



ISSN 1710-9442

**Legislative Assembly
of Ontario**

First Session, 38th Parliament

**Assemblée législative
de l'Ontario**

Première session, 38^e législature

**Official Report
of Debates
(Hansard)**

Tuesday 3 August 2004

**Journal
des débats
(Hansard)**

Mardi 3 août 2004

**Standing committee on
justice policy**

**Emergency Management
Statutes Review**

**Comité permanent
de la justice**

**Examen des lois ontariennes
sur les mesures d'urgence**

Chair: David Oraziotti
Clerk: Katch Koch

Président : David Oraziotti
Greffier : Katch Koch

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE POLICY

COMITÉ PERMANENT DE LA JUSTICE

Tuesday 3 August 2004

Mardi 3 août 2004

The committee met at 1305 in room 151.

The Clerk of the Committee (Mr Katch Koch): Good afternoon, honourable members. It is my duty to call upon you to elect an Acting Chair. Are there any nominations?

Mrs Liz Sandals (Guelph-Wellington): I'd like to nominate Mike Colle as Acting Chair.

The Clerk of the Committee: Are there any other nominations?

Mr Peter Kormos (Niagara Centre): I'd like to nominate David Zimmer as Acting Chair.

Mr David Zimmer (Willowdale): Thank you very much, but I've got far too much on my plate this summer to serve as the Chair.

Mr Tim Hudak (Erie-Lincoln): If Mr Zimmer declines, I'd like to nominate Ms Sandals as Chair.

Mrs Sandals: I would also decline. I think Mr Colle would do an excellent job.

Mr Kormos: I don't want anybody to be left with the impression that the fix is in, that somehow these things are predetermined. I wish to nominate Vic Dhillon, an outstanding member of the Legislature—feel free to use that in your householder—as Chair of this committee.

Mr Vic Dhillon (Brampton West-Mississauga): I decline as well.

Mr Hudak: Maybe we'll have better luck at the other end of the row. I nominate Mr Arthurs as Chair of the committee.

Mr Wayne Arthurs (Pickering-Ajax-Uxbridge): I respectfully decline.

Mr Kormos: I nominate Tim Hudak. Is that in order?

The Clerk of the Committee: I have to say that's not in order because, as determined by Votes and Proceedings dated June 17 with respect to committee memberships, this committee was to be chaired by a government member.

Mr Kormos: But Mr Hudak is a former government member, and the policy hasn't changed that much.

The Clerk of the Committee: Unfortunately, it has to come from the government bench.

Mr Kormos: I understand. So if Mr Hudak were to nominate me, that wouldn't be in order either.

The Clerk of the Committee: That's correct.

Mr Kormos: So we're forced into a position where—*Interjection.*

Mr Kormos: Ms Broten, please, I want to see democracy in action here. I want to see the democratic process

prevail. I want people to have a secret ballot. I want there to be true selection of a Chair. I nominate Laurel C. Broten.

Ms Laurel C. Broten (Etobicoke-Lakeshore): Thank you, Mr Kormos. I don't accept.

Mr Kormos: Is it because it's me? Perhaps you should try nominating her.

Mr Hudak: I'll give it a shot. I'm similarly, as is Mr Kormos, a fan of Ms Broten. I think she'd make an excellent Chair of the committee. I nominate Ms Broten.

Mr Kormos: You could put that in your householder.

Ms Broten: I appreciate your confidence, Mr Hudak. *[Inaudible]*

Mr Kormos: Chair, I caution people: We got a Speaker by acclamation, and look what happened. We should be very careful about this.

The Clerk of the Committee: Right now we have one nomination on the floor: Mr Colle as Acting Chair.

1310

Mr Hudak: Mr Clerk, they have to accept to be nominated. They have to be accepted to be on the ballot.

The Clerk of the Committee: That's right.

There being no further nominations, I declare the nominations closed and Mr Colle elected Acting Chair of the committee.

The Acting Chair (Mr Mike Colle): First, I want to thank the committee members for giving me the opportunity to serve as Chair. Hopefully we can achieve some good results for the people of Ontario.

Mr Kormos: On a point of order, Mr Chair: What's an Acting Chair, as compared to a Chair? I don't see anything in the standing orders about Acting Chairs. Am I simply not reading them properly?

The Acting Chair: I guess it's normal, if a committee so wishes, that if the Chair and Vice-Chair are not present, the committee can designate another member of the Legislature to act as Chair to preside over the committee hearings.

Mr Kormos: So that means there's a Chair of the committee currently. The Chair hasn't been displaced. The Chair is Oraziotti?

The Acting Chair: No, he's basically been subbed in for, on an interim basis.

Mr Kormos: So he's no longer the Chair?

The Acting Chair: He's still the Chair, but at this present time, there is an Acting Chair. He is still the

ongoing permanent Chair, except for the proceedings that we are about to undertake.

Mr Kormos: So now there are two paid Chairs of the committee.

The Acting Chair: No, there are not. There is just one Chair who's permanent. I am acting as Chair for the interim.

Mr Kormos: The Vice-Chair of the committee is who?

The Clerk of the Committee: Mr Bob Delaney.

Mr Kormos: He's not here, I understand, but this is very interesting.

The Acting Chair: We should begin the committee meeting here.

SUBCOMMITTEE REPORTS

The Acting Chair: The item before us is the report of the subcommittee. As you know, the subcommittee met July 23. Is there anybody who would like to move the report of the subcommittee? Mr Zimmer? OK, you have to read into the record all the details of the subcommittee report. There are two reports. The one is on page 1. Could you begin, Mr Zimmer, by reading the report of the subcommittee as of July 23 into the record?

Mr Zimmer: Your subcommittee on committee business met on Friday, July 23, 2004, and recommends the following with respect to the review and report on the adequacy of Ontario's emergency management statutes:

(1) That the research officer provide a list of potential expert witnesses to members of the subcommittee by Tuesday, July 27, 2004;

(2) That the committee utilize teleconferencing and videoconferencing technologies where possible;

(3) That the research officer provide an executive summary of the report by the Senate committee on national security and defence entitled National Emergencies: Canada's Fragile Front Lines (dated March 2004), to members of the subcommittee;

(4) That the subcommittee meet on Tuesday, July 27, 2004.

I move that.

Mr Kormos: Recorded vote.

Ayes

Arthurs, Broten, Dhillon, Hudak, Sandals, Zimmer.

The Acting Chair: Opposed? Carried.

Mr Zimmer, would you continue with the subcommittee report of July 27, 2004?

Mr Zimmer: Your subcommittee on committee business met on Tuesday, July 27, 2004, and recommends the following with respect to the review and report on the adequacy of Ontario's emergency management statutes:

(1) That an advertisement of the committee's hearings be posted on the Ontario parliamentary channel and on the Internet;

(2) That the Commissioner of Public Safety and Security or his designate be invited to provide a technical briefing to the committee in the afternoon of August 3, 2004;

(3) That the following ministries be invited to provide a 20-minute briefing to the committee and be scheduled according to their availability on August 4 and August 5, 2004:

(a) Ministry of Community Safety and Correctional Services

(b) Management Board of Cabinet

(c) Ministry of Municipal Affairs

(d) Ministry of Natural Resources

(e) Ministry of Health and Long-Term Care

(f) Ministry of the Attorney General

(g) Ministry of the Environment

(h) Ministry of Agriculture and Food

(i) Ministry of Labour;

(4) That invitations be sent to the expert witnesses identified by legislative research in their document dated July 27, 2004, to participate as members of theme-based panels on August 16, 17, 18 and 19, 2004;

(5) That the clerk of the committee and legislative research, in consultation with the Chair, be authorized to identify the panels, to cluster and to schedule the expert witnesses accordingly;

(6) That the clerk of the committee compile and provide to the subcommittee a list of witnesses who requested to appear before the committee;

(7) That the Chair of the committee be authorized to reimburse reasonable expenses incurred by invited witnesses on an ad hoc basis;

(8) That legislative counsel be present at public hearings;

(9) That the research officer provide the committee with a summary of testimonies;

(10) That August 23, 24, 25 and 26, 2004, be reserved for travel, as authorized by the committee;

(11) That the deadline for written submissions be August 26, 2004, at 5 pm;

(12) That one issue binder be provided for each caucus;

(13) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

So moved.

The Acting Chair: Moved by Mr Zimmer, acceptance of the report of the subcommittee of July 27. All in favour?

Mr Kormos: One moment. Debate?

The Acting Chair: OK, comments?

Mr Kormos: Very briefly, first, I want to thank the clerk and legislative research for the preparation of the material and giving it to my office. I appreciate the problems you had. I'm disappointed that there will only be one copy of that material for the whole Liberal caucus, whereas in my case I have a copy all to myself, which

means I'll read it. I think it's going to be difficult for four, as it is now, Liberal caucus members to have to read from the same book. So be it.

I understand that the letter from Dr Young to the Premier provoked, or at least was the rationalization for, the commencement of this initiative. It's interesting that the government was leaking that out to the press at the same time as the opposition was leaking it out to the press, each with different interests and motives being served. They almost collided with each other as people were running around from the government caucus office and the opposition caucuses' offices, giving this to the press gallery, trying to get their spin on it first. The government was a little later, so it missed out, quite frankly. You've got to get there first; it's the early-bird maxim.

1320

Having said that, my concern—and I have every regard for the people who participated in the subcommittee meeting—is that we're starting—and it has not been articulated; I'm saying this. We're starting, presumably, with Dr Young's letter. We're dealing with the inherent jurisdiction of the committee to review legislation. That's one of the jobs of this committee. As you know, the government wanted to strike a select committee with yet another Chair and another Vice-Chair and an agenda all of its own. It's one thing that the New Democrats had no patience for.

My concern is that this is an incredibly broad topic; incredibly broad. It's being approached with the enthusiasm with which a first-year university student does his or her first essay, but it also has the same sort of self-indulgent excesses that first-year university students tend to have when writing essays, or sometimes second-, third- and fourth-year university students. It's like the English major who is going to write the successor to something written by Tolstoy or Dostoevsky without ever actually having read either. My concern is the incredibly broad range of this, that it doesn't have focus, and that the committee has a relatively compact period of time in which to receive submissions and then, presumably, to consider them with the grandiose opus goal of writing legislation. I find that of great concern.

Those of you who have been in cabinet, like Mr Hudak and Mr Colle, will know that legislation does not get written—well, sometimes it does, and that's the problem; sometimes legislation does get written on the back of an envelope or in the back of the leader's tour bus. But it's a very dangerous exercise, because what you're doing is purporting to examine the whole world when you've examined but a fraction of a municipality or a neighbourhood. So I'm concerned about the time frames. It seems to me that if it's going to be as unboundaried and unfocused as it appears to be, the time frames are far too limited.

The converse of that is that I'm concerned about the lack of focus. The cart is being put before the horse, in my view very much so, when you talk about, "We're going to examine the appropriateness," or the capacity or the quality or the validity or what have you, "of the

existing legislation." One of the first exercises we've got to do is to find out what legislation we're talking about, because, quite frankly, we could be talking about legislation affecting firefighters, legislation affecting police services. We could talk about the Criminal Code. We could talk about federal jurisdictions, and indeed much reference has been made to work done by a thoroughly unelected body, an undemocratic body, a Senate committee, for which I have little time or use. These people are parasites who have no business developing public policy. They're unelected and they are just an incredible weight on the taxpayers. But we've already begun to incorporate those.

I'm just expressing my concerns. I'm here. The majority of the committee clearly is the Liberal caucus. Let's make no bones about it: If there is legislation, it will be legislation that comes from this committee only after it has been approved by the Premier's office, by the mandarins and the politburo of the day. Let's not be under any illusions here. That's fine by me, just as long as we're not under any illusions. If it's to the government's purpose for legislation to flow from committee, legislation will flow; if it's not, then it won't. End of story. I'm loath to participate in constructing that legislation, or even appearing to, because I intend to criticize the daylight out of it once it's presented, unless of course it is perfect legislation and legislation that reflects valid policies. Having said that, I would just shake my head, I think.

Public safety and security: Where are the 1,000 cops that were promised? I've talked to cops out there. I had occasion to talk to a whole lot of them around Niagara region this last week and weekend. They haven't seen any impact in terms of the 1,000 new police officers. I've talked to firefighters in the sorts of municipalities that Hudak and I come from. Firefighting services are struggling. Paramedics and health care services are struggling. It seems to me we could be much more focused and produce some policy direction that would have much more impact much more quickly simply by propping up our policing, firefighting and front-line health care services. So I await to see what the government has in store for us. Thank you kindly.

The Acting Chair: Any other questions or comments?

Ms Broten: I want to respond, if I might, to some of Mr Kormos's concerns. As members of the subcommittee, Mr Kormos, I and you, Mr Chair, along with Mr Dunlop, have had an opportunity to discuss the broad nature of what we're examining. I think it's important to note, although the subcommittee report does not have every detail of those discussions, that there certainly was a breadth of examination in terms of a review of the statutes. That's what we're going to be undertaking today, a discussion with front-line people, and that's something we talked about early on. It is my hope, as we discussed at the subcommittee level and I think will flow through in the days to come, that we will be able to have an open discussion about the issues that face our province

on this most important issue, have a dialogue and a debate on where the right balance will fall and have that openly among all of us who have come here to do that job, who have been elected to serve the people of this province and who have come to do this work.

I hope you didn't make a determination, Mr Kormos; that you're prepared to work with us on this legislation, as all of us are going to be doing. Absolutely there will be every opportunity to be critical of legislation, because if we're all critical of it, we will do a better job in drafting that legislation. We will have committee hearings, as the normal course goes, later on in the process; there is no doubt about that. But as you said, we do have a lot of work to do.

I think the subcommittee report reflects where we are today, and with the good work of leg research and counsel, who have assisted us in preparing this first week, we have a lot to absorb, but I have every confidence that those people sitting around this table will be able to do that, with the help of those we are bringing in to serve as witnesses before us over the next two to three weeks.

Mr Hudak: I appreciate the comments of my colleagues Mr Kormos and Ms Broten, and on behalf of the Conservative caucus I'd just say that Mr Dunlop and I look forward to participating in this committee process. We certainly have tremendous respect for Dr James Young. We enjoyed working with him and have great admiration for the work he has done and continues to do in his position. So we look forward to his proposals before the committee today.

To emphasize, as did Mr Kormos, a couple of points: We hope through this committee process we will hear in fact about those 1,000 police officers who were promised during the election campaign and whom we have seen no sign of in the province, and who I think were omitted from the Ontario budget, if memory serves. Firefighters are another. The government went through an embarrassing scene a month or so ago with respect to a program to bring forward the sex offender registry, I believe, with the Toronto police. I hope it's not a harbinger for things to come with respect to the government's approach to security. I hope early on we will have some reassurances that these things will be corrected and we'll see that investment in law and security in Ontario.

One thing too that I think is important, particularly coming from a border area: There was a time when Ontario led other provinces, and led the federal Liberal government by the nose in many senses, in strengthening border security and strengthening our relationship with the Americans to ensure joint border initiatives. I'm not sure how much we'll get to as part of this; I expect we will. But having seen the orange alert happening currently at the border and the impact that has on our economy, some initiatives that we had proposed a year or two ago to help develop a strong and secure border at the same time as trying to facilitate trade and tourism to minimize the impacts on cross-border traffic should, I hope, be

under consideration by this committee and then hopefully implemented in the very near future.

I think we need to press very strongly, as a province, for a great deal of co-operation between our federal government and the national government of the United States of America for joint border initiatives. In fact, one thing considered for some time was a security perimeter across North America. If the French and the Germans were trying to rub each other out 60 years ago and now have a free and open border, surely we can press along and make similar arrangements with our counterparts in the United States. We always boast that it's the world's longest undefended border. Well, the fact of the matter is, it's becoming a fortress. It's becoming increasingly difficult for Canadians, landed immigrants in Canada and those who trade with the States to access that market. If we can work with the Americans to elevate our security in North America as a whole, I think that will be an enviable cause for our country, and hopefully Ontario will take a strong position in pressing for that.

1330

Those are some opening comments on behalf of Mr Dunlop and myself and the Conservative caucus. Of course, Mr Dunlop was a participant in the points that the subcommittee has brought forward.

I think we need a bit of caution on the travel. I think we had brought forward the point that we hoped the committee would bring members to the committee as opposed to flying the committee to other jurisdictions, where at all possible, to reduce expenses to the taxpayers of Ontario. But we're satisfied with the minutes of the committee and look forward to Dr Young's proposals to us.

The Acting Chair: If I may, just to be clear here: As directed by the Legislature, this committee will "be authorized to adopt the text of a draft bill on the subject matter of this order of reference"—the order of reference is to review and report on the adequacy of Ontario's emergency management statutes—"and where the text of the draft bill is adopted by the committee, it shall be an instruction to the Chair to introduce such bill in his or her name, as the primary sponsor. The other committee members who support the bill may have their names printed on the face of the bill as secondary sponsors."

So essentially we are charged with the task of reviewing the adequacy of Ontario's emergency management statutes to make sure that if there are future emergencies like we've had in recent years, such as the ice storm, the blackout of last year, the SARS situation we went through, in which Dr Young played a vital leadership role, or, as Mr Hudak said, what is transpiring for our neighbours to the south—I, as committee Chair, feel we owe it to the people of Ontario to ensure that there is preparedness, that our government ministries have all the tools available and are working in a co-operative fashion to ensure that if, God forbid, there is another outbreak of infectious disease or some weather calamity like the ice storm or whatever may happen, we as legislators have gone through our government offices and ministries to

ensure they have what is required to stand by the people of Ontario if they happen to be victimized by an act of weather or a medical catastrophe, and that we don't essentially—I think as reported by the SARS investigation, the quote was, “We built the boat while at sea in the middle of a storm.” That's no time to build the boat.

Hopefully we can help use the resources of this great province to ensure there are adequate measures in place so that we can provide safety and security in those incredibly hazardous times of natural catastrophes which unfortunately, whether it be next year or, God forbid, 20 or 30 years from now, will return to Ontario. So I think we have to do our due diligence.

Dr Young is one of many deputants we hope to invite, to hear from people who have been and will be on the front lines, whether they be emergency services personnel, medical doctors, government officials or ordinary volunteers in communities across Ontario, to ensure there is a plan in place and that the Ontario resources are there for them, that we can provide those resources for them to the best of our ability. That's what this committee is about. That's our focus.

We are open to suggestions and, hopefully, as we said in the subcommittee report, asking different witnesses to come forward and listening to people in an unusual and, I think, unprecedented format. We're going to use the expert panel format so we can hear from experts, people on the front lines, on how we can better give them the tools to meet these calamities.

Perhaps Mr Kormos is unduly critical, but I think he has the right to be critical, because sometimes government committees are going through these processes with blinders on. Hopefully we can really have an objective viewpoint and ensure that we look at every aspect of government to ensure they're prepared for an emergency that may beset this province.

All those in favour of the subcommittee report?

Mr Kormos: Recorded vote.

Ayes

Arthurs, Broten, Dhillon, Hudak, Sandals, Zimmer.

Nays

Kormos.

The Acting Chair: Carried.

EMERGENCY MANAGEMENT STATUTES REVIEW

The Acting Chair: The first item before us is the first presentation, and it's from the Ministry of Community Safety and Correctional Services, the Commissioner of Emergency Management, Dr James Young. Sorry for keeping you waiting, but I understand that you're giving us basically as much time as the committee feels is warranted today.

Dr James Young: Yes. And certainly if it's necessary to recall me or if there are other things I can do to assist the committee, I'm happy to do so.

The Acting Chair: You also have some other expert witnesses with you, if they need to be called: Neil McKerrell, the chief of Emergency Management Ontario. Neil, if you could identify yourself by standing up. Oh, he's out of the room right now.

Jay Lipman, counsel, legal services branch? Jay is here.

Monique Guibert, senior adviser to the Commissioner of Emergency Management? Thank you.

Dr Young, if you could begin, please.

Dr Young: Thank you very much, Chair, and members of the committee.

What I'd like to do today is to start and put a framework around why we need legislation and what our experience has been. I recognize that the various members of the committee have varying degrees of experience in emergencies and in the management of emergencies, and so what I hope to do in a brief period of time is to educate and bring people up to a certain level where they understand the framework for future discussions.

I brought with me a set of slides that I'd like to work through, if I may. Starting with slide 1, which is titled “Ontario Events,” you notice on the left side of the page that I've listed significant Ontario events: Hurricane Hazel, the plane crash at Malton 35 years ago—and I purposely call it “Malton” because that's what it was known as at that time—and the Mississauga train derailment, which caused hardship but in fact resulted in no loss of property or life.

All represented significant events in Ontario history, but you'll note that all of them took place more than 20 years ago. I think that's significant, because we ended up with an unparalleled period of time in Ontario where, despite the size and the complexity of the province—and I'll come back to that—we saw very few problems. We grew increasingly complacent during that period of time.

At the point in time when Emergency Measures Ontario became part of my responsibility, we had about 20 people involved in the entire program for the entire province, 10 of whom were involved in nuclear issues, 10 of whom were involved in non-nuclear issues. For a province this size and with this complexity, that was certainly much less than what we've come to recognize we need.

The ice storm was really our first warning in more modern times of the issues we face. I would note that while the ice storm was a 100-year storm and the Peterborough flood two years ago was a 100-year flood, the Peterborough flooding this year was a 300-year event. I'll come back to that, but there's a real lesson in that.

I believe the ice storm in fact may represent environmental problems. We had a unique situation where the temperature was just such that we got a phenomenal amount of ice forming instead of either a heavy rain or a snowfall. Some 37 communities declared emergencies. On that occasion, there was neither the need nor was

there a provincial emergency declared. But the province obviously took a lead role and coordinated and assisted the 37 municipalities considerably.

The next big event, anywhere you ask in North America, was 9/11. We had, certainly, major effects immediately when 9/11 occurred. We obviously had grounded aircraft, and we had travellers to look after. We had panic in society that we had to deal with. We had to make decisions about running government. We had the immediate border implications. For the first time I'm aware of, the border actually fully closed for a period of time. We had to get that border open again and make sure the border was safe and deal with the new realities.

1340

We had some planning for terrorism before that, but everyone came to realize that the amount of dedicated planning and the challenges we faced were considerably different, and they included bioterror. If we wonder about bioterror, we had, in Ontario alone, over 800 incidents of reported white powders during the anthrax scare. We continue to have some to this day, and we've had to develop protocols and ways of dealing with things like that.

SARS is a good representation of what bioterror might look like in a different form. We understand SARS now. We understand that it represented a disease that got out of the marketplace and out of civet cats and into humans. If someone isolated the virus out of an animal and introduced it purposely into a society, that would be another way that bioterrorism could show itself.

Certainly we've learned a lot from SARS. SARS was actually the first provincial emergency that has ever been called, the power blackout being the second. So those two, in fact, represent the only two full provincial emergencies that have taken place. But I think it's important to note that whether we call a provincial emergency or whether we don't, whether we're dealing with the ice storm or the floods in Peterborough or a full-scale provincial emergency like SARS or the power blackout, the province does have an important role to play. We will be counted on and we will need to deliver certain services and advice, as I'll come to later in my presentation. In fact, much of what we're trying to do is devise a system that either prevents the emergency or lessens the emergency and hopefully offers the opportunity to stop the event before it has to become a full-scale provincial emergency.

To do that, it may be necessary to make some legislative changes in other legislation, such as the Health Protection and Promotion Act, the Coroners Act or some of the environmental acts, but in the event of a full provincial emergency, we have learned from events that things arise that would require, in my estimation, broader provincial powers than currently exist. Again, I'll come back to that point.

Why should we be worried in Ontario? I'll quickly go through these things but I think it's important to recognize that we do have 40% of Canada's population. We have 50% of the chemical industry of the country. The

chemical industry represents 30 million shipments of hazardous material per year, so clearly some 15 million of those would be in Ontario. Of the rail and road accidents involving hazardous material, 60% of them are in Ontario in any given year.

Some 40% of our power comes from nuclear generation. While nuclear power is highly regulated, there's also the risk, if something did happen, of it being catastrophic. That's a whole area where we have very special preparations in place and have to pay very close attention.

Our 21 nuclear reactors represent the most concentrated nuclear reactor sites in North America of any jurisdiction. So this is unique to Ontario.

We average 20 tornadoes a year and we have potential earthquakes, including a fault under the Pickering nuclear reactor. We have between 1,500 and 2,000 forest fires each and every year. Again, while the last few years have been better, we have had years like British Columbia has experienced the last two years, and came very close about five or six years ago to declaring a provincial emergency because we had a situation with particularly dry weather and an inordinate number of forest fires that were proving very stubborn to control. As we've learned, particularly recently, floods are a common occurrence; they always are, in the spring in northern Ontario, but clearly in the last few summers we've seen them in southern Ontario as well.

So in answer the question on slide 4, "Will we face emergencies?" my unequivocal answer is, we will. I can tell you with certainty that Ontario will face emergencies. What I can't tell you is when they'll happen and what will cause them, but I can put within certain broad categories what will cause them.

We believe that we are seeing climate change. If you look at the BC forest fire situation, the California forest fire situation—15,000 people died last year in France of heat—we are seeing climate change, and that is affecting what we do.

We have interconnectivity and interdependency, whether we like it or not. There are obviously advantages in hydro, for example, and in computer systems, but there are also risks, as last summer demonstrated. We can mitigate and do everything we can to try to lessen that, but there's a long history, for example, in the hydro system of there being blackouts and problems within that system from time to time. When we studied it in the Canada-US panel, we recognized that we can improve it and try to increase the reliability of it, but we're still going to face these situations from time to time, leaving aside the potential terrorism threat to things like the power system.

We clearly have aging infrastructure, we have an unprecedented threat of terrorism, and, as we learned from SARS last year, we have the threat of pandemics. I'll come back to that, with the illustration of the work we've been doing on avian flu as something that could potentially cause a pandemic and in fact throw the entire world into at least a two- to three-year mode of trying to deal

with huge numbers of deaths and problems within society.

So the answer is that we're going to face more frequent emergencies. Our experience is that they're bigger. They are international in scope, whether you're talking about SARS, the power blackout, the ice storm or terrorism. They're all international in scope and, as everyone in this room would agree, they certainly are complex.

Just to illustrate one aspect, the aging infrastructure, slide 5 talks about that, but you can see that where most of the graph in fact is in the 25-year range for water distribution, sewage collection, public buildings and transit facilities, as we learned in the blackout, sewage and water distribution became our number one priorities because of the risk to human health in those situations. They became a priority in Peterborough in the last few days as well.

We started out with a system, then, prior to the ice storm and 9/11, where we only paid attention to preparedness and response. I have to say that in Ontario we have a good record of response. We have a good record because we have superb police, fire and ambulance services, and we have a history of people working together. That becomes very, very critical in managing emergencies. But we have come to learn that preparedness and response alone will not do it. As SARS illustrated and the quote from the Chair aptly illustrates, when an emergency happens, I can only deal with the system that's already built. I have to make that system work. I have to design other infrastructure around it, and other ways of managing. That means, then, that we're going to have bigger calamities and more problems if we start doing it at that point in time. The real work needs to be done in advance so that we can minimize the effect.

We've come to recognize that a generic set of plans, a single binderful that will manage every emergency in Ontario, is not the way to go. We have to do risk-based plans. We have to figure out what the risks are in communities and to provincial ministries, and then we have to do specific planning for those risks.

We've changed from doing emergency measures to emergency management. You'll see that the emergency management program is much broader than it used to be.

Slide 7 recognizes why that's necessary. There is work that has been done in the United States that indicates that if there's a major emergency and there are five businesses that experience a disaster or an extended outage, two will never reopen. So it's in the economic interests of the province to recognize that. Of course, governments, whether municipal or provincial, will reopen after a disaster, but as we've come to recognize, there will be a lot of soul-searching, a lot of questions asked at that point in time as to why we aren't more ready, why things took the route they did and why the economy is suffering as much as it is. So we've come to recognize that an integrated emergency management program takes into account private industry and critical infrastructure, which is 80% owned by private industry, and takes into account

individuals, communities, the provincial government and our federal partners as well.

1350

Slide 8 talks about the four pillars of emergency management—the change in name is from “emergency measures” to “emergency management.” We now look at how we can do hazard identification and risk analysis in regard to mitigation or prevention, preparedness, response and recovery. We need to do work, and are doing work, in all of those areas. In areas like mitigation and recovery, for example, we had done very limited things before. These are new areas where we have to go through each and every risk that exists and work out things in relation to it.

Slide 9 shows that this work in regard to all of these areas has to be done at multiple levels. It has to be done at a municipal level, it has to be done by the provincial ministries and it has to be done by individual businesses. All of those levels of government have to be able to manage their own business continuity relative to these various risks, but they also need to be able, in the case of the provincial or a municipal government, to work to assist those who need help. So the provincial ministries have to work with external stakeholders and be able to manage the risks to the best of their ability if and when something happens, and they have to make plans now in regard to all of these areas: mitigation, preparedness, response and recovery.

If we look at mitigation and prevention, the ditch in Manitoba is actually one of the prime examples of the government doing an excellent job in mitigation. There was a lot of debate at the time that ditch was built. Now, since the 100-year flood a few years ago, the discussion is, “How do we increase the amount of work on the ditch, and how do we protect other communities as well?”

We've been doing work in communities, for example, around dangerous goods, and we've been looking at where marshalling yards are in the chemical industry and if it is necessary to store massive amounts of chemicals in places like Sarnia, where the city, the chemical plants and the rail yards are all intermixed.

You can mitigate on many levels. It can be huge projects or it can be small projects, but clearly we've still got an awful lot of work to do relative to that.

If we look at preparedness, preparedness used to mean that we would write a plan and the plan would sit on the shelf and when something happened everyone would pull the plan out, open it up and follow the directions within the plan. I must say that the plans are good and useful, and they work for about five minutes and then you start modifying them. What's important in the plan, in fact, is that people have been trained on the plan and understand the concepts of the plan and that part of that training includes exercises. That allows people to figure out what their role is, to interact with the people they're going to need to interact with and to in fact be ready when something happens and when the inevitable changes come to the plan.

Included as well in preparedness now is public awareness and public education. Those are areas where we have a long way to go, particularly as it relates to individuals.

We have also been working on improving response. The particular area of response that comes to mind is that we've been working on hazardous chemicals and on bio-terrorism. We've been doing a lot of work with fire departments, police and ambulance. We're running courses for first responders on areas like bioterrorism and hazardous materials. We're putting out a lot more educational material to help people manage these sorts of things.

A good example came just a few weeks ago, when we had a toxic spill along the Trans-Canada Highway in a rather remote community. We were able to send a hazmat truck in. We had the expertise to first of all protect the communities around there and then deal with the spill rapidly and get the highway open and commerce flowing within about a 12-hour period. But that came with the work we've been doing in the last few years.

One of the hallmarks of what we're trying to do with response is to bring in an incident command system, so whether it's the police, fire, ambulance, the municipalities or the province, we're all organized the same way and we all use the same system. When we're sitting in the middle of an emergency, we're speaking the same language and we're managing it in the same way. Again, there's a lot of work to be done on that, but this is the system that we're proposing to bring in and disperse. It's based in the FEMA system in the United States, and that again allows us to interconnect with border communities, to enter into agreements, to work with them when incidents occur and to bring in people and resources and effectively use them if and when something happens.

The fourth pillar is recovery. We came to realize that recovery is long, protracted and difficult. Again I point to Peterborough: You see that the recovery is taking many weeks. That actually is very often the longest phase of an emergency, as the community repairs infrastructure, insurance claims are settled and recovery takes place.

Part of recovery, we came to realize, may actually affect the management of an incident as well. During SARS, we were using quarantine for the first time in 50 years. One of the important things in using quarantine was getting people to abide by it. One of the important ways of getting people to abide by it was by offering financial compensation so they would in fact abide by it and stay in quarantine if and when they were ordered by the medical officer of health. We got approval from the Ontario government to institute a quarantine program and to pay people for that. That resulted in us being able to manage the quarantine in an effective manner. So we're in fact saying to the federal government that many government programs need to be devised. Payment for people who are quarantined or compensation for people who lose cattle or birds during an avian flu need to be worked out in advance so that people like me can then institute those programs when things happen and we can use them as a tool not only of recovery but of getting

compliance in managing the emergency if and when it happens.

Page 14 talks about the emergency management system, and the important thing is that it does start at the individual or family level. Some of us learned the hard way during the power blackout that it's useful to have rotary dial phones, lights and candles. My cupboard at home was rather bare when I got home and I didn't have a rotary dial phone; I do now. I've bought wind-up radios and wind-up lights now for my cottage and my home.

The community then becomes the major centre. I'll come to the next set of slides and we'll talk about the various levels of government, but we shouldn't lose sight of the fact that most emergencies get managed as low down in the cycle as you can. What we say to individuals is, "When an emergency strikes, you should be able to look after yourself for a period of time while your community then begins to address the problems." But the management of it then will be at a community level, with the province and the federal government assisting, offering expert advice and in some cases directing that certain things be done. But it's the people on the ground who are managing it as well, at the community level, and the whole system of incident command that we have devised is set with the theory that you manage and deliver as low down in the system as you can at a local level.

Emergencies do call for extraordinary measures in extraordinary situations, and that's the definition of an emergency. You have an extraordinary situation and you need to bring the resources of some level of government, either the provincial government, the federal government or the municipal government, to bear in order to control the situation. A good illustration is that there are non-declared emergencies every day in police and fire in the cities, but once the situation gets large enough and involves a big enough number of situations, then the municipal council or the municipal leader may declare an emergency, and when it involves multiple communities or gets too large for that community to manage, it becomes a provincial emergency.

1400

You deal with operational issues at the lowest level possible and, as I've mentioned, an incident management system with command and control is necessary in order to bring order to the situation.

Community response: Obviously within the community they have the responders; they have the bulk of the people and the experience of doing the day-by-day response. The emergency site will be within a community. They will use, inherently, incident command systems. It's the head of council who declares an emergency at the municipal level.

Once that emergency is declared at a municipal level, they operate an emergency operations centre. The head of council commands the group. The control group includes fire, police, ambulance and other community services, and there is provincial representation at that level, in the control group, to assist right away, whether or not there is a provincial emergency. Eventually, as I've said, we're

going to have a provincial incident management system consistently across the municipal sector.

In a provincial response, whether or not it's a declared emergency, Emergency Measures Ontario coordinates the provincial emergency response. There are various levels of response within the operations centre. We can go to an enhanced mode or we can go to a fully operational mode, depending on what has occurred.

The provincial operations centre operates now on a 24/7 basis and routinely monitors everything that goes on in the province and produces a daily situational report on what's happening.

Currently, a provincial emergency, if declared, is declared by the Premier.

There are various ministries that are considered order-in-council ministries. These are the ministries where there is a clear chance they will be involved in an emergency, and they are particularly responsible for doing the planning for the areas that are listed next to them. But what our experience in SARS and in the blackout has proven is that there is no such thing as a ministry that won't get involved in an emergency. The 10 that are listed here are the most obvious ones, but we found in SARS that the Ministry of Tourism, intergovernmental affairs and economic affairs all became involved. Pretty much every ministry ends up getting involved in emergencies. So they not only have to pay attention to their own business continuity plans, but they in fact will have a major role to play in an emergency, and they will become important conduits in managing their stakeholder groups.

Slide 20 shows the model for managing an emergency within the province. The key is that you separate out the operational and the strategic areas within managing an emergency. Again, as much of the emergency as can be managed by the lower-right box within the EOC and the municipality is done there. Within the ministry groups, starting from the bottom of the page, there will be a primary ministry action group—in the case of SARS, for example, that would be health, and in the case of the blackout it would be the Ministry of the Environment—that would be the primary group that is the most affected at the beginning of the emergency. Then the other ministries come into play as supporting ministry action groups. They report and they exchange information and ideas and resources within the provincial operations centre, and they report to the group that I chair, the operations executive group.

The issues that arise that can't be solved on an operational basis come forward as strategic issues. I would bring those forward to the emergency management committee of cabinet, who then discuss those issues, debate those issues and give direction as to how the operationing will be settled. I carry those messages back, and again those messages get passed into operational as low down on the cycle as we possibly can.

In order to move an emergency along, there has to be a lot of structure. Meetings have to take place at predetermined times and have to last predetermined lengths of

time; decisions have to be forged very quickly and passed through. Otherwise, you get bogged down in endless meetings with no decisions being made and the situation worsening.

The federal government is also involved in emergencies, and slide 21 partly breaks out those situations. Primarily the federal government is involved in war and in international events. The province takes the lead in public order and public welfare situations.

The federal government has new legislation governing emergencies. They have not declared a federal emergency. They would be involved if there was a terrorist act. They would be involved if there was a pandemic. But one has to recognize that the federal government is the furthest from the field where things really happen, and they have the least direct, daily operational experience. So the federal government would not bring significant operational experience to an emergency, whether it was a terrorist act or whether it was a pandemic. They would bring—and did bring, for example, in the case of SARS—technical expertise from Health Canada.

They would have expertise to bring, for example, in any pandemic, health situation or transportation issue, but if it was occurring across the whole country and there was an event that was so large it was a federal emergency, I think you would see the federal government in the smaller provinces and saying to Ontario, "Manage this the best you can. We're busy with other provinces." So essentially our plans have to be robust enough that we're able to manage things within the province and can be of assistance and help prevent emergencies from spreading in other provinces and bring our expertise and our operational expertise to those other provinces. We would count on the federal government for financial support, for some technical support—and there are some stockpiles, for example, of medical supplies, but those are limited and those would take probably 24 to 48 hours, at least, to disperse to the scene. So we have to be able to manage until even those supplies, limited as they are, would show up.

If we look, for example, very quickly, at Peterborough, we're dealing with a situation where a thousand basements were flooded. Six hundred homes had to have their electrical service and gas shut off. One hundred and fifty people in one nursing home had to be evacuated. There were four roads and bridges that were badly damaged. But throughout it all there were no injuries, deaths or health consequences that I'm aware of as a result of the Peterborough floods. That's a real credit to the Peterborough community, who were one of the more resilient communities and who had done more planning than most municipalities had done. The result was that they were able to manage this much more proactively than in the past.

The provincial government did contribute that day. Ministries involved included health, natural resources, our ministry with regard to policing and EMO, the Ministry of Energy and the Ministry of the Environment. We were able to break bottlenecks. When the nursing

home people had to be evacuated to the Evinrude Centre, there was an older facility in the area that hadn't been decommissioned yet. The Ministry of Health sent inspectors in there and they helped recommission and get people moved by 6 o'clock that night. They were in what was the second-best facility and certainly much better than the Evinrude Centre. So with a minimum of disruption to the elderly people, they were relocated and looked after properly.

Again, the restoration of hydro and gas has provincial elements to it. There are rules about people having to apply for permits and wait for OKs, and provincial inspectors coming and OK'ing hydro being turned back on. Those are totally impractical when you've got 600 homes that need restoration of power quickly, both from a health point of view and from a human comfort point of view. We were able to broker, through the province, a better system of getting that done and getting the fees waived and the system up and operating. And ODRAP, through the Ministry of Municipal Affairs, is working on disaster relief.

So the common elements that we've come to realize are important in an emergency are that there's a need for a program in order to get started; programs have to be risk-based; and we need training and exercises. When you're managing an emergency, it's really quite simple: What you're doing is trying to ensure public safety and save lives, and do so in an ethical way. So if you always remember that that's what your aim is, it often becomes very obvious what needs to be done and what the priorities will be. It's also then something that I'm going to come to in a moment when we talk about the act and the need for strengthening in the act. It's because we need to be able to protect public safety and save lives in an emergency situation. We have to balance that against individual rights and try to find the correct formula to do that.

1410

Unfortunately, the safest and the best way when you're thinking about emergencies and potential emergencies is to overreact and then cut back rather than underreact. If you play catch-up and you underreact and you make mistakes, you'll spend much longer trying to repair the damage and the human or economic loss will be much greater.

As we saw during SARS, it's necessary to be increasingly transparent. I can tell you, it was quite a sight to sit in China and watch the officials doing Ontario-style press conferences every day and answering questions in a transparent style, but that became necessary even in an environment such as China.

There needs to be frequent communications and there needs to be a proactive approach. By a proactive approach, I mean you monitor a situation and you react to it before it becomes an emergency. I would use as an example the avian flu this winter. We had daily phone conferences where we monitored SARS and we monitored the avian flu in Asia and ultimately in British Columbia. The risk in the avian flu is that you had birds that were getting sick and were dying, but you had 34

humans who became infected with the virus. Twenty-four of those 34 people died of the avian flu. If any of those 34 people had happened to be carrying another human virus at the same time, you can get a situation where a new virus is formed and that new virus has the ability to pass from one human to another and that virus may be as infectious or more infectious than the virus was before it became different. That is what we believe happened in SARS. We believe that a virus that was in civet cats, either in pigs or humans, became a new virus and had the ability to pass from one person to another and had a death rate of 10% to 15%. So the great risk with an avian flu is that it could turn into the new Spanish flu. We think that's how the Spanish flu started in 1918-19. Between 20 million and 50 million died of the Spanish flu at that time.

So we have become very proactive. We had weekly meetings of about half of the ministries of government where we sat down and we said, "What's happening in Asia, what's happening in BC? What do we need to do to prepare if it somehow gets spreading across the country? How will we manage it and what would we do?" That in fact led to a very rapid response a few weeks ago when we had a false alarm in the Niagara area. We believed there was a possibility that there was an avian flu in a barn there. We shut the operation down very quickly and we worked with the federal government in a very coordinated fashion in order to ensure the safety of the humans and also the safety of other farms in the area and tried to minimize the effect if it had turned out to be an avian flu. We believe this is the best approach to emergencies in the future.

In order to do this, we believe that there may need to be some legislative changes to certain acts within Ontario. To give you an example, if we had an incident of avian flu in Ontario, we would need a system for disposing of the carcasses. In British Columbia, there were 10 million birds that had to be potentially disposed of. Right now, the act in the Ministry of the Environment in fact specifically excludes municipalities from having to agree to animal waste being disposed of in their dumps. So we have a problem that we would have nowhere to put the birds in a situation like that. Other situations have arisen over time where we recognize that we may need some additional change to legislation in order to manage something, short of having to declare it a provincial emergency.

We also came to realize in the power blackout and in SARS that the powers that currently reside in the Ontario act are not as broad as they perhaps should be. The Emergency Management Act, when it was redrafted, made mitigation and prevention and all of the four pillars that I mentioned mandatory in the programs, and required both provincial ministries and municipalities to do much more planning in all of the ways that I've described up to now. At that time we had not had a provincial emergency and, frankly, we did not look at the powers within the act. What we came to realize with SARS and the power

blackout was that we should have looked, and we need to look, I believe at this point in time, at those powers.

Right now, the Premier would declare an emergency. Once the Premier declares an emergency, he has any existing powers that exist within legislation in his control, but he has no additional powers. For example, we recognized during the ice storm that we do not have in Ontario the power to evacuate. So if we got into a forest fire situation or a flood situation or any other situation where we might need to evacuate people, we can ask people, we can coax people, but we can't currently order them to be evacuated. That poses problems.

The powers that Ontario has versus the powers that the other provinces have are illustrated on slide 28. This obviously is much of the discussion that you need to have, but I would point out that currently Ontario has virtually no powers. All of the other provinces have substantial powers.

When you study the other legislation and you look at what exists in other legislation, I would suggest to you that what you will see is that most of the other legislation describes the powers in fairly general ways. The reason for this, in my estimation, is because it's extremely difficult to define in advance what powers you will need or what situations you will face in an emergency. If you had asked me about what powers might be necessary in regard to human health prior to SARS, I could not have told you accurately exactly what we would face and where the problem would lie. One of the problems was that we issued directives in SARS to the hospitals. I think that was the right thing to do. We needed to get people's attention and we needed to get the health care workers and the patients protected very quickly. We believed that the power existed within the Health Protection and Promotion Act. There are those who would debate as to whether or not the way to fix that is to make it clearer within the Emergency Management Act.

Some of the health providers have said to us, "Well, we complied last time, but we might not comply this time. We might decide we know better than the province does and we might decide to impose our own form of guideline or protocol if we got something like SARS again." You frankly cannot manage an emergency if everybody is going off in different directions and doing things in different ways. You need consistency. The public has to understand consistency.

The idea of adding powers is to use them in extraordinary circumstances. By having the powers, I believe that you would rarely have to use them. It's the old carrot and stick: If people know that you have the ability, they come to the table, they bargain in good faith, and they're willing to co-operate and find ways of making things happen. But if you have no stick, your ability to bargain becomes limited.

My fondest hope in an emergency is that I would never have to use the powers, that we would do it all by consensus. But the experiences in the power blackout and SARS have proven to us that you still do need to have those powers. You also need, and we acknowledge this,

checks and balances in place. They are extraordinary powers. But I would caution you in your studies, when you think about the emergency powers and the extraordinary powers, to not equate those as being the emergency. The emergency is called to bring order to a chaotic situation and to bring the resources of the province to bear. Only one of the tools is the extraordinary powers that we may need, and as I say, we hope we don't need them. You still need to call emergencies because you have such a large government involvement or the need to get everyone pulling in one direction or to get people's attention—so it's not the only reason for calling an emergency.

1420

People have asked me, "Can you legislate when you call an emergency?" You can try. But I can tell you that you know when there's an emergency; you don't need to write it out on a piece of paper. You're in a room and everything's going wrong and you realize you need to get everybody pulling in the same direction. You know in the pit of your stomach that you have an emergency. I don't know exactly how to put all of that in words.

There do need to be checks and balances and accountability in the system. Again, I think you have to think about that accountability in terms of: The goal of the emergency is to save lives. You need the powers. You need them at the time. You need to be accountable to them afterwards. But if that accountability is either too onerous or too early, then that may become a factor in how the emergency is being managed. The way the emergency should be managed is in relation to public safety and ethics. In my opinion, the accountability should come, but it should come at a point in time when, first of all, I have time to account because I'm not busy still trying to manage the worst of the emergency, and it should come in a manner that is as nonpolitical as possible, so that it's being managed for reasons of public safety and not getting into a political vortex.

I will certainly happily answer questions about the specific powers, but I know there are going to be presentations about that. What I intended to try to do was to bring to your attention what we're trying to do in managing emergencies and why we need the legislation and the important role that would play in managing emergencies in Ontario.

The Acting Chair: Thank you very much, Dr Young. What we'll do is start off by giving each party 10 minutes. We'll do a rotation, and then if we want to go around again, we can go around again.

We'll start with the official opposition if that's acceptable.

Mr Kormos: Especially in view of Dr Young's final comments—we got his material and we read his letter. We see the listed powers and the references to other provinces. I'm wondering if the committee would see fit to consider—because Dr Young says, "Here it is, but you're going to be hearing from other people"—and that's fair enough. It seems to me that the time when Dr Young might be most valuable is after we've heard from

some of those other folks and/or people who speak about or from those jurisdictions that have those powers. Then the committee might be better equipped to ask Dr Young to put that into the Ontario context. That's just a modest proposal.

The Acting Chair: In other words, you'd like to ask Dr Young back when, for instance, some representative of another jurisdiction makes a presentation?

Mr Kormos: We're going to hear from a whole pile of people. Some of the stuff is going to touch on the powers that Dr Young says might be suitable for Ontario but don't currently exist in Ontario. We will be better informed about those various options by virtue of having listened to those people and having them refer to those powers in various contexts. It seems to me that would be the time to talk to Dr Young in a more educated manner about those statutory powers he's proposing or putting on the table.

Dr Young: I want to clarify what I did with the list. The list is a compilation of powers that exist in other legislation versus Ontario, with the idea that that would give a context for the Premier and the committee to study each and every one of those. I want to be clear: I'm not commenting directly on all of them. It's an attempt to lay out what exists in other places.

Mr Kormos: You're not necessarily calling for any or all of them, subject to what the discussions are.

Dr Young: Obviously I have personal views, which I'm happy to share, but I want to be clear that I recognize it's the role of this committee to do all of those, and I'm just trying to be helpful by putting them on the table.

Mr Kormos: I appreciate that. That's right: Put these on the table.

The Acting Chair: I don't think there's any problem with maybe asking Dr Young to return, after we've heard from other presenters dealing with some of these different powers that perhaps other presenters talk about, and have you comment on them.

Dr Young: Sure. I'm pleased to do so.

Mrs Sandals: I certainly agree with Mr Kormos that it would be useful to have Dr Young perhaps come back when we've had an opportunity to hear from other folks, but I think it would also be useful, if people have follow-up questions from his presentation, to deal with them. There may be some answers and some more information he can provide us with now, before we go out to listen to other people. So I would prefer that we question now and question later.

The Acting Chair: I don't think Mr Kormos was precluding that. He was suggesting that that be done in addition.

Mrs Sandals: I agree we'll want to do some follow-up later.

The Acting Chair: Could we then begin with the official opposition for up to 10 minutes.

Mr Hudak: Thank you again, Dr Young, for your appearance and your opening presentation before this committee.

Just to make sure I'm clear on the last page, page 28, of your slide show, and I think that was similarly attached to your letter to Premier McGuinty from June 21: Powers such as the ability to evacuate, which exists in other areas but where Ontario is missing an "x," or to requisition, use or destroy property, fix prices etc, don't exist in any Ontario provincial legislation whatsoever?

Dr Young: No, they don't. When we've needed these things, some of them I believe you could debate may or may not exist under public health, for example, if you read it in its broadest sense, but sometimes it's clear and sometimes it isn't and certainly you could get a challenge. They certainly are not defined as clearly as they are in other jurisdictions where the acts actually talk about these things specifically and say that in an emergency these powers might be at the disposal of government should it so choose.

Mr Hudak: I don't know if you will be able to answer this for me, but I'm curious. When they exist in other jurisdictions, are they scattered among various pieces of legislation or do they exist under one umbrella piece of legislation for emergency preparedness, or both?

Dr Young: They may exist in individual ones, but this chart is based on looking at the Emergency Management Act or its equivalent in the various jurisdictions. So they are housed in the highest act, which is the Emergency Management Act. I can ask Jay Lipman if he's aware whether they exist in others. They may exist in other statutes to be used at times short of an emergency, but I'm really not sure.

The Acting Chair: Maybe you could identify yourself for Hansard, Mr Lipman, and help with that response.

Mr Jay Lipman: My name is Jay Lipman. I'm a lawyer with the Ministry of Community Safety.

Just to follow up on that point, I think it is correct to say that some of these powers exist in different statutes, limited to the purposes of that statute. For example, there is a limited power in the Forest Fires Prevention Act to provide for evacuations in the event of a forest fire. No doubt there are similar statutes like that in other jurisdictions. But just to be clear, all of these powers are derived from the emergency legislation in all of these other jurisdictions, so whether or not there are existing statutory powers that can be exercised by specific statutory officials, these are powers that can be exercised in most cases by cabinet in the other jurisdictions, or by a minister or something like that.

Mr Hudak: Do you care to quickly speculate, Dr Young, on why they don't exist in Ontario and they do in other jurisdictions? If I quickly peruse the material—and I'll look at it in more detail—a lot of the umbrella legislation was pre-9/11 in the other provinces. It had existed for some time.

Dr Young: Yes. We had not done anything with our act for a long time. Post-9/11, we expanded the size and scope of emergency management in Ontario. We focused and came to all-party hearings on the legislation and in fact got a high degree of co-operation. Not only that, but I remember it was the legislative committee that made it

mandatory that the plans be revised on a yearly basis. So they added to the quality of the legislation.

At that point in time—I can't tell you why—it just didn't cross our mind on the powers side. I don't personally remember having a lot of discussion about the powers within the act. We had never had a provincial emergency, and I don't think—we sort of realized that our act was so different than the others. In retrospect, we should have done that, but it just wasn't on our radar screen at that point in time.

1430

Mr Hudak: Let me say again, and more specifically again, I think all members of the committee would thank you for your leadership and thank your colleagues, particularly in taking us through the crises you mentioned of the past two years, SARS and the power blackout. In your experience in those two crises, given the powers you highlight that do not exist in Ontario's legislation, are there particular powers that you see as more important, that we should develop a bit more study to, or may have been useful in particular situations?

Dr Young: We certainly had experience in those with, for example, the directives in health, evacuations in the ice storm, the directives in SARS, rationing in the power blackout. The existing contracts, for example, that IMO had with heavy industry gave priority to heavy industry at a time when we in fact wanted heavy industry shut down. So you've got a contractual situation that says one thing and a reality situation that says that if they all power up, we're going to black out the province repeatedly. We managed it, but it could have been difficult.

So what I would do is look down the slide, when I talk about what we face—it's slide 4—you really have to look at not just what we face but what we could face with climate change. Climate change can be everything from ice storms to flooding to forest fires. You've got to look at all the various powers relative to the way things are connected and aging infrastructure or terrorism or pandemics. I think that would be the way I would measure it against those and say, now, is it likely and could it happen in any of these, and if it does, then probably we need to look seriously at it. What are the pros and what are the cons?

I say to you, this list is there and it's accurate, and there are things we are dealing with and believe will happen. I just can't tell you in which order or which ones first, but they're going to happen.

Mr Hudak: One area of particular interest I think I would expect for this committee—I guess we'll deal in areas of provincial and federal jurisdictional overlap—is the safety of our nuclear sites. I know some progress was made in 2000, 2001, in working out arrangements. I think a couple of the sites, though, may not have had armed security on site. Could you give the committee an update on where we stand on security around nuclear sites and as well, the next steps that need to be taken. I guess it would be obvious, but to let us know if that would be a prime target.

Dr Young: The nuclear is a good example of multiple layers of government being involved, because the regulatory body in the case of nuclear is the federal government. They're the licensing body. In fact, in the case of much of the nuclear, the owner is the province, with private industry involved as well.

We have worked very hard on it with the regulatory industry because of the terrorism. We certainly had a look at that with the Canada-US hydro panel I sat on, on the security panel. What happened post-9/11 was, the physical security around the nuclear sites was hardened. Things were done to limit access, and if that access is penetrated, to make them more physically secure. Checks of employees were put in place to a greater level than had existed before. There was an order from the commission to arm those areas, and that has been carried out. We worked with the industry and the regulator to try to smooth that out, and that has been achieved.

The industry has always been very safety-conscious, including the threat of terrorism, but it's much more so now. The risk to a nuclear facility, of course, is very difficult to tell. Theoretically, there are those who would say, with the design of our reactors, it would be very hard for terrorists to do much. There's also the risk at somewhere like Chalk River of someone stealing radioactive materials. That has to be taken into account as well.

Certainly everyone worries about terrorism because of the nature of a nuclear reactor. I can't tell you whether there's more or less, but I think, if you look at Madrid, where a simple bomb will do a lot of damage, you don't need to have even radioactive bombs to create chaos. I think we're worried about everything from bombs to biological to radiological. I think we're planning for all of them.

I don't know what it's going to be, but I think, increasingly, we're worried that something will happen in North America. I think we're naive if we think it couldn't happen in Canada.

Mr Hudak: Mr Chair, I'm OK on the time there?

The Acting Chair: It's about one minute.

Mr Hudak: Dr Young, we do have, then, armed security at all four nuclear sites as it stands today?

Dr Young: Yes, it's there in all four.

Mr Hudak: The last general question I had is about information-sharing. With the orange alert now at the border in the United States and the discovery of the computer in Pakistan, to what degree does Canada get that information? Does it come down to the provincial level so that we can address our security accordingly?

Dr Young: It's much more improved than it ever was before. The nature of security information and intelligence, of course, is that you don't want everybody to know about it. By its nature, it's often based on rumour rather than on absolute fact. So how you use it has to be very measured as well.

There's been a concerted effort by the province and the federal government to try to make sure that the information, though, is flowing down as well as up. The co-operation between CSIS, RCMP, CISO, OPP and the

municipal police forces has really been focused on and dramatically improved in the last few years. But there's also the element of making sure that the municipalities and people like myself have the information as well, and that we're trusted to get that information. There's been a lot of work done on that as well. I have regular briefings from OPP, CISO and CSIS. There is an exchange between the federal government at Privy Council level and our cabinet office.

So the amount of information and the exchange is much greater. Again, it's not perfect yet and there are burps along the way every once in a while, but it works most times much better than it did. We would have a pretty good feel that the Americans were going to change their level before they do it. Sometimes we know not too much before. Sometimes we know further in front of it.

The Acting Chair: Mr Kormos?

Mr Kormos: No, thank you.

The Acting Chair: Ms Broten?

Ms Broten: Dr Young, I'm wondering whether or not we've taken advantage over the last number of years, in the face of the disasters that the province has faced, and debriefed on those two—say we take SARS and the power blackout as two examples. If you can share with us, so that in this committee we're moving forward from what we as a province were able to do through the use of other legislation—that maybe it's not as coordinated as you might like in the emergency management statutes—because it does exist elsewhere, so we used that and it worked; what we were able to do through negotiation; what we were absolutely prohibited from doing as a province; and the failures. That would be my first question.

Dr Young: As Canadians, we always debrief well. The commissions, along with the Brits—we do a very good job of paying attention afterwards. It's second nature in emergency management to do reports after an event and try to learn as much as you can from them. In fact, if we look at SARS, we had the federal commission, we've got the Walker commission, which I sat on as an ex officio member, and the Campbell inquiry. Certainly Justice Campbell has been talking to us a great deal and currently is looking at emergency management actively. So we've looked at that. We did reports and studied after the power blackout as well.

1440

There were a number of areas that we've learned a lot in and I would say we've increasingly become much more proactive, as I've described. We've come to recognize that the role of all the ministries is much greater; it's not just the 10 ministries. In fact, in both the power blackout and SARS it was some of the ministries that we never paid any attention to about emergencies that played key roles. In the last days of SARS, the trade issues and the tourism issues—we already had SARS licked but we had lingering problems afterwards, for example. So we've come to recognize that the role of the ministries is very different.

We then have done work on a number of areas. Governance was one of the areas. Justice Campbell has talked a bit about that, and the Walker commission has. The charts that I showed you about how we would manage within the province and the defining of my role within the province is as a result of what we've learned. It's clear that there has to be a hierarchy and there has to be a way of managing emergencies. My role as commissioner is to not only advise government on emergencies before they happen but then to take a lead operational role when they do happen, and that's been defined within government. So we've learned governance issues.

Right now we're looking at bolstering and relocating the provincial operations centre. The operations centre obviously becomes a real key area when an emergency happens. We have it in a less-than-desirable place right now. While it looks like there's a lot of space when it's not fully occupied, when an emergency happens and you're looking for boardrooms all over the place and you're filling up rooms and staying for weeks at a time, it's interesting how quickly it shrinks and you see all the warts in the system.

About 10 or 15 years ago the emergency centre for the province was in the OPP headquarters down on Lakeshore. There was a room with about five phones. There wasn't even a fax machine and there wasn't a computer in sight. We were going to manage anything that happened in Ontario using that. So we've evolved a long way.

We've been doing work and thinking. We've done the governance piece and we're working on the provincial operations centre. There's a large piece of work that has to be done on ministries and municipal governments getting their plans, their training and their exercises up to the basic level that's necessary. We're working within government on that piece and we are working on the regulations that will be passed that require by a fixed date that the three levels of plans are in place. That's an ongoing piece. I must compliment the municipal governments that are really working very hard on this. As I mentioned, in Peterborough it paid dividends for them already. So that's the third piece.

The fourth piece where we've recognized the need for something to be done is the legislative piece, and that's why we're here today. In speaking to the Premier about our risks, I mentioned repeatedly to him that I felt we had some weakness in the legislation and we needed to study it and decide what tools would be available.

Ms Broten: Did the debriefing after SARS and the power blackout specifically identify the lack of powers as being problematic in those two emergency situations?

Dr Young: Yes, it did.

Ms Broten: Did they list evacuation or were there identifiable powers that were listed out?

Dr Young: The main thing in SARS would have been the issue of directives and whether we could or couldn't issue directives in future. But it raised issues around quarantine and there was some legislative change in the

quarantine act between SARS 1 and SARS 2, so there are the quarantine issues.

It raised in our mind a myriad of other issues though, if we got into a pandemic situation. I think the Ministry of Health will talk to you about things like vaccinations and other sharing of health information in extraordinary circumstances. That was certainly an issue in SARS as well that comes to mind: What information can we share, and how and why? Those certainly came to light.

In the hydro it was the rationing and the ability to ration that was particularly troublesome: Could we in fact restrict the amount of hydro that went to heavy industry or to any other person and give priority to places like sewage systems and refineries and hospitals at the expense of other industry, and what was the legislative basis for doing that? Those are the kinds of examples that come to mind.

Ms Broten: The powers that have been identified that other jurisdictions have: Do we have knowledge of them being exercised in other jurisdictions?

Dr Young: I'm not sure. We'd have to check with them. I think many of them haven't had provincial emergencies, but what you notice is that they're very similar, because when people actually start sitting around and doing crystal gazing, they start to say, "Well, this could happen and that could happen," and you get left with sort of a common list. Certainly when we did that among the bureaucrats, we actually came up with a list and then started to look at other legislation and found the list that they had was very similar to the list that we had come up with, because you start to put together scenarios that recognize the same kinds of problems. But again, no matter how extensive the list is, when it actually happens it will be something you never thought about, so your lists have to be broad enough to take into account the fact that the unexpected will become the norm when an emergency occurs.

Ms Broten: A question that perhaps legal counsel might answer if you don't know, Dr Young, is whether or not the powers have been challenged in other jurisdictions for being too broad or impinging on privacy rights or other constitutional rights in terms of the search without warrant, whether those types of powers have been challenged in other jurisdictions.

Dr Young: According to the Attorney General's people the other day, they haven't been in the other provinces at this point.

Mr Lipman: There's no sort of real case law examining these powers and the extent of the powers and so on.

Ms Broten: My last question follows up somewhat on a query that Mr Kormos made earlier, and that is about first responders. From everything that I've read about emergencies, that's where the strength of a good response comes from: a first-response team that identifies it and puts the information up through systems that exist. I wonder whether or not you want to speculate as to whether, when we meet first responders, they themselves will view that added powers are important or whether

they'll have other priorities as to what they need to respond in emergency situations.

Dr Young: We're there to give them the tools and the direction they need, so we're viewing the same thing from different points of view. Certainly one of my priorities is occupational health and safety of the first responders, whether they are hospital workers or whether they're fire or police, or farm workers in the case of avian flu. So we're at the same process, but what I'm worrying about may be slightly different than what they're worrying about. When I go out and I hear lectures on SARS or the power blackout from various people involved, I always learn something. What they bring forward as their issues may not have been something that even got up to me, because I get whatever's left over that somebody couldn't solve at the ground level.

I think what you'd hear them say, though, and what I hope you'll hear them say, is that they need information; they need training. We're trying to give them those things. We've set up a course at fire college where we bring the first responders together and train them together so that their response is integrated. They need critical incident management training so that they manage in the same way together. They need equipment. They've gotten some of that through JEPP grants, and the federal government has increased JEPP grants. They will tell you, I'm sure, that they haven't had enough JEPP money, and that's not an area that the province has directly funded, either police or fire. We have done the educational part and teaching materials; we have not directly funded. We have pushed the federal government quite hard to increase JEPP funding.

I think if you look at the United States, there's been a greater flow of homeland security money for equipment at a local level. Using that, they've filled some gaps that are frankly not terrorism problems but in fact just good management. That's one of the benefits of all of this. Whether you believe or not, for example, that there's terrorism, 95% of what we do to get ready for terrorists is applicable if you have a situation like SARS come along or you have another health problem or you have some other kind of emergency. It turns out that it's great training and it's great thinking, and that's how we knew what to do with SARS, because we'd been thinking about bioterror.

1450

The Acting Chair: What I hope to do is ask a couple of questions myself, and then I'm going to go around again to see if other members would like to ask questions again.

Dr Young, just a couple of questions in terms of your presentation: I was interested that you mentioned that you keep tabs on events in Ontario on a regular basis through your office and you can request situational reports. It's not of major consequence, but I know this weekend there was a shutdown on the 401 on Friday afternoon between Port Hope and Cobourg. It was unprecedented, I think. It was six or eight hours. There

was a major fatality there. I happened by accident—no pun intended—to be stuck in it.

What I was thinking when I was sitting there was that there's basically no plan in terms of moving emergency vehicles through this bottleneck, moving traffic if you've got expectant mothers or you've got people with heart attacks. Everybody was sort of on their own trying get off exits, and then when you got off an exit, there was nobody directing traffic or no signage of where to go. The concession roads were all blocked. I was thinking, if there is something of a major nature that occurs here, there is essentially no direction given to the tens of thousands of Ontarians who are stuck on a major highway. If there had been, let's say, God forbid, a chemical spill or something happening—and by the way, that same day there was a spill of a couple of tanker trucks going west-bound on the 401. But there didn't seem to be any plan through radio communication, notification. Frankly, I didn't see a police or government cruiser or vehicle for eight hours—no sign or sight of any government involvement.

Mr Kormos: What have I been trying to tell you, Mike?

Dr Young: Maybe I can address that. What you're seeing at that point is a local response. There are quite detailed plans, for example, around nuclear facilities. If you had a nuclear incident, the way it's meant to be managed is that you manage an evacuation in a systematic way and very carefully. So you choose what areas and what sectors to evacuate. MTO, local Durham police and OPP have quite detailed plans.

Will the public follow them and will you be able to get people to not clog everything? That's another question. It'll work some and it won't work in other ways. In a situation like that, if the spill is big enough, the Ministry of the Environment, the OPP and a number of provincial agencies get involved along with local people. What you've potentially got on a long weekend with a fatal accident on the 401, most likely—I don't know all of the details, but if I put on my old chief coroner's hat—is an investigation that has to be done as well. You've got potentially a criminal investigation and a coroner's investigation and you've got a site that you can only clear so fast because of the problems inherent in that. That becomes a problem. We have done work to try to speed things along on the highways. There was a red tape project a couple of years ago to look at trying to improve it, but you've got to be careful because if you clear it too fast you may ruin an investigation that becomes very important later. It's a very difficult problem.

Can lessons be learned? Of course, but that's a local response that probably needs some tuning up.

The Acting Chair: Again, I would just like to comment. Considering the number of trucks that we see on the 401 and the cargo they're carrying and the volatility of some of that cargo, and the dependency we have in southern Ontario on the 401 as a major arterial, and given its proximity even to Pickering and the nuclear sites there, is there some kind of traffic management crisis

plan that is in effect that gets deployed on a regional basis to ensure that the medical vehicles or the cleanup vehicles, and people who need emergency treatment, get moved on and off this highway that's basically closed?

Dr Young: That's exactly what we're talking about: risk-based situations. For example, for Pickering, for communities that are close to the 401, for the Ministry of Transportation, for the OPP within our ministry, high on their list of risks would be hazardous materials and accidents on major thoroughfares.

In the system that we're building, what they need to do is recognize that risk, do the best they can to mitigate that so it doesn't happen, and then have plans in place that all of the alternative things you're talking about can spring into action and you try to move traffic as smoothly as you can, and plans in place so that clearly then the recovery or the cleanup is as fast as possible. That's exactly the kind of program on a micro level, but you have to do it right across the province in every community. That's the kind of approach we're trying to take, and that's the sort of thing we're saying to every community: "You have to recognize what's most likely to happen and don't just have a general plan. You have to have a plan specific to that kind of risk in order to minimize the effect. But, better yet, see if there's a way of preventing it from happening to begin with." That's why you look at, for example, road construction. How you set up a road construction site is very important, because if you set it up wrong you increase the chances that you're going to get pileups and people killed at the construction site. You've got to learn all those kinds of lessons.

So that work's going on, but it happens every day in Ontario. There's a spills action centre in the Ministry of the Environment, and they're busy every day of the year managing spills. If we're lucky, it's not on the 401, but the Trans-Canada is the other one where it happens quite frequently.

The Acting Chair: I don't know if you read William Thorsell's article in the *Globe and Mail*, I guess it was two weeks ago, where he talked about, if there were a hydro blackout of potentially 30 days—we had one here of basically one or two days—what would our plan be? One small example was during the last blackout, which was about this time last year, when a lot of citizen volunteers took up positions directing traffic at intersections. They did it spontaneously, they weren't told by anybody, and they really helped in terms of ensuring that there was safety and security for people who were trying to get home at that infamous 4:30 period last year.

Is there now a plan in place if that type of thing were to happen again and lights go down? You'd hope that the volunteers would come out again, but is there a more systematic approach? Is that being worked on in saying, "Can we call on certain volunteer organizations or auxiliary police to come to the spot?" I remember I was helping an individual out at the corner of Avenue Road and Eglinton. He was a very brave young man who was a salesman for Pitney Bowes. He just got on the corner and

started directing traffic. I said, "I'll watch your backside here and make sure there's nobody making illegal turns into you." What happened is the auxiliary police officer didn't show up until 7:30 at night, and that was when basically all the traffic had gone through. That young man just walked away. I took his name and I thanked him profusely, but he just went away. But there was no system in place, nobody who was calling anybody and saying, "OK, traffic lights are down. Here's what goes." Have we put something in place now, having learned that lesson from last summer?

Dr Young: I think everybody has looked at their plans and are putting things in place, but when something happens you won't avoid all of the chaos that exists at the beginning of an emergency. It's the nature of an emergency that that's what happens.

I worked a long time on the Swissair crash, and I remember people talking about the plane going down and trying to figure out, first of all, what had happened and then where this big, loud bang was from and what it represented, and then trying to figure out whether or not anybody had lived from it and just running around for the first few hours. It's true of anything. It took us a day and a half to figure out which of the 37 communities were the most affected, because some of them were managing and we had to finally send the police in to ask them whether or not they had an emergency because some of them were fairly self-reliant. But it's going to be New York City, the pictures of people running in all directions. Despite the best planning, the nature of an emergency is that it's chaotic at the beginning.

1500

What we need to build is better risk-based plans that take into account all the things you say. We have been working and are working on better citizen volunteers and getting more people trained. That's the individual and community response. If people are trained better, they'll be able to assist and not get in the way of police and first responders. So we're working on all of these kinds of things. Are we there yet? No. We'll never be fully there. What you try to do is just continually improve. You measure it that way, because whatever comes along won't be what you plan for; it will be something completely different.

The Acting Chair: Just one last question. In terms of the Peterborough example, as you mentioned, they've done an outstanding job responding in Peterborough, and the citizens of Peterborough obviously have been getting all of our praise for that. You mentioned it was a 300-year storm. How often are these 300-year storms? Every 300 years. But have there been other communities that have been hit by—I've never heard of a 300-year storm. I've heard of a 100-year storm. That is pretty common, but—

Dr Young: That's exactly my point. What we were seeing is, we had this set of statistics on things like storms and floods and everything. The Red River was a 100-year flood, the ice storm was a 100-year ice storm and Peterborough's flooding two years ago was a 100-

year flood. So what happens two years later is that they get the 300-year flood. I heard somebody say, "What are we getting next, the 500-year flood?"

That's the problem we face with global warming and aging infrastructure. What we're going to see is more and more comments. The forest fires in BC. There are unprecedented forest fires in the Yukon this year. This is what we're seeing. The old figures of what's a 100-year event will no longer be a 100-year event; it might be a five-year, a 10-year or a 25-year event, and we have to start to mitigate and plan and prepare for exactly that kind of event. What we're going to see is going to be much bigger than what we saw before. That's exactly why I used those figures, so it would catch your fancy that we're seeing too many 100- and 300-year events.

The Acting Chair: I'll go to the official opposition.

Mr Hudak: Again, just some general questions. You talked, Dr Young, earlier in the presentation about the disaster that happened I think in the 1980s: Hurricane Hazel, the Malton plane crash, the Mississauga train derailment—

Dr Young: The 1970s. The plane crash was 35 years ago. Hurricane Hazel I think was before you were born.

Mr Hudak: I remember it.

Dr Young: I have the grey hair. I was born and I remember it.

The Acting Chair: Hurricane Hazel was Hazel McCallion.

Mr Hudak: That's what I thought the reference was to. She's still around. Sorry, the 1970s.

Mr Kormos: Bob Dylan.

Mr Hudak: Yeah, I heard of this guy. The Beatles played in Port Colborne this weekend, at Canal Days, as a matter of fact—a big success.

Dr Young, was the view at that time that the Emergency Management Act or whatever it was called at that particular time was adequate to address those situations, or did it go through a similar review and update?

Dr Young: Before that, Neil, how long—

Mr Neil McKerrell: Nineