trying to save a person, did
5 you understand what the plan was to accomplish that?

6 A. The shoring was still going on.
7 After we -- Sergeant Lawson and myself had finished
8 marking the buildings, I had a conversation with
9 Chuck Guy. We were in the reception area of the
10 hotel, on the north end.

11 He was talking to me because I was
12 asking him, "What are we going to do?" He and
13 I came up with -- he had the idea and we were
14 talking about from the barber shop area, of seeing
15 if the dog can indicate or do a search in that area.

16 I'd advised him that with all the
17 rubble and everything that was in there, the dog
18 wouldn't be able to make it past the opening we had,
19 never mind do any searching.

20 We had talked about tunneling
21 through, wanted to clear it all out to shore it
22 properly so it was safe for the rescuers and make
23 a bigger void so the dog could go in so we could
24 pinpoint from the bottom where the indication was on
25 the Sunday afternoon. And that's the only plan

1 I know of that we talked about.

2 I don't know if Chuck brought it to
3 Command or if it was something he'd been talking
4 about before.

5 Q. And this was -- at this stage,
6 it sounds like he was essentially bouncing some
7 ideas off you?

8 A. To me, that's what it was, yeah,
9 we were seeing what would be possible.

10 Q. When the --

11 THE COMMISSIONER: Before you go
12 ahead, Mr. Wallace, it's time for our morning break
13 unless you only have a minute or so to go.

14 MR. WALLACE: No.

15 THE COMMISSIONER: We'll take our
16 morning break now.

17 --- RECESS AT 10:30 A.M.

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

19 MR. WALLACE: Thank you.

20 BY MR. WALLACE:

21 Q. Sergeant, when this shift
22 started -- so the shift on the Monday morning -- so
23 Ranger has been on the pile in the early morning
24 hours on Monday, has shown interest but no
25 indication. You're involved in the day shift from

1 that point forward.

2 A. Yes.

3 Q. Was there a briefing conducted
4 of the day shift members by the team lead, by Chuck
5 Guy?

6 A. Not that I recall.

7 Q. You and Sergeant Lawson's
8 assignment to mark the outside of the building, this
9 was a face-to-face thing; this was not part of
10 a general briefing and said, "You two guys will do
11 this"?

12 A. Yeah, it was a face-to-face.

13 Q. On the Monday shift, we know
14 from witnesses who have come before, that at about,
15 roughly speaking, 1:30 in the afternoon, everybody
16 was -- all of the TF-3 and the OPP team were pulled
17 off the pile -- or pulled out of the building, in
18 fact.

19 A. Yes, sir.

20 Q. Do you recall that?

21 A. I recall us being removed from
22 the building. I do not recall what time it was.

23 Q. Do you recall getting any
24 explanation as to why you were being removed from
25 the building?

1 A. No, I don't recall any
2 specific -- just that we had to leave the building.

3 Q. What did you do that afternoon
4 after you were pulled from the building?

5 A. I know that we were building
6 a shore at the back of the building at the loading
7 docks.

8 Q. This was a raker shore?

9 A. Yes, it was.

10 Q. Okay.

11 A. I wasn't involved in that.
12 I ended up going up and checking on my dog, they --
13 and taking him out to relieve himself and give him
14 some exercise.

15 Q. So, did you exercise your dog
16 that afternoon?

17 A. Yeah, and by "exercise" I mean
18 like just letting him get out of the kennel and
19 stretch his legs.

20 Q. Do you recall anything else
21 would you have done that afternoon?

22 A. Later in the afternoon there was
23 a group of people coming up towards the mall, some
24 local people. They were fairly upset ...

25 Q. We can situate you there. At

1 five o'clock in the afternoon there was a press
2 conference that was held at the Collins Hall --

3 A. Okay.

4 Q. -- the public hall here in
5 Elliot Lake. And in the course of that press
6 conference, Staff Inspector Neadles had indicated to
7 the people that the search was -- the search was at
8 an end. And what you're about to describe is the
9 public, like people outside, was as a consequence of
10 that press conference?

11 A. Okay.

12 Q. At the time that you saw the
13 people, did you know that the search had been called
14 off -- or the rescue had been called off, rather?

15 A. I don't believe so. I didn't
16 pay attention to any of the press conferences or any
17 of the news releases that were out there.

18 Q. What about -- I'm sorry.

19 A. I don't remember anybody saying
20 at that time, beforehand that everything was called
21 off. I do know we weren't allowed to go back in the
22 building.

23 Q. Right.

24 A. I don't remember being told
25 a reason, but in my own thought it would have been

1 a safety thing.

2 Q. And was there ever a briefing by
3 senior TF-3 people of the team as to what was going
4 to happen going forward on the Monday?

5 A. On Monday we were all called
6 into the command tent. Again, I do not know what
7 time it was.

8 Q. How about we use the -- seeing
9 the people -- the public -- would that command tent
10 thing have been before the public or the after?

11 A. I believe it was after.

12 Q. Okay.

13 A. And at that time we were told
14 that we were not entering the building anymore, that
15 it was unsafe for anybody to be in there and
16 continue.

17 Q. Okay.

18 A. Go ahead.

19 Q. And what about what's going to
20 happen tonight? Any word as to what you were going
21 to be doing that night?

22 A. At that time, no mention of what
23 was being done from that point on, other than the
24 fact that none of us were allowed to enter the
25 building.

1 Q. What about yourself? What did
2 you think was happening, as far as did you think you
3 were staying there or you were going home? What was
4 your thinking?

5 A. I didn't think we were going
6 anywhere. I know that after the briefing they said
7 that the people at the church had dinner for us. We
8 had been eating, I believe -- the church is down the
9 street, across from the fire station --

10 Q Yes.

11 A -- or police station.

12 Q. Yes.

13 A. People there had had dinner for
14 us and meals for us all week long. We went there.
15 And then as we were there, Staff Inspector Neadles
16 was on his cell phone most of the evening. They
17 were all -- all the team members were getting on the
18 bus to go back to the mall. The -- the bus driver,
19 Brian Smit, was waiting for Staff Inspector Neadles
20 because he was his ride over.

21 I had my own vehicle, because I had
22 the dog in the back kennel. I told Brian that
23 I would take him over. Staff Inspector Neadles had
24 finished his call, was starting to walk. I picked
25 him up, and he sat in the passenger seat and he said

1 "We're not going home." And I dropped him off. He
2 didn't get into any details with that, and then we
3 were told as the day shift to head back to the
4 apartments that we were staying in and that we would
5 probably be called early.

6 Q. Okay. So then on the Tuesday --
7 you were part of the day shift on Tuesday?

8 A. Yes.

9 Q. I gather that Ranger did not go
10 into the building on Tuesday?

11 A. No. He was not deployed Tuesday
12 at all.

13 Q. On Wednesday, in the early
14 morning hours, I understand that Ranger was
15 deployed.

16 A. Yes he was.

17 Q. Why don't you tell us about
18 that?

19 A. The Priestly machine, the crane
20 had been there. I received a call, and I don't --
21 do not remember at all what time it was. I received
22 a call that they needed me back at the scene. The
23 escalator had been removed from the building. It
24 was in the parking lot area. They wanted that
25 apparatus and the area that surrounded it searched

1 by the dogs.

2 The OPP were already there, so they
3 were doing their search when I arrived. After they
4 finished, I did a search with Ranger and had no
5 indications whatsoever.

6 Q. And the OPP, was this the dog
7 Dare?

8 A. I believe it was.

9 Q. And was Dare searching the
10 escalator or was Dare searching something altogether
11 different?

12 A. I believe he was searching the
13 escalator also.

14 Q. And you watched the Dare search?

15 A. No, I didn't.

16 Q. But in any event, Ranger did not
17 give any indication at the escalator at that point
18 in time?

19 A. No indication, no interest
20 at all.

21 Q. Was Dare ever sent into the pile
22 after that point in time?

23 A. Later on, on the Wednesday
24 during the day, I know that the OPP and myself had
25 all our dogs deployed. I'm not sure exactly what

1 time it would have been. It was in the north end of
2 the building in around where the rubble pile still
3 was, in around where the hotel reception was and
4 we'd had the indications of the victim at the
5 beginning.

6 Q. And so Ranger was now looking at
7 the area that he had earlier gave indications on.

8 A. Yes.

9 Q. And what was the result at this
10 point in time?

11 A. He had no interest in any of the
12 rubble pile that was still remaining on the north
13 end of the building by the hotel reception.

14 Q. And did Ranger work the pile at
15 any other point in time on Wednesday?

16 A. After him doing the one search
17 on the pile, I have no recollection of him working
18 whatsoever. I don't believe he was taken out of the
19 car.

20 Q. Did you have the opportunity to
21 observe where the victim Lucie Aylwin was located?

22 A. Yes, I did.

23 Q. And were you able to determine
24 the -- where she was found in proximity to where
25 Ranger had indicated?

1 A. Where Ranger had indicated, from
2 the area I could tell -- I wasn't right where Lucie
3 Aylwin was, I was back -- it would have been where
4 the entrance doors to the mall were, near the
5 Foodland originally, but they'd all been removed.
6 Ranger's indication would have been about -- within
7 a foot to a foot and a half away from her actual --
8 other than her being underneath all the pile, he
9 would have been about a foot, to a foot and a half
10 off of being right on top of her.

11 Q. And can a dog distinguish the
12 scent of a person from the scent of animal?

13 A. Yes. Yeah. Part of the
14 certification in training is we'll use both live and
15 dead animals as distractions. So that if it's
16 an apartment building or there's a pet store in
17 a building that collapses, the dog's not going and
18 paying all his attention to the animals that are
19 either there alive or dead. He is paying strict
20 attention to live human beings.

21 Q. Thank you very much, Sergeant.
22 Those are the questions I wish to ask you, and some
23 of my colleagues will have some questions for you.

24 A. Thank you.

25 THE COMMISSIONER: Mr. Oliver,

1 in-chief.

2 MR. OLIVER: Thank you very much.

3 EXAMINATION-IN-CHIEF BY MR. OLIVER:

4 Q. Good morning, Sergeant.

5 A. Good morning.

6 Q. We, of course, know each other;
7 but for the record my name is Richard Oliver, lawyer
8 for the City of Toronto.

9 I just have a couple of questions to
10 ask in-chief. You gave a lot of information
11 about -- as to your training and experience, but
12 I wanted to give you the opportunity to say anything
13 that you may not have already said that you think
14 would be relevant to this Inquiry as to your
15 training and experience.

16 A. Now, are you talking training
17 with Ranger or just overall, any type of
18 search-and-rescue training?

19 Q. Well, both actually.

20 A. In regards to the
21 search-and-rescue training, other than the mandatory
22 training that's required by the HUSAR team, I've
23 also been involved in several different seminars
24 throughout North America. At the SARS scene in
25 Kingston -- I believe it was 2004, 2005. I actually

1 ended up being one of the lecturers. The gentleman
2 who showed up -- or was paid to show up never did.
3 So instead of having everybody go, we just lectured
4 them. They were there for tracking seminar.

5 Most of the people that are involved
6 are volunteers throughout Canada, that spend their
7 own time and want to go out and help people.

8 In regards to canine training, I've
9 been on several different courses for explosive dog
10 and training there. I've trained with the ATF and
11 the FBI in their explosive dog handling section.
12 And I also, at one point, handled the drug dog for
13 the city -- for the Toronto Police Service.

14 Q. And I think you've actually also
15 had a recent find that's gave you a little bit of
16 celebrity?

17 A. Well, the dog's celebrity, yes.

18 Q. The dog's celebrity.

19 A. Yes. We had a missing person in
20 the City. They had a phone ping off of a location,
21 which gave us about a 98-metre to 110-metre areas --
22 sorry -- radius to locate this person. With the
23 pings it just means that that's the phone. If
24 they've dropped it or anything, it doesn't mean
25 we're going to find the person with it.

1 We worked that scene. Ranger at the
2 time was online, on a 30-foot line. We had four
3 horses also. I kept him online because he likes to
4 go up and say "hi" to the horses, and sometimes they
5 like to kick out. So I didn't want to get him hurt.

6 When -- his job was to just basically
7 go for a walk. He turned around and went in and out
8 of the bushes. We found several places where
9 vagrants had been sleeping on this railway track in
10 the thick bush. He entered the woods, really dense
11 bush. The horse -- horses were in front of him at
12 this time, checking what they do. They couldn't see
13 anything.

14 Ranger went in. His line went
15 completely limp and he started barking, the same
16 type of indication I got when he was up in
17 Elliot Lake, a very discernible deep bark. I went
18 into the -- made my way into the bushes and located
19 a male lying on the ground and it turned out to be
20 the missing person we were looking for.

21 Q. I wanted to talk about the
22 actual Elliot Lake deployment and some areas that
23 I don't think have been covered. One of the
24 questions I have is: Did you have any issues or
25 problems getting Ranger to search the pile?

1 A. No, none whatsoever. I have
2 heard that there -- someone had said there was
3 a problem with him going onto the pile. In relation
4 to that, that would have been on the Wednesday after
5 they'd cleared a lot of it out. I went down with
6 Ranger on the -- towards the pile at the time. He
7 was on -- on lead. As we were there, before
8 I deployed the dog, he was again on his four-foot
9 lead. I was talking to Sergeant Jim Lawson and Tony
10 Comella, advising him of how I was going to deploy
11 the dog -- and what areas he would be covering.

12 Ranger was going back and forth and
13 back and forth. He can move about two or three
14 feet. He never refused to deploy. What it was was
15 he was on a four-foot line. He couldn't get any
16 further than four feet.

17 The minute I unhooked his lead and
18 let him go, he took off and went up onto the pile
19 and did what he had to do.

20 Q. When Ranger wasn't being
21 deployed, what was Ranger doing?

22 A. He was staying in his car.
23 I had brought up one of our Crown Victorias. The
24 vehicles have the back seat removed and a special
25 kennel for the dog is installed. The back windows

1 on the vehicle both go right down. And the windows
2 are screened. Because of the heat and the area and
3 the temperatures that were there, I had asked the
4 Elliott fire, if they had a fan.

5 One of the firefighters asked me what
6 for. I told him I wanted a fan at the back window
7 to allow the wind to blow over the dog. His
8 comment?

9 A. Was that the ones that they had
10 would blow him right out the other side. One of
11 the -- and I don't remember which firefighter it
12 was. One of the firefighters got on his cell phone,
13 made a phone call, and advised me that he would have
14 one in ten minutes. What he had done is he had
15 phoned his wife and asked them to take their
16 personal pedestal fan from home and bring it to the
17 fire station.

18 It was picked up and then one of
19 the -- I believe it was an Elliot Lake volunteer,
20 made sure that the fan was working whenever Ranger
21 was in the car. They kept making sure the generator
22 had gas and the fan was working all the time.

23 Q. And why did you want the fan to
24 blow over Ranger?

25 A. If you put the dog into a air

1 conditioned car and the air conditioning works --
2 all our cars have heat alarms to them. It is called
3 a hotdog system. By doing that, you allow the --
4 his nose and his scent to dry up because of the dry
5 air.

6 When you get them out of the car, you
7 have to remoisten all their scent -- their nose and
8 everything so the scent can work properly, and then
9 it takes five to ten minutes for them to get used to
10 the temperatures. Where if he has air blowing over
11 him, he's comfortable, he's not overheating -- and
12 I had water in the back for him -- I can get him
13 right out, walk up to right wherever I am and search
14 right away and he's completely capable of being able
15 to do that.

16 Q. Now, you had started to talk
17 about a period of time where you encountered members
18 of the public, and I don't think you had a chance to
19 finish that. So I wanted to give you the
20 opportunity to finish what you were about to say.

21 A. When I came, and I believe I was
22 coming out from the back of the mall -- again,
23 I don't remember the time. I've heard that the news
24 conference was at five o'clock so it would have been
25 after that. There was a group of, I believe, five

1 or six people, maybe a couple of more.

2 One of the males in the group was
3 obviously distressed, very upset. I could --
4 walking towards him, I could see the veins in his
5 neck bulging, and he was constantly making fists.

6 With just the rest of the policing
7 experience I have, that's not a good sign.

8 I approached the group. There was some other people
9 who were with me from the task force. I'm not sure
10 who they were. I had conversations with him. He
11 was still upset, but he ended up walking away
12 yelling and screaming at us.

13 One of the ladies that was in the
14 group came up to me and she said -- and I'll change
15 her wording a bit. She basically said we didn't
16 care. We don't -- there's nothing -- we're just
17 there because we don't care. I was wearing my
18 sunglasses at the time. I took my sunglasses off
19 and told her look in my eyes and tell me I didn't
20 care.

21 I have no problem admitting I was
22 crying at the time. I didn't like the fact that we
23 weren't allowed in the building, and we had to stop
24 what we were doing. Our idea was to go in and do
25 our job, finish what we started, and hopefully come

1 out with a good result at the end.

2 I continued talking to the people for
3 about ten, maybe fifteen minutes. At the end of the
4 day, I know two or three of the gentleman that were
5 there shook my hand, thanked me for spending some
6 time talking to them, and then they walked away from
7 the thing. Two of them said, We have boots. If you
8 can get us helmets, if you need men.

9 Q. Now, after the team briefing
10 that happened sometime on the evening of the Monday,
11 did you do any other work on site other than
12 deploying the dog?

13 A. On the Monday --

14 Q. Not necessarily on the Monday
15 but from the Monday press -- or, sorry -- the Monday
16 team debriefing on, were there any other duties that
17 you did other than deploy the dog?

18 A. Oh, yes. I believe it was the
19 Tuesday that I was involved with helping build the
20 shoring, the raker -- not raker shore, sorry -- the
21 laced-posts that were placed underneath the supports
22 for the walkway near the Zellers store. We did that
23 as a team. And because I'm part of the team and
24 I have the same amount of training -- the dog was in
25 the car. Elliot Lake volunteer fire service, I told

1 them how to -- and showed them how the alarm worked
2 and that if the alarm in the car for Ranger went
3 off, they came and got me. And I assisted building
4 the shores.

5 Q. Were you told what the purpose
6 of the shores were -- was?

7 A. I'm not sure if I was told
8 specifically, but I figured that once I started
9 doing whatever they had to do to the building, that
10 that was going to allow that side of the building
11 not to just be pulled away. The shores would help
12 give us the idea if things were going bad because
13 the wood snapping and that, so that no-one else
14 would get injured or hurt.

15 Q. When you say doing what they had
16 to do to the building, what specifically were you
17 referring to?

18 A. That the -- I knew the building
19 was moving.

20 Q. Sorry. I mean the actions that
21 were going to occur, you said --

22 A. I was -- I knew that -- this
23 would have been the Monday -- the Tuesday -- when we
24 were building the shores, I believe. And I'd heard
25 that the crane was on its way up, and I didn't know

1 what it was. But this was being put so that they
2 had a warning, so that if that side of the building,
3 whenever the crane was operating, it would give them
4 a warning that the ramp was coming down.

5 Q. Can you tell me a little bit
6 about what the TF-3 training is, as to how to access
7 a victim in a situation such as this where there's
8 been a collapse?

9 A. The training and -- my
10 understanding of it is that when you are doing any
11 type of rescue is you go from the bottom and work
12 your way up so we would have -- and this is where
13 Chuck Guy and I were talking about burrowing through
14 from the barber shop area and making our way up to
15 the area where the victim was. Because there's not
16 as much of a chance of the concrete shifting and
17 anything changing as you change the weight from the
18 top to the bottom.

19 If you are go from the bottom it
20 doesn't shift as much because you've got it all
21 supported with shoring.

22 Q. Okay. Well, thank you. Those
23 are the questions I have in-chief. My friends may
24 have some more. And I may be back for
25 re-examination, but thank you very much.

1 A. Thank you.

2 THE COMMISSIONER: Cross-examination?

3 Ms. Filgiano?

4 CROSS-EXAMINATION BY CAROLYN

5 FILGIANO:

6 Q. Good morning, Sergeant Fowlds.

7 A. Yes.

8 Q. My name is Caroline Filgiano,
9 and I am one of the lawyers with ELMAC. I have one
10 quick question for you this morning.

11 And that is: You testified that
12 Ranger obviously barked. I believe it was around
13 12:10 on the 24th?

14 A. Okay, yes, on the Sunday.

15 Q. Has Ranger ever, either in
16 training or on deployment, had a false positive in
17 the sense that he would have barked where there was
18 no person or no-one alive?

19 A. No.

20 Q. Those --

21 A. Not that I recall. Thank you.

22 MS. FILGIANO: Those are all my
23 questions.

24 THE COMMISSIONER: Ms. McKenna.

25 CROSS-EXAMINATION BY MS. MCKENNA:

1 Q. Hi, Sergeant Fowlds. My name is
2 Carolyn McKenna, and I'm counsel for the Ontario
3 Association of Fire Chiefs.

4 A. Okay.

5 Q. I just have some questions for
6 you about the tapping that you heard. So --

7 A. Yes.

8 Q. Okay. So Mr. Wallace asked you
9 a question about whether the sound of fresh tapping
10 on concrete would carry the distance from the rubble
11 pile to where you were standing at the time you heard
12 the tapping; do you recall that?

13 A. Yes.

14 Q. Okay. And you mentioned that
15 one of the reasons that you believed the sound would
16 carry this far was because of your training, and you
17 mentioned something about voids --

18 A. Well --

19 Q. -- do you recall that?

20 A. -- we train in concrete, rubble
21 piles, as much as possible with the dogs.

22 Q. Uh-hmm.

23 A. And we usually try and tell the
24 people that are being our victims, to be quiet but
25 after they're in there twenty minutes, some of them

1 get a little antsy. I've actually had people to
2 forget to tell us at the beginning they're a little
3 claustrophobic, and they start making all sorts of
4 noises and you can hear them banging against the
5 sides and different things like that. So from that
6 you just get used to the sound that, Oh, okay.
7 That's what it is and where it's coming from."

8 Q. Okay. And during those training
9 exercises, have you experienced hearing tapping
10 sounds from underneath the pile from approximately
11 the same or a larger distance than you were at at
12 Elliot Lake?

13 A. Probably about the same
14 distance, maybe a little bit closer.

15 Q. Okay, and you mentioned voids so
16 I take it that it's your understanding that the more
17 voids there are, the further such sounds will carry?

18 A. Yeah, they'll echo.

19 Q. Okay, and is there anything else
20 in your training that would have led you to believe
21 that the sound would carry that far?

22 A. Nothing in my training. It was
23 just a very definitive noise that I heard, and it
24 wasn't from -- when the call-outs were made, the
25 tapping came right after the call-out. So it wasn't

1 something we were hearing a dripping from a pipe or
2 anything like that. It was a constant -- and it was
3 only when we requested it or Sergeant Lawson
4 requested it.

5 Q. Okay. Thank you. Those are my
6 questions?

7 A. Thank you.

8 THE COMMISSIONER: Mr. Thorne.

9 CROSS-EXAMINATION BY MR. THORNE:

10 Q. Hi, Sergeant Fowlds. We met
11 earlier, but for the record my name is Ernie Thorne.
12 I'm a representative for the International
13 Association of Firefighters. Just a few questions
14 for you, and it revolves around the incident command
15 system as much as anything. Do you operate under
16 the incident command system with the HUSAR team?

17 A. I believe we do, yes.

18 Q. And have you had any other kind
19 of training with the other members of the HUSAR team
20 in that regards?

21 A. Through the HUSAR team there
22 hasn't -- that I can remember, there's been no
23 direct incident command training that has gone on.

24 I believe -- and I may be
25 corrected -- but in the -- your basic introduction

1 they talk about it, but very briefly.

2 Q. Okay. Within the HUSAR team
3 there are three different -- three different groups.

4 I believe if I'm -- there is police,
5 fire and EMS?

6 A. Yes. The Toronto team's made up
7 of those three.

8 Q. Okay. And on this particular
9 event that you were -- were to Elliot Lake, you were
10 assigned to Team 1?

11 A. Yes.

12 Q. And who was your team leader?

13 A. It would have been Chuck Guy.

14 Q. Chuck Guy. Okay. And so being
15 with police, and your team leader is a firefighter,
16 is that an issue with yourself?

17 A. None whatsoever.

18 Q. And -- okay. At one point
19 I believe you mentioned that you were on the pile
20 with Ranger, when your team leader -- and I think
21 you said it was Chuck Guy -- came along and said,
22 "You need to leave."

23 A. No, I was -- I had been on the
24 pile earlier with Ranger doing a search. That would
25 have been in the Monday -- early Monday morning,

1 I believe.

2 After I'd put the dog away, they were
3 doing some of the crane operations, and I helped
4 them lift a piece of concrete so they could get
5 wedges underneath to get the band underneath. And
6 it was Chris Rowland that told me to get off the
7 pile, and that was -- they were starting to lift and
8 he didn't want more people -- and it's his job to
9 basically watch my back so that I don't end up
10 getting hurt.

11 Q. Okay. So as team leader he told
12 you to leave?

13 A. He told me to leave and that's
14 his job and he's got eyes on top that I can't see
15 what's going on.

16 Q. And so what did you do?

17 A. I just left the pile and went
18 off. I don't remember where I went from there, but
19 left the pile and left it up to the people that were
20 doing it.

21 Q. Okay. Thank you. Those are my
22 questions. Thank you.

23 A. Thank you.

24 MR. HOGG: No questions.

25 THE COMMISSIONER: Mr. Kloeze?

1 MR. KLOEZE: Nothing.

2 THE COMMISSIONER: Nothing else, no
3 re-examination? Mr. Wallace.

4 MR. WALLACE: No, thank you, sir.

5 THE COMMISSIONER: Sergeant Fowlds,
6 were in the red zone during your time at
7 Elliot Lake, and you put your life and your health
8 in danger, and for that I think you deserve
9 expressions of gratitude and admiration, not only
10 from the Commission but from everybody. Thank you
11 for being here today, and thank you for your
12 evidence.

13 THE WITNESS: Thank you very much
14 sir.

15 THE COMMISSIONER: Now, Mr. Wallace,
16 I see Chief Officer is here.

17 MR. WALLACE: Yes he is, and we're in
18 a position where we can continue and complete his
19 cross-examination.

20 THE COMMISSIONER: All right. Thank
21 you. Would you come forward Chief, please.

22 MR. WALLACE: It is my recollection,
23 Commissioner -- and I stand to be corrected. But
24 I think we're at the point where it's Mr.
25 Cassan's --

1 THE COMMISSIONER: And I can't recall
2 either.

3 Had you completed or had you
4 commenced?

5 MR. CASSAN: Sorry, Mr. Commissioner,
6 I had done my initial in-chief.

7 THE COMMISSIONER: That's right.

8 MR. CASSAN: I think that most of the
9 cross would have been finished. I didn't know if
10 anybody else had cross.

11 THE COMMISSIONER: I don't know who
12 had cross.

13 MR. CASSAN: And then I think we're
14 prepared to proceed with re-examination.

15 THE COMMISSIONER: Does anybody else
16 have questions of Chief Officer in cross?

17 MR. WALLACE: The only person that
18 I recall as doing the cross is Mr. Oliver because he
19 announced his plane, and he's done. So --

20 THE COMMISSIONER: Yeah. I just --
21 I don't have my proper book, but then you would be
22 in re-examination mode.

23 MR. CASSAN: Thank you,
24 Mr. Commissioner.

25 THE COMMISSIONER: Mr. Cassan, and

1 Chief Officer, I simply remind you that you are
2 still under oath, sir.

3 THE WITNESS: Yes, sir.

4 CHIEF PAUL OFFICER: ON PRIOR OATH
5 RE-EXAMINATION BY MR. CASSAN:

6 Q. Good morning, Chief Officer.

7 A. Good morning.

8 Q. The first thing I wanted to ask
9 you about, Chief, was with respect to training.

10 And I'm just wondering if there's any
11 training that you would like to have had or you
12 would liked your firefighters to have had to respond
13 in this emergency?

14 A. Well, I believe there's --
15 there's the basic training for collapse, but it's
16 more dealing with fire type of emergencies, so it's
17 a little bit different than this. This isn't
18 something that's dealt with on -- you know, on
19 a fairly frequent basis, so our efforts go towards
20 our highest concerns for the community are. So
21 I don't really think there would be -- I mean, we
22 always want more training but there's only so many
23 dollars to put towards training, and we go to our
24 most extreme number of calls so -- which in our case
25 is fire.

1 Q. And so I suppose to pick up on
2 that, now that you've had this experience, do you
3 have any intention of sending any of your folks to
4 get HUSAR type training?

5 A. It would be -- one, we wouldn't
6 be able to supply a team of the size that would be
7 needed for the -- for the nature of this particular
8 type of call. I would tend to think, through the
9 results of the Inquiry, that there may be picked up
10 by the Ontario Association of Fire Chiefs to
11 possibly -- or at least Chief Officers to take the
12 lessons learned and things that come out of the
13 Inquiry that will probably come forward to help
14 position Fire Departments across the provinces in
15 dealing with these type of incidents.

16 Q. I guess maybe I'll be more
17 specific: Do you have any intention of sending any
18 of your guys down to the Texas A&M that we've heard
19 about or TEEEX for getting any sort of that type
20 of --

21 A. No.

22 Q. You were telling Mr. Wallace
23 about the training time that volunteers spend, and
24 you said that they spend eight hours a month which
25 was assuming four Wednesdays per month. And

1 I understand that to be the training that's done at
2 the hall; right?

3 A. That's correct.

4 Q. Is there any home or self study
5 done on top of that?

6 A. We -- we post our training
7 schedule probably two to three months in advance.
8 They have basically home study prior to that, so
9 they know what the schedule is. If there's
10 a section coming up, they're asked to review the
11 areas that we're going to be training on.

12 We also send people to the fire
13 calls. I actually have three firefighters leaving
14 tonight to attend a Mod A and Mod B, which is the
15 basic firefighter training this coming week. And we
16 also do other training, our ice water rescue
17 training -- to the other specific areas. And then
18 also when opportunity arises, about every three
19 years I bring in somebody and we go through
20 an Incident Command training. I have opportunity to
21 get a building coming forward in the next month that
22 they're going to demolish. So I try to make up
23 those arrangements and set up specialized training
24 for hands-on training when those -- those
25 opportunities afford us.

1 So throughout the year, the eight --
2 the eight hours is probably the minimum, but there
3 are other training opportunities that we do take and
4 participate in.

5 We also get involved in the mutual
6 aid training as well. The mutual aid -- the
7 District of Algoma offers training throughout, and
8 we will -- we try to support each other so that we
9 have enough people to make a class. So then
10 there's -- there's times that I'll send -- have one
11 of my firefights go down to the Sault -- just north
12 of the Sault there's a training tour there and
13 participated in a MOD A training there, as well. So
14 we're very progressive in our training. We try to
15 grab what we can. They're getting more difficult to
16 get, actually.

17 Q. And I can remember back when
18 I was a trainer facilitator with Johnson -- or with
19 the zone, that the firefighter curriculum is
20 a fairly substantial document, and there would be
21 a lot of reading in advance of one of the hands-on
22 training. Is that still the case?

23 A. Yeah, that's -- the book is
24 quite large, probably about the size of this brief
25 or one of the briefs. And that's why we -- each --

1 each firefighter's supplied that. They can go
2 through it. They don't have to wait for us. We
3 actually promote that they do go through it. And
4 they -- the opportunity that's given to them, then,
5 is that they have the terminology. So when we
6 actually get to the fire hall they have the
7 terminology, they have a good understanding, and we
8 can proceed at a faster pace.

9 Q. Next thing I want to ask you
10 about is -- is planning. And I understand that part
11 of the training that you deal with is essentially
12 planning a response, or planning what the
13 firefighters are going to do on a response. Can you
14 tell the Commissioner about that.

15 A. We do do planning. I think
16 I touched a bit about it on my original testimony.
17 We're -- we're somewhat fortunate in our
18 firefighters cross lines that are not necessarily
19 afforded to departments of a larger size. My
20 full-time do fire prevention inspections, and a big
21 component of that is that they're throughout the
22 buildings and throughout the community and they know
23 what the hazards are. They know what the types of
24 the buildings are. So in essence, they're --
25 they're looking at 1) to do their duty on the fire

1 prevention end, but they are also very familiar with
2 the buildings.

3 I rotate that schedule through so
4 they are not doing the same buildings every year.
5 So each firefighter probably every -- well, because
6 we have the four shifts, would get through pretty
7 much the majority of the buildings every four years
8 here.

9 And when they're doing that, they're
10 doing their fire prevention inspections, but they're
11 also looking out for unique things. So it could be
12 a -- say if it's a building downtown, they're
13 looking to see where the hydro lines are. If we
14 have to put the aerial up, they're looking for
15 access, they're looking for the closest hydrants.
16 So we're afforded that opportunity which does help
17 us.

18 I don't think I fully answered your
19 question of the first part. If you could maybe give
20 it to me again, I can try and narrow it down for
21 you.

22 Q. Well, I'm just asking about the
23 training that you have that would effectively plan
24 how your team is going to respond to calls
25 generally.

1 A. Yes.

2 Q. And where I'm leading you is
3 with respect to how that worked with the Elliot Lake
4 response.

5 A. Yeah. We do -- some of our
6 bigger -- like the hospital, the mall, we've
7 actually through the years that I've been
8 involved -- probably I'd say at least half a dozen
9 times in the last twenty years, that we've
10 actually -- we get a hold of the owners and we
11 actually tour those buildings as well, so that we
12 show where the hydrant connections are, where all
13 the enunciator panels are.

14 Q. What's an enunciator panel?

15 A. The enunciator panel is what
16 controls the fire alarm system, and that's usually
17 at the main entrance. Depending where the
18 enunciator panel is, is really where we're going to
19 set our truck.

20 Q. Tell the Commissioner what the
21 information is that the enunciator panel provides
22 you in a response situation.

23 A. Say a fire alarm comes in, we'll
24 respond to the main entrance.

25 One of the first things in a fire

1 safety plan is the owner or the owner's
2 representative is to meet us at the door. The
3 enunciator panel will break down the building in
4 zones. So it will tell us if it's a fire alarm, a
5 pull station, if it's a sprinkler system that's been
6 activated. So it gives us a direction, especially
7 when it comes to larger buildings, on where we need
8 to put our resources or where we need to start
9 looking for where the problem is.

10 Q. And I'm sorry. I interrupted
11 you. You were saying you put your trucks where
12 the -- where the enunciator panel is?

13 A. Well, it's all part of the
14 location on how we're going to respond to that call;
15 and, of course, to get that information you've to go
16 there. So the first truck in is going to respond to
17 the front entrance. In this case with the mall, the
18 enunciator panel was in the front foyer, right at
19 the front doors.

20 Q. And I think you called that
21 staging your equipment; right?

22 A. That's correct.

23 Q. And so is that part of the
24 training for all of the firefighters so that they
25 understand that process?

1 A. Yes it is.

2 Q. And in the -- in the process of
3 staging, when you get on scene, did you expect the
4 firefighters to be asking who the Incident Commander
5 is?

6 A. No.

7 Q. Would that be helpful?

8 A. I think it's -- it's pretty
9 evident when they get on scene who the Incident
10 Commander is. They're -- our firefighters and
11 through our training, they tag in on the truck.
12 They're timed in on the truck. It helps us track
13 our manpower and our needs. It also gives us
14 an idea of who's on -- tells us exactly who's on
15 scene and then its broken down again with entry
16 control that we'll have somebody for entering the
17 building.

18 The first contact for the
19 firefighters responding is the pumper operator; and
20 the pumper operator, he knows exactly who's incident
21 command. So he'll be -- in that case, he'll either
22 have them stage at the truck or go to where the
23 Command Post is set up. And, of course, Incident
24 Commander is going to be there.

25 Q. Oftentimes you are the Incident

1 Commander, I presume. Does it help you to do your
2 job if you've got a bunch of guys coming to ask you
3 if you're the Incident Commander?

4 A. No, it doesn't.

5 Q. Now, I know that you've told the
6 Commissioner a lot of this planning is done
7 effectively in advance. What are your thoughts on
8 putting together a written response plan before
9 action starts to happen in a response?

10 A. There's no time. My -- to put
11 a written response plan in, prior to or have a group
12 huddle, prior to -- depending on -- on the situation
13 and depending on what you're doing, but the
14 firefighters are coming on the scene at different
15 times. So as your resources are coming on, you're
16 deploying them so you don't -- you don't --
17 deploying them to task, that you want to achieve,
18 you don't have time to do a group huddle or a -- to
19 explain everything. And they're used to that, and
20 they know -- I mean, part of the training that they
21 take -- if somebody is coming on scene, and they are
22 told to go and hook up a hydrant, well they know to
23 go do that task and to come back to get redeployed
24 to another task. They don't ask why. In most cases
25 it is evident on why they are doing those jobs.

1 THE COMMISSIONER: Time is your enemy
2 throughout?

3 THE WITNESS: Exactly.

4 THE COMMISSIONER: Sure.

5 BY MR. CASSAN:

6 Q. I want you to tell me about
7 an example with respect to where the written plan
8 was used or where the planning meeting in advance of
9 a response was used. I know that you told me about
10 a situation in Sault Ste. Marie where that happened.

11 A. Yeah. That was at a big
12 commercial building, the steel plant, the incident
13 command system training, when it came in, probably,
14 eight, ten years ago, roughly.

15 They just completed their training.
16 And I know the Deputy Chief rolled up on the scene,
17 and the firefighters were going through their action
18 plan, or their Incident Action Plan. When he looked
19 over at the doors or the main doors or the big doors
20 were open, and he could see the seat of the fire.

21 Q. What's the seat of the fire?
22 What does that mean?

23 A. The location of the fire where
24 the actual fire was burning and the smoke.

25 It was a large building, so it took

1 a while for that smoke to fill that space.

2 The problem was that they were doing
3 their Incident Action Plan. By the time they
4 finished, they lost their window of opportunity, and
5 the smoke was down to floor level, and it made that
6 fire a lot more difficult to get at, so it's
7 something that -- I know he was not too happy about
8 the situation. But that's the happen -- that can
9 happen, and it -- time is your enemy.

10 There is absolutely -- I can give you
11 another example, and part of the training that our
12 guys take -- say I have two people roll up on a fire
13 truck. One's the Incident Commander. They have to
14 use their judgment, and this is all done in seconds,
15 you know. So the Incident Commander can do his 360.
16 He may even open the door and poke his head in
17 depending on the situation, and he may see somebody
18 within reach that's collapsed that they can get.
19 There might only be the two fellows there. They
20 would likely pack up. And they're probably going to
21 rescue that person, even without their writ in
22 place.

23 Q. Tell us about pack up and writ.
24 We've got to make sure that the Commissioner
25 understands the terminology and acronyms that you're

1 using.

2 A. Yeah. That's donning your SCBA,
3 which is your self-contained breathing apparatus
4 that allows us to breathe in hazardous environments.

5 They're trained -- and that's -- when
6 I say "trained," they actually practise donning and
7 doffing their gear so they can get that time frame
8 down to the NFPA requirements.

9 Q. Which is what?

10 A. That's the standard for donning
11 and doffing.

12 Q. How many seconds, though?

13 A. Under a minute. If you can get
14 it down to a minute, that's pretty good. So that's
15 suiting up entirely. Well, they already have their
16 bunker gear on when they get to the scene, so it's
17 just getting the pack on. They could probably do
18 that between 20 and 30 seconds. And then, of
19 course, they're -- then they can get into the
20 environment.

21 By the book, is that correct to do it
22 that way? No. But if he -- his judgment is that he
23 can get in and get that person out quickly and do it
24 safely, then he's going to do it, so ...

25 Q. I understand that you have

1 a response checklist at the Elliot Lake Fire
2 Department that you use for, basically, any
3 response.

4 A. Yes, we do.

5 Q. And I want you to just take us
6 through the checklist and how those various items
7 were managed or achieved, the first one, of course,
8 being the assessment or size-up.

9 A. Yeah. This is something that
10 was developed. We're not the only ones that have
11 it. In most cases, a lot of times, you might not
12 necessarily use it, but it's basically a quick
13 reminder of the things that you need to do, because
14 most calls are standard, you know. So you're going
15 to end up shutting -- making sure you get those
16 utilities shut off.

17 Part of the checklist is the
18 benchmarks that we're trying to achieve and capture
19 that information, and those benchmarks are going to
20 be things like when you start your primary search so
21 that you're basically timing in. When you're
22 applying your water to the seat of the fire, that's
23 another benchmark that we like to have.

24 The list that we have, it's custom
25 made to our most common calls that we would do, but

1 you can pretty much use it at any call because
2 basically it's setting up command and control, doing
3 your primary searches, doing your ventilation,
4 having your rescue teams go in. Part of that's
5 utilities, the hydro, the gas, if you need EMS, if
6 you need OPP, if you need hydro. These are all on
7 the checklist, so these are all things that it's
8 just a quick reminder in case you've forgotten
9 something that you can actually tick. Yeah, I've
10 already done that, or, okay, yeah, I need to do that
11 still.

12 THE COMMISSIONER: So, in fact, your
13 checklist is your action plan, in a sense?

14 THE WITNESS: In a sense, it is. And
15 it's a reminder of all those items that you need to
16 try and achieve, you know, quickly.

17 I mean, obviously if you see a -- you
18 have a victim, well, then, you know, common sense is
19 going to dictate that you're going to call for
20 an ambulance. Part of that -- with that said, if we
21 have a working fire, you might -- you'll think of
22 that if you have a casualty or a patient, but our
23 operating guidelines dictate that if we have
24 a working fire, we have an ambulance on standby so,
25 you might not -- if there is no patient, you might

1 not think of that. Going through the checklist, it
2 might be a reminder. Yeah, I've got to call
3 dispatch and have an ambulance dispatched so ...

4 BY MR. CASSAN:

5 Q. So did you look at the checklist
6 and sort of evaluate whether all those steps had
7 been done in the mall collapse response?

8 A. I didn't use the checklist on
9 scene, but, yes, I did review it after, and I don't
10 think we missed anything.

11 Q. And I'm just wondering if you
12 could take the Commissioner through what the steps
13 were and how you fulfilled those steps.

14 A. Well, as I said, it's on the
15 response. Part of that is announcing command, which
16 we did do.

17 There was a passing of command
18 initially when I arrived on the scene from Captain
19 David George to myself. He already started the
20 process of getting the utilities shut off, which is
21 obviously for safety reasons.

22 I continued on with those operations,
23 and as they went through, I set up accountability.
24 I set up the writ teams. We had teams go in and do
25 the primary search to clear the building.

1 Q. And that would be the tactical
2 benchmarks you were talking about?

3 A. Yes, yes. We shut the water off
4 because of the water that was bleeding from that
5 3-inch line sprinkler system or the water feed to
6 the tower that was just flooding the pile. Had the
7 hydro shut off. We had the gas shut off. You
8 heard earlier of our problems with that
9 particular -- with the gas valve that was broken.
10 And once all those items were cleared, then we
11 finally entered the pile.

12 Q. And then we have calling other
13 agencies, which obviously you --

14 A. That's correct, yes. There is
15 activating mutual aid, which I did fairly early on
16 into the -- into the call. We activated the -- or
17 I activated -- had the dispatch call out the
18 community control group also to declare
19 an emergency, which I knew was going to take some
20 time by the time they got the CCG in. So part of
21 that thinking was to get a hold of Bob Thorpe and
22 have him work the back channels and let him know
23 what's coming.

24 Q. And we heard about that
25 effectiveness and the same procedure being used by

1 Ms. Chambers yesterday. Writ and rehab, did you set
2 that up?

3 A. Yes, we did.

4 Q. What tactical benchmarks did you
5 use in this case?

6 A. When it comes down -- well, for
7 the tactics that were used on the pile, instruction
8 was given to get in, see what they can do, check all
9 the voids, move what they can move that's not going
10 to disturb the structure because there was -- I had
11 a big concern about that so ...

12 Q. When you were talking with Mr.
13 Wallace in your exam-in-chief, you talked about
14 radio calls and using some codes about radio calls.

15 Do people listen to your radio calls?
16 Do you have to worry about security of your radios?

17 A. Yeah. We practice -- each team
18 that goes in has to have a radio, and part of that
19 is one for -- so that they have communications back
20 to us because they're the Incident Commander's eyes
21 and ears inside, especially when it comes to a fire.
22 And a lot of the decisions you're making is going to
23 be based on some of that information that's coming
24 back because you're not in there; you can't see
25 what's going on, so it's the continuing of gathering

1 that information.

2 The second part is for the
3 firefighter's safety. I will tell you, though, when
4 it comes to communications with the radios, often
5 it's very difficult, especially when you get into
6 fire scene scenario because we usually have positive
7 pressure fans running. You've got the big truck
8 running, so you have to try and position your
9 command post or where you're running that call in
10 a favourable position that you can still see at
11 least two sides of the building, far enough away
12 from the noise, but not so far that the firefighters
13 have to walk that much farther to get to you to have
14 a face-to-face.

15 So it's -- and in some cases, it's
16 difficult, and noise can be a barrier. We did have
17 a little bit of that barrier until we got the fire
18 alarm system shut off. That particular bell that
19 was there seemed to be extra loud, and it's...

20 Q. Do you have problems with people
21 listening to your radio calls using scanners?

22 A. We know they do, but I've never
23 really had anything come back to me about that.

24 Q. One of the things that you
25 mentioned in your examination-in-chief was dealing

1 with heat. And you were saying that to Mr. Wallace
2 in the context of bunker gear, and so I'm wondering
3 if you can just tell us what were you doing about
4 with respect to that because this wasn't a fire.

5 A. No. I believe the bunker gears
6 are rated for about 800 degrees. They're built so
7 that we can go into environments and sustain a lot
8 of heat and exposure.

9 The problem with that is they also
10 keep the heat in. In this particular case, at the
11 start of this call, I believe it was a hot, sunny
12 day. The sun was, at two o'clock, it was at high
13 mark, so you couldn't really get away from it.

14 When the firefighters come out, one
15 in particular that I'm thinking of, when he came
16 out -- I mean, you can tell that when their face is
17 flushed, and, of course, they're sweating, they need
18 to cool down and get that core body temperature
19 down.

20 We did set up a rehab for that, and,
21 of course, there's lots of water and enough rest to
22 be able to utilize that. That all goes into your
23 staging, your rehab, and allowing your people to
24 have the time to do that.

25 The problem with firefighters is

1 you're looking around for somebody to do it. If the
2 guy came out two minutes later, he hasn't had enough
3 time. He's standing up and ready to go again when
4 he really shouldn't be going, so it's something that
5 the Incident Commander really has to pay attention
6 to: That he doesn't run his people to a point where
7 they're going to not be able to perform the
8 functions or get hurt.

9 Q. So it is a safe --

10 THE COMMISSIONER: What's worse for
11 you? Is it heat or cold?

12 THE WITNESS: The heat.

13 THE COMMISSIONER: Yeah?

14 THE WITNESS: The problem with the
15 heat, in the winter time that's -- the firefighters,
16 in a lot of cases, they'll try to get packed up so
17 they can get into -- for the warmth, because when
18 you get the minus 25 outside, it's difficult in some
19 operations. But the problem with the heat, it's
20 very, very difficult to monitor your men, and that's
21 something that I tried to put in place and work with
22 our local EMS that they could actually monitor the
23 firefighter's blood pressure and their core
24 temperature and then be able to basically give the
25 nod on, okay, when they're ready to go.

1 The problem with that is you have to
2 be very diligent on what that person -- typically,
3 if they have high blood pressure and they end up
4 upcoming out, well, that could be taken that, okay,
5 that's the norm for that person, but the science
6 isn't quite there yet. That's the problem. It's
7 the monitoring of them. So, I mean, part of that --
8 part of that's in training. I mean, as -- and when
9 I say "that" is, you know, you're sent to rehab, and
10 at that point, it's their job to rest and recover
11 and get the body fluids in and the water to get
12 cooled down.

13 If it's nourishment, then we'll
14 supply that as well so that they can recover as
15 quickly as they can so that they're able to be
16 tasked with another task.

17 BY MR. CASSAN:

18 Q. We were talking about a couple
19 of pieces of equipment that other teams were using.
20 And I'm just wondering with respect to infrared
21 cameras, do you have those, and were they used here?

22 A. Yeah. We have the thermal
23 imaging cameras.

24 Actually, we had two of them.
25 I think they were both deployed in on the pile. The

1 problem is that they basically seek heat, and
2 because of the depth of the rubble and even getting
3 through an 8-inch layer of concrete, so even one
4 layer, there's not going to be enough heat from
5 a person to be able to pick up that signature.

6 In a house fire, they work very well
7 cutting through the smoke, I mean, because they're
8 going for the heat. They help us locate fires in
9 the walls and the floors because of the heat
10 signature.

11 In a house fire, if it's smoke right
12 to the floor, it'll pick up that person if they're
13 on the floor or in the bed or -- very quickly.

14 Q. And there's been talk of heavy
15 hydraulics -- actually, I think we did talk about
16 that last time. Did you use your heavy hydraulics
17 in this situation?

18 A. The application is not -- it
19 wouldn't be a good application for those.

20 We did have that truck there, and we
21 did have the equipment. I believe the firefighters,
22 they did use the hand hydraulic so that they have
23 a little bit more control.

24 The problem with that is the only
25 thing that would help there would be the RAM or the

1 spreader.

2 They will lift, and they're not
3 really meant for that application, but they're --
4 because of the hydraulics, they are very strong, and
5 they could be used.

6 The problem is that you're -- if you
7 want to lift a slab, that's putting downward force
8 on the pile and which is already unstable, so the
9 application's -- it wasn't a good fit.

10 Q. And I suppose the RAM also has
11 a -- how big is the plate on the RAM?

12 A. It's not very big.

13 Q. So you're putting all that
14 pressure on a specific point. Is that a --

15 A. That's correct. It is only
16 about 3x3, I believe, 3 inches by 3 inches.

17 Q. There's been a lot of discussion
18 in the evidence, Chief Officer, about who was the
19 Incident Commander, and I just want you to put that
20 to rest.

21 A. Oh, I don't think there was any
22 doubt. I had control of the scene right from start
23 to the finish.

24 Q. And so when we hear Inspector
25 Jollymore referred to as the Incident Commander,

1 what does that mean in this scenario?

2 A. Well, he would be the -- under
3 Unified Command, he would be the Incident Commander
4 of the OPP in a Unified Command.

5 Being a fire -- a rescue operation,
6 fire has the lead, so I would have overall
7 Incident Command.

8 Q. Tell me about the engineers that
9 you had dealings with on site. Who did you deal
10 with there that held himself out as an engineer or
11 provided engineering information to you?

12 A. That was the HUSAR engineer.
13 I believe Mr. Cranford was his name.

14 Q. Okay.

15 A. And Roger Jeffreys from the
16 Ministry of Labour.

17 Q. And so Mr. Cranford actually had
18 face-to-face dealings with you?

19 A. Yes.

20 Q. And what advice did you receive
21 from Mr. Cranford?

22 A. My main dealings with Mr.
23 Cranford -- and I believe I testified to this -- was
24 with -- early on when we were taking that beam out,
25 and, of course, Mr. Neadles had the rescue section.

1 That was one area that -- what was proposed that
2 I had concern with. And we had further discussion
3 with that, and I did have discussions with Mr.
4 Cranford with regards to how they were going to
5 extract that beam.

6 Q. And that was the plan that was
7 put forward by Mr. Selvers from Millennium Crane?

8 A. That's correct.

9 Q. And then Mr. Jeffreys, what
10 dealings did you have with Mr. Jeffreys?

11 A. Early, early on when
12 Mr. Jeffreys came on the scene, we took a quick look
13 at the drawings. I believe he was instrumental on
14 helping assess the scene and moving it forward.

15 Later on when Mr. Neadles was there,
16 he pretty much, at that point, ended up going
17 through Mr. Neadles, through his section on the
18 rescue and dealing with the HUSAR engineer himself.

19 He was instrumental in helping,
20 though, when it came to decisions, I think, that
21 needed to be made.

22 Q. And I want to talk to you
23 a little bit about notes. Certainly notes are
24 helpful for the Commission, but do you use notes
25 much in a response that you deal with?

1 A. No. Notes are always done
2 after. You just don't have the time to create
3 notes.

4 Q. Now, Natalie Bray kept notes of
5 the CCG, and Natalie Quinn kept notes for you.

6 You've now had a chance to review all
7 of those notes; right?

8 A. That's correct.

9 Q. Do you have any observations
10 about how they did in keeping those notes, based on
11 your recollections and comparing your recollections
12 to the notes?

13 A. I think they did pretty well.
14 I think one thing that will come out of this, and it
15 will be something that I will be recommending to the
16 Ontario Association of Fire Chiefs is that we get --
17 that's one area I would like to see more training
18 on: Scribes.

19 In this particular case, they wrote
20 down things that they thought basically were taking
21 place.

22 I did come across one or two things,
23 one in particular -- and I can't remember what it
24 was -- that the impression that ended up getting
25 written down wasn't exactly 100 per cent accurate.

1 In my case, I was fortunate to have
2 those that I did assign Natalie Quinn as a scribe,
3 because I knew there was absolutely no way that I'm
4 going to be able to remember everything that was
5 taking place.

6 I'm so happy that I did that.
7 I would've had a very difficult time trying to
8 remember everything that took place, and even with
9 the notes, it's still difficult. So part of the
10 thing I -- part of the scribes and what I'd like to
11 see is a little bit more training on how we and what
12 we need to capture.

13 Some areas I wish we had more
14 information, even in the notes, because that helps
15 you recall on exactly what took place. If
16 I wouldn't have had the scribe, there would have
17 been a lot of "I can't remember" answers here.

18 Q. Is it practical, do you think,
19 to have all of your team members keep their own
20 notes or members of the CCG keep their own notes?

21 A. For my members, there's
22 absolutely no way that they would have the time to
23 do it.

24 What our practice is, is that we'll
25 ask for a witness statement to be filled out. In

1 most cases, it's more for those people that are
2 there, say, because our volunteers respond directly
3 to the call. So they're the first eyes on the
4 scene, so we want to capture that information, so
5 we'll ask for witness statements. If it's something
6 that might end up in a legal matter or
7 an investigation, then we'll ask everybody to fill
8 one out on their actions at the call so that
9 information's captured.

10 But typically, it comes down to the
11 Incident Commander's notes at the end of a call, and
12 it's his responsibility, so we'll try and capture
13 that information before the Incident Commander's
14 there, and then we'll -- it's the Incident
15 Commander's job to do his notes after the call, and
16 we do that prior to leaving shift. They have to
17 finish their notes so that they get it when it's
18 fresh.

19 The problem with this call, it was
20 multiple days, and I think I stated earlier it took
21 me four days to do my notes using the scribe notes
22 and actually listening to the calls. So when I sat
23 down it was just one big blob, and if I had to do it
24 from memory, there's not a chance that I would've
25 been able to do it.

1 Q. I'm going to take you to media
2 relations' issues and particularly with respect to
3 the decisions that were made to publish information
4 about the victims. I'm wondering if you can just
5 explain to us how those decisions were made and what
6 your role was.

7 A. Those decisions were made at the
8 CCG. I believe I testified earlier that the
9 Community Control Group is not just dealing with
10 the -- of course, their main cause is the incident
11 that you're dealing with, but they're looking at the
12 community as a whole, as well.

13 Information's brought forward. In
14 this particular case, I wanted to get the
15 information out because of the phone call I received
16 from the Mayor within the first hour advising that
17 MCTV is reporting 30 people trapped.

18 So I knew that that was going to
19 become an issue, and that's why I brought it to the
20 table. In this particular case, I believe that
21 there was concern about that, and, of course, the
22 OPP inspector had his reasons, and we ended up
23 defaulting to his wisdom because they deal more with
24 dealing with coroners and releasing of information.
25 They're more familiar than we are.

1 Q. And we've heard evidence,
2 through the Staff Inspector and through other OPP
3 officers, that they have a policy that they can't
4 confirm a fatality without the doctor or a coroner
5 confirming the death first.

6 Is that the information that
7 Inspector Jollymore was providing to the CCG?

8 A. He did say that it has not been
9 confirmed. I think probably to a certain extent --
10 and I'm not aware of his policies. I mean, I don't
11 believe the Mayor is aware of his policies or the
12 CAO would be, so when somebody says something in
13 there, that's why you would listen, and you would
14 concede to that point. There's no room for argument
15 or debate. Could it have been clarified? Probably,
16 but at the time that it's taking place, time's
17 a factor, and you concede to it and you move on.

18 In this particular case, maybe it was
19 the word "confirmed." Maybe there was another way
20 that we might've been able to get that information
21 out without saying "confirmed." I really don't know
22 how you would do that, but that's the way it
23 happened.

24 Q. Does your role as an Incident
25 Commander, particularly with respect to the media

1 relations, trump the CCG's wishes with respect to
2 media release, or is it -- how does that work?

3 A. The CCG, in this particular
4 case, is made up of the Mayor, the CAO, the OPP
5 inspector, myself, the EMS Chief. Depending on the
6 nature of the incident, we could have somebody from
7 the hospital there. As Incident Commander, you can
8 only bring the information forward. You really
9 don't have control on where it goes. I'd be pretty
10 hard-pressed to tell my Mayor, "This is what we're
11 going to be doing," and tell my CAO, "This is what
12 we're going to be doing," and that would be pretty
13 difficult to do.

14 Q. So your role as Incident
15 Commander does not involve you commanding the Mayor
16 or the CAO. Effectively, they're your boss; is that
17 correct?

18 A. That's correct.

19 Q. Now, in your size-up, we know
20 that you decided to put your team in. And I want
21 you to tell us about what the issues were that you
22 were considering when you made the decision to put
23 your team in initially. And perhaps, Ms. Kuka,
24 could we pull up Exhibit No. 9279, and particularly,
25 I'm going to refer to pages 59 and 60. So I'm

1 wondering, Chief, if you can just take us through
2 what you were looking at and your thought process
3 about putting your team into this situation.

4 A. Well, a big part of it was,
5 because of the size of the building, it took us
6 quite a while to get the gas and the hydro and the
7 water shut off. We couldn't enter before that
8 because of the number of broken and dangling hydro
9 lines.

10 Part of that assessment, I had the
11 building official go in and explain to me what he
12 could see while I was still dealing with the issues
13 outside.

14 A big part of it was the time frame
15 that took place before we were finally able to get
16 in onto that pile. It'd been pretty close, 20
17 minutes to half an hour, I believe, before we were
18 able to finally get in there, and that 20 minutes
19 and a half-hour is part of your assessment as well
20 because nothing else is -- other than the small
21 debris, but there was no big bangs, no big clunks,
22 so the building is not moving at that point, or if
23 it's moving, it's not moving to the point where it's
24 collapsing. And as I indicated earlier, the
25 instruction going into the firefighters was do what

1 you can, meet the voids, move what you can, but do
2 not touch anything that's going to affect the
3 structure.

4 Q. I'm wondering if we could flip
5 to the next slide please, Ms. Kuka.

6 You looked at this?

7 A. Yes.

8 Q. And what was your analysis and
9 observations when you were looking at this?

10 A. That's when I -- actually,
11 that's about exactly where -- when I finally got in,
12 shortly after I sent the crews in to get a look at
13 that. I wasn't happy what I was seeing, although
14 Bruce Ewald did describe to me as best he could, but
15 as they say, a picture is worth 1,000 words. When
16 you see it with your own eyes, of course, it gives
17 you a little bit different perspective.

18 The problem with the slide is -- and
19 that's exactly what it is. There's all those blocks
20 and all kinds of material on top. If that falls off
21 and hits somebody, they're not going to have much
22 chance.

23 The line of thinking, going back on
24 the risk analysis, is risk a lot to save a lot, so
25 to first get in on that pile, there might be

1 opportunity to get a rescue, and that's all part of
2 the assessment that you do, and you're doing this
3 within seconds actually in a lot of cases. When it
4 finally came to the point where we did everything
5 that we could, then that's when I pulled the crews
6 out.

7 Q. I'm wondering, Ms. Kuka, can we
8 pull up Exhibit No. 7924, and I'm looking for Photos
9 66 and 67. I take it you looked at this and just
10 tell me how these beams affected your thought
11 pattern for putting guys in it.

12 A. When I looked, I was actually
13 the level below where -- when I entered the
14 building, but you could see that the weight of the
15 beam was twisting the beam that it's attached to.

16 There was also -- I believe that
17 I could see, at that point, that there was a double
18 beam, so right where the concrete is, there is
19 another beam below that.

20 Of course, it still gives concern,
21 great concern actually, that, you know, if that ends
22 up shifting, that that whole next set of panels can
23 come in onto the firefighters.

24 Again, it's a certain amount of risk
25 that was taken with the assessment. As I said

1 I probably wasn't in there more than 20 seconds, so
2 you capture all of this information, and you use it
3 to make a decision. Do you see everything?
4 Probably not, but you can certainly see that it
5 wasn't too hard to see the hazards here and how bad
6 the conditions were, but I still felt it was worth
7 the risk to see if we could get anybody out of that
8 collapse zone.

9 Q. Now, we know what you did do.
10 I want you to pretend or go to the hypothetical
11 situation where you're actually analyzing the work
12 of an Incident Commander who was in your shoes, and
13 that Incident Commander looked at all of these
14 widow-makers hanging, and you testified earlier
15 about the debris that was continuing to fall around
16 the guys.

17 If they had decided not to put their
18 team in, in the first place, would you fault that
19 decision?

20 A. No.

21 Q. Why?

22 A. I think a lot of it goes to
23 training and experience, but it's more difficult to
24 armchair quarterback somebody after when you're not
25 in the position and making the decisions with the

1 information that's coming in.

2 And it would be very difficult to be
3 critical on somebody that did not put their men in
4 that particular position. They have a duty of care
5 to their firefighters that they have to be
6 accountable for, and if their experience and
7 training indicated that they should not be going in
8 that particular type -- or in this case, this
9 response, it would be very difficult to -- I mean,
10 you can see the hazards. I mean, it would be very
11 difficult to second-guess that person that that was
12 the wrong decision.

13 Q. Thank you. I want to take you
14 now to the issue of the Ministry of Labour and the
15 discussions around 1:30 that we've heard talked
16 about by way of an order, and there is no paper
17 order from that.

18 I want to first take you to your
19 notes, Chief Officer, which are, Ms. Kuka, Exhibit
20 No. 8025, and the sixth page.

21 And if I can just draw your
22 attention, Chief Officer, about two-thirds of the
23 way down the page, it says:

24 "13:30, Fire Chief back on
25 scene.

1 "13:33, "Command meeting to
2 discuss building movement."

3 So tell us about your recollections
4 from these notes of that meeting.

5 A. Yeah. I believe that was the
6 Command staff meeting where it was discussed on the
7 conditions of the building and what's taking place.
8 The MOL was there, I believe; Roger Jeffreys; Don
9 Jones. I'm not sure about -- Mike Lacroix,
10 I believe it was. I'm not sure about him.
11 I believe Mr. Neadles was there, Tony Comella, Mike
12 McCallion. I believe Bob Thorpe from the OFM was
13 there. Dave -- I'm drawing a blank on his last
14 name -- from the OFM. Bob's his counterpart.

15 Q. Howse?

16 A. Yeah, Dave Howse. I'm not sure
17 if Brent Ellen was there from the OFM. I think that
18 was about -- oh, the engineer was there, I believe,
19 for the HUSAR engineer as well, and discussions took
20 place on the condition of the building. The MOL
21 were so concerned that they were going to put
22 an order on it. The engineers basically said it's
23 going to come down. It's 100 per cent overloaded.

24 That decision was then brought
25 forward, and that the building would have to be --

1 we'd have to, of course, get the manpower out but
2 not -- we'd have to reassess.

3 Q. So I just want to take you back.
4 You said that the MOL said they were going to put
5 a stop order on it. Do you remember what MOL person
6 said that?

7 A. No, I don't. And like
8 I testified earlier, there wasn't a lot of thought
9 really given to that. The main information I was
10 taking from that was that the engineers were telling
11 me that it's going to collapse.

12 Q. So you didn't disagree with the
13 decision?

14 A. No.

15 Q. So then if we could go down in
16 your notes, 13:50, it says:

17 "Elliot Lake Fire Department,
18 HUSAR group was asked to
19 assemble."

20 And then 1401:

21 "Elliot Lake fire and HUSAR
22 group were informed that all
23 hydraulic equipment will be
24 removed from the area, and the
25 area will be re-assessed."

1 Tell us about that.

2 A. When I say "remove equipment,"
3 the south end with the escalator, that was where the
4 real big problem was.

5 I mean, obviously from the pictures
6 you could see that there was equipment in the back
7 that they wanted to remove, and then we're going to
8 continue to reassess.

9 From this meeting, or the command
10 tent meeting, that's when we got into discussions on
11 how we're going to continue to drive this forward,
12 and talked about anything. And a lot of this
13 stuff -- when I say "anything," I mean if it goes to
14 a recovery or there are other options, are we still
15 going to continue to analyze the building? If it
16 goes to recovery, what the next steps are, and how
17 that would proceed. Some of those discussions,
18 I said, even took place walking from --
19 continued walking from the mall to the CCG meeting.
20 There was even a bit of discussion in the CCG
21 meeting about that as well. So but there was
22 nothing really solidified.

23 Q. Now, was your understanding of
24 the Ministry of Labour position, this stop order
25 that they were putting on -- because we see a paper

1 order subsequently that allows rescue and recovery
2 efforts to continue. Was that exception discussed
3 in the first meeting, or was it everybody out?

4 A. I know there was discussion --
5 my impression and my recollection is that the Stop
6 Work Order was coming, and they were just waiting
7 for the paperwork from Toronto.

8 The subsequent order was a result of
9 our meeting in the OPP with all the authorities in
10 the one room and where the Ministry of Labour came
11 up with the idea that they'll be able to help us by
12 putting the order on but exempting us from the
13 rescue/recovery.

14 So it was, I believe, a bit of
15 a unique situation, even for them, to be able to do
16 that for us.

17 Q. So I want to take you, then, to
18 your scribe's notes of this meeting. And, Ms. Kuka,
19 could you please pull up Exhibit No. 6336 at
20 page 35.

21 I thought I was looking for 35, but,
22 of course, it would be the 25th at about 1:30.

23 Can you flip back?

24 MR. WALLACE: It's one more
25 underneath.

1 MR. CASSAN: Just a second, Ms. Kuka.
2 Can you flip forward now? One more, two more.
3 There. Okay. Thank you.

4 BY MR. CASSAN:

5 Q. So, Chief Officer, these are
6 Natalie Quinn's notes, and we've got a meeting at
7 13:28. Is this the command meeting that you were
8 talking about?

9 A. I believe so. And it's what she
10 has marked there as the "HUSAR Bill," which is Bill
11 Neadles:

12 "Informed confirmed scene
13 movement and scene completely
14 unsafe. People ordered off
15 scene."

16 Q. So that seems to confirm your
17 notes.

18 A. I believe so.

19 Q. And then if we go down to the
20 14:00 entry, that's the Elliot Lake Fire Department
21 and HUSAR group meeting. That's where we are
22 talking about removing the hydraulics and tools and
23 reassessing the area.

24 Fourth-last line says:

25 "The building is now

1 completely unsafe for rescue
2 operations."

3 A. Yeah.

4 "No options are available."
5 I believe that says to secure the
6 area.

7 "Reassessment measures will
8 commence."

9 Q. So at this point, that's still
10 the Ministry of Labour saying, "Everybody's got to
11 get out"; right?

12 A. Yes.

13 Q. Now, when you read this and when
14 you recall the meetings, was HUSAR, at this point,
15 going home?

16 A. No.

17 Q. Tell me about the reassessment
18 process.

19 A. Well, essentially, to continue
20 to monitor and, I believe, to see if there's
21 anything else that can be done, and I believe Mr.
22 Neadles was looking at giving his people some time
23 to come up with other options for the rescue
24 component.

25 Q. And were you aware of the

1 engineers being tasked to look at that or anything
2 that they did to look at that?

3 A. I don't have that particular
4 knowledge, but when I say they're looking at
5 reassessing, I take it that that's what was taking
6 place.

7 Q. As Incident Commander, did you
8 ever say that HUSAR should go home before the end of
9 the event after Priestly?

10 A. No.

11 Q. I wonder, Ms. Kuka, can we pull
12 up Exhibit No. 3743, which is Natalie Bray's notes.
13 I want to start at page 34. Can we just go back one
14 page, please? So this is the three o'clock CCG
15 meeting that Natalie Bray is recording.

16 And, in attendance, I see Inspector
17 Jollymore, yourself. With respect to the Ministry
18 of Labour, there's Don Jones and Roger Jeffreys. Do
19 you recall that?

20 A. Yes, I do.

21 Q. So now, Ms. Kuka, can we flip
22 the page please? Here we have in the centre of the
23 page, Chief, a presentation by the Ministry of
24 Labour. Is that what that records?

25 A. Yes. Yes, it does.

1 Q. And so do you remember who was
2 making this presentation at the CCG meeting on
3 behalf of the MOL?

4 A. It was Mr. Jeffreys and Don
5 Jones that were there. I wouldn't be able to say
6 with 100 per cent accuracy on who presented the
7 information.

8 Q. So, again, as we go through
9 that, the presentation from the Ministry of Labour
10 is that they've experienced:

11 "Continuous movement on the
12 stairway and escalator. The MOL
13 and HUSAR engineer do not know
14 why the structure is still in
15 place. The beam is bowed under
16 all the weight shifting. It is
17 opening up more and more.
18 Tracking movement, things are
19 moving, 100 percent
20 overstressed.

21 When it goes, it will go
22 catastrophically. MOL stop
23 order so no one can enter."

24 Are those notes recorded correctly
25 based on your recollections?

1 A. That's the way I recall it, yes.

2 Q. And, Ms. Kuka, can we go to
3 Exhibit No. 6396.

4 This, Chief Officer, is Inspector
5 Jollymore's notes, and I'm going to take you to
6 page 11. So here we have 15:05. Inspector
7 Jollymore is essentially recording the same event.
8 We've already talked about the movement:

9 "100 percent overstressed."

10 And again, Inspector Jollymore
11 records that the:

12 "MOL will put a stop order on
13 the building // stop order."

14 And then if we go down a little bit
15 on the page, Ms. Kuka, we've got the 16:28 meeting:

16 "The site closed MOL."

17 Does that reflect your recollection
18 as well?

19 A. Whereabouts are you on this one?

20 Q. 16:28, "Site closed MOL."

21 And at 15:05, we've got the:

22 "MOL stop order."

23 A. Yes.

24 Q. And then if we could go,
25 Ms. Kuka, to Exhibit No. 7109.

1 This is the e-mail from Carol-Lynn to
2 most of her team, June 25th at 2:22, relaying
3 Inspector Neadles' report:

4 "As of 1350 hrs, the HUSAR
5 lead, in consultation with both
6 engineers have determined that
7 the building will be deemed
8 closed by the MOL when the
9 rescue operation is terminated
10 and changed to recovery."

11 MR. WALLACE: Excuse me. I think it
12 should be pointed out that the big paragraph is not
13 Mr. Neadles' report. That's Bob Thorpe's reporting
14 to Carol-Lynn Chambers.

15 MR. CASSAN: Thank you. Thank you
16 for that, Mr. Wallace.

17 BY MR. CASSAN:

18 Q. Did you have any involvement in
19 Mr. Thorpe's report to Ms. Chambers, or were you
20 aware of that report?

21 A. No.

22 Q. Is there any doubt in your mind,
23 Chief, that the MOL did, at least verbally, order
24 the site to be closed at about 1:30 on the 25th?

25 A. No.

1 Q. And then you started to tell us
2 about a meeting at the police department, and I'd
3 like you to tell us about that, because then the
4 order changed, didn't it?

5 A. Yes, it did. I mean, obviously
6 after the CCG and with this, we were still looking
7 at how to move this forward. We lost a lot of time
8 because of the press conference and the CCG meeting.
9 When we did get into the OPP station, and we had all
10 the authorities having jurisdiction in there, that's
11 when it came up with the -- everybody was trying to
12 do what they could to see if they could move this
13 thing forward, and we were really hung up on the
14 rescue to recovery issue and being able to maintain
15 and still move it forward and get those people out.
16 And that's when -- I believe it was Mr. Jeffreys,
17 but I wouldn't be 100 per cent sure, but one of them
18 came up with the idea of exempting us that allowed
19 us to continue.

20 Q. And that's reflected in the
21 actual order that was served on Rhonda Bear?

22 A. Yes, it is.

23 Q. With respect to the discussion
24 of changing from rescue to recovery, in evidence, we
25 actually watched the press conference, and we see

1 Inspector Jollymore say that it's become a recovery,
2 and we have Inspector Neadles say the same thing.

3 Did you ever declare or make the
4 decision that this was going to be a recovery as
5 opposed to a rescue?

6 A. No, I did not.

7 Q. And would that be within your
8 mandate, or is that within the mandate of the
9 Inspector Commander?

10 A. No, it's my mandate.

11 Q. And so technically did it ever
12 become a recovery?

13 A. No.

14 Q. We heard evidence yesterday that
15 there was a military liaison provided to the command
16 group.

17 Was somebody from the Canadian Forces
18 or the Canadian Military ever brought to your
19 attention, and did they provide you with any
20 information?

21 A. No.

22 Q. We also heard that Vale Mining
23 Company provided engineers. I'm not sure why the
24 mics are crackling.

25 A. No. I'm not aware of anybody

1 from Vale.

2 Q. Sorry, you're not aware of
3 anybody from Valley ever coming?

4 A. No.

5 Q. Nobody had? Whether or not they
6 were there, nobody came to your attention and
7 provided you with information?

8 A. Correct.

9 Q. You've had a lot of time now to
10 go over this response and how various teams did and
11 the skills that they brought to the situation, and
12 I'm just wondering if you can tell the Commissioner
13 your analysis of how the UCRT team performed their
14 job.

15 A. I was very --

16 Q. And before I get there, I'm
17 going to ask you to go through each of the teams,
18 including HUSAR and your guys.

19 A. Right from the get-go, on scene,
20 there was -- everybody meshed together to go for
21 the common goal, and, of course, that's the rescue.
22 We didn't have any issues on command and control.
23 Everybody worked towards that common goal. The UCRT
24 team, when they first showed up and had discussions
25 with them, of course, I was very happy to see them.

1 We were looking for any help at that point so at
2 least that it was starting to move forward. Ryan
3 Cox, when he first came on, we had discussions on
4 command and moving things forward. I had no issues
5 with those gentlemen.

6 When it comes to the MOL, they came
7 on scene, and I believe I testified to this earlier
8 that performing up from Bob through Carol-Lynn
9 Chambers that I didn't have to permit them on the
10 scene, but the Ministry of Labour had Mr. Jeffreys,
11 a seasoned engineer with a lot of experience that
12 I thought would be of great value, which it turned
13 out he was.

14 Even the Ministry of Labour, they
15 seemed to be driving towards the same goal, not
16 trying to create barriers. When the HUSAR got on
17 the team -- or onto the site, it was the same with
18 them as well. There was no challenges of command.
19 Everybody knew what needed to be done, and we worked
20 towards the same common goal. I had no issues with
21 any of those folks at all. So I think the teams
22 performed very well.

23 Q. And how did you think your guys
24 did?

25 A. I'm very proud of my men and the

1 conditions that they did have to face. Even after
2 when we became more of a supporting role, they
3 rolled into jobs that were needed to be filled, and
4 I think they performed them very well.

5 Q. Chief, I believe that any
6 response with this many people in a high stress
7 situation, and certainly with the scrutiny that the
8 Commission has the luxury of putting the response
9 under, will reveal some problems and some
10 personality conflicts. Did any of those, in your
11 experience, impact the effectiveness of the
12 response?

13 A. No, they did not.

14 Q. Now, we're going to hear from
15 the forensic pathologist tomorrow, and certainly
16 you're aware that his report suggests that the two
17 victims died near immediately. And this question is
18 going to be difficult because certainly you lost two
19 citizens of Elliot Lake, but in your reflection on
20 the response, I want you to tell me whether you
21 think that this response was a success or a failure
22 and why.

23 A. It's like you said. We did lose
24 two citizens. I would have to go with the success
25 because of the number of manpower that we had on the

1 scene and the hazardous conditions that we initially
2 faced and with what the rescue teams faced after.
3 It would have been very, very easy for something to
4 go wrong, and firefighters or the rescue workers get
5 hurt, and I'm very thankful for that, so we must
6 have did something right with our control and
7 building in as much safety as we possibly could.
8 This Inquiry would have a totally different flavour
9 if we were sitting here because we lost a couple of
10 firefighters as well as our two citizens. And we
11 were able to achieve that and not have any further
12 casualties.

13 Q. Well, thank you very much, Chief
14 Officer, for your time and for your efforts in June.

15 THE COMMISSIONER: Mr. Wallace?

16 MR. WALLACE: Yes.

17 RE-EXAMINATION BY MR. WALLACE:

18 Q. If I could have, please, Exhibit
19 No. 9656. And you can see, Chief, that this is
20 a will-say prepared by Bob Thorpe, and I just want
21 to draw your attention and get your comment with one
22 particular passage, and it would be on the page 6 of
23 the exhibit. And it's the entry at 1415 hours.

24 Okay. You can see that.

25 So, as you've indicated, Chief, Mr.

1 Thorpe was present at the 1:30 meeting where the
2 decision was announced that the Ministry of Labour
3 was going to be stepping in, and he is reporting --
4 that is, Mr. Thorpe is reporting back to his
5 manager, Carol-Lynn Chambers, and he says:

6 "I notified Manager Chambers
7 of the outcome of the EOC
8 meeting, advising that the MOL
9 would be seeking an order to
10 close the building preventing
11 any further rescue activity."

12 Do you agree with that statement,
13 sir?

14 A. Yes.

15 Q. I want to ask you a question.

16 I'm leaving this document now and just asking you
17 a general question. Did it appear to you that
18 Mr. Jeffreys, in the course of his attendance here
19 at Elliot Lake, provided advice, professional
20 advice, either to yourself or Staff Inspector
21 Neadles about the rescue operation itself?

22 A. Did he provide us advice?

23 Q. Yes.

24 A. Personally or up through the
25 chain of command are you talking about?

1 Q. No, personally.

2 A. Personally? At the start, I had
3 personal contact with Mr. Jeffreys. Later on, it
4 would've been in either a command meeting or coming
5 up through the chain of command.

6 Q. And what I mean about that is
7 recommending courses of action as to how the rescue
8 could proceed, as opposed to saying the building is
9 unsafe.

10 A. Recommending courses of action?

11 Q. Yes.

12 A. No. You're getting more into
13 the rescue component, which Mr. Neadles was
14 handling. No, I don't recall anything from myself.

15 Q. Did he provide any advice on the
16 safety of the rescue operation?

17 A. In the similar type of format or
18 directly personally? I know he was working with the
19 rescue team, yes, and giving his opinions on how the
20 structure was, and then they would take that
21 information and utilize it to best proceed.

22 Q. Are you aware that he ever
23 offered an opinion on, specifically, the safety of
24 doing something? If you follow this course of
25 action, it won't be safe.

1 A. No, I'm not aware of any of
2 that.

3 Q. Now, with respect to the meeting
4 at 13:30 where you've told us that the Ministry of
5 Labour as a result of that was going to order the
6 site to be closed, at the three o'clock CCG
7 meeting -- we've been through these notes on
8 a number of occasions -- at 3:05, Mr. Neadles
9 announces that the event is now being re-designated
10 from a rescue to a recovery. And you were present
11 when that was done; correct?

12 A. That's correct.

13 Q. And at the time, you
14 weren't aware of the fact that it really wasn't
15 within his authority to make that statement. That
16 was brought to your attention by Bob Thorpe after
17 that?

18 A. I can't recall if it was before
19 or after, but, yes, he did make that statement.

20 Q. Right. And that the matter was
21 being turned back over to the Elliot Lake Fire
22 Department.

23 A. Yes.

24 Q. And again, that that statement,
25 or statements to that effect, and even more

1 definitive to the fact that the rescue was over were
2 made in the press conference that you were present
3 at; correct?

4 A. That's correct.

5 Q. At the five o'clock press
6 conference and when that statement was made by Mr.
7 Neadles, that is, that the matter's been turned
8 over; the building is going to be demolished; the
9 rescue is over, what role did you see the TF-3 team
10 to have at that point, seeing as there's no more
11 rescue?

12 A. At that point?

13 Q. Yeah.

14 A. I still have the whole incident
15 that has to move forward in some fashion, one way or
16 the other. So at that point, I would tend to think
17 that they could still be used as a resource.

18 Q. And if the building was going to
19 be pulled down, helping in that regard?

20 A. It could be that, yes.

21 Q. And Mr. Cassan asked you some
22 questions about the relationship between you, as
23 Incident Commander, and the Mayor and the CAO
24 involving the Community Control Group, and as
25 I understood things, the purpose of the Community

1 Control Group was to support the Incident Commander
2 in his efforts to manage the incident; is that not
3 correct?

4 A. That's part of it, yes.

5 Q. So as far as the structure of
6 the command at the command at the incident is
7 concerned, you are, in fact, the boss; correct?

8 A. Yes.

9 Q. So if you make a decision about
10 something that affects the incident, really, you
11 should trump the Mayor and the CAO. Is that not
12 correct?

13 A. I guess you could potentially
14 put it that way, but the CCG is looking after the
15 entire community, so if there's other things that
16 come into play, that's why you have a Community
17 Control Group, so that everything could get on the
18 table, and then decisions are made on best to move
19 forward as a group so that you're not just
20 specifically dealing with potentially with one
21 single incident that you're talking about. They do
22 have ramifications that potentially can go
23 elsewhere, I'll say. They're looking out for the
24 betterment of the community, and it's probably about
25 the best answer I can give you.

1 I don't know if that answers your
2 question.

3 Q. I'll rephrase it and just sort
4 of put it into concrete terms. If you, as the
5 Incident Commander, decided that you needed
6 something, a piece of equipment -- and I'm not
7 talking about Priestly -- I'm just talking about any
8 piece of equipment --

9 A. Yes.

10 Q. -- that was going to involve the
11 expenditure of money, as the Incident Commander,
12 would you see that you would have to go back and get
13 the approval of the CAO and the Mayor to secure this
14 piece of equipment to further the incident, or is
15 that a decision that you'd be able to make on your
16 own because, in fact, you are the Incident
17 Commander?

18 A. You know, when the incident
19 happened, that was really never any part of my
20 thought process, on cost. So my initial answer
21 would be "no," and I'll give you the example on
22 that. I think I testified earlier the first night
23 I actually got home to get a couple hours' sleep, my
24 head hit the pillow, and I got a phone call who was
25 from the Incident Commander that I had left on

1 scene, which was John Thomas, and I got up, dealt
2 with that.

3 My head hit the pillow again. I got
4 another phone call. I got up, dealt with that, and
5 at the end of that phone call, I said, "John, do
6 whatever you need to do to make it move forward,"
7 and then I shut my phone off. So dollars were never
8 really a consideration.

9 If it was going to cost, you know,
10 realistically as a manager of a fire service,
11 I probably would move ahead, but I probably would
12 let them know that, "Hey, I'm spending a whole bunch
13 of your money here so ..."

14 Q. Really, at the heart of it what
15 I'm asking you is: Did you feel your decisions as
16 Incident Commander needed the approval of the CAO or
17 the Mayor?

18 A. No, no. If I did that,
19 I would've called and waited to talk to them before
20 I even got the HUSAR team up --

21 Q. Okay.

22 A. -- because I had no idea how
23 that works for costing so ...

24 Q. Okay, Chief. Those are my
25 questions. Thank you.

1 A. Thank you.

2 THE COMMISSIONER: Once again, Chief
3 Officer, thank you very much. I'm happy to say that
4 you're going back home.

5 THE WITNESS: I'm happy to hear that,
6 sir. Thank you.

7 THE COMMISSIONER: Where do we go
8 from here, Mr. Wallace?

9 MR. WALLACE: Well, a couple of
10 things, Mr. Commissioner.

11 The first thing is I'd like that the
12 public be put on warning that tomorrow Mr. Doody is
13 going to be calling Dr. Queen, who is the Chief
14 forensic pathologist for this region, and in the
15 course of that evidence, he'll be putting some
16 photographs to Dr. Queen that persons may find
17 disturbing, and we're proposing that these
18 photographs will be dealt with in the same manner as
19 they were handled in the course of the evidence of
20 Dr. Bradford.

21 And this is to serve as a warning
22 that tomorrow, when he we start with Dr. Queen, that
23 these photographs are going to be put in.

24 THE COMMISSIONER: Thank you. And
25 I take it counsel will be warning us when we get to

1 that point?

2 MR. WALLACE: That's my
3 understanding.

4 And the second matter is Dr.
5 Bradford -- sorry, Dr. Queen's evidence is not
6 expected to take the full day. In fact, it's my
7 understanding that it is expected that his evidence
8 would wrap up in half a day or less. And we're in
9 the process of trying to see if we can backfill for
10 the afternoon. And I'd ask counsel to watch for
11 announcements as to the presence of a witness
12 tomorrow afternoon that wasn't scheduled.

13 THE COMMISSIONER: Have you got
14 anybody in mind at this point, Mr. Wallace?

15 MR. WALLACE: Two possibilities, yes.
16 Yes. Ms. Rheaume from the City and possibly
17 Inspector Jollymore, but neither counsel have been,
18 as far as I know, approached, I believe.

19 THE COMMISSIONER: You will be
20 advising counsel --

21 MR. WALLACE: Absolutely.

22 THE COMMISSIONER: -- through e-mail,
23 and that's the purpose of your saying so?

24 MR. WALLACE: Yes.

25 THE COMMISSIONER: All right. Any

1 further comments before we rise for the day, ladies
2 and gentlemen? If not, then we'll rise until nine
3 o'clock tomorrow morning.

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8 --- Whereupon at 12:45 p.m. the Inquiry proceedings
9 adjourned to 9:00 a.m. on Friday, September 20,
10 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 24th day of September
2013.

Lisa Barrett

NEESON & ASSOCIATES
COURT REPORTING AND CAPTIONING
INC.
PER: LISA BARRETT, RPR, CRR, CSR,
CERTIFIED REAL-TIME REPORTER

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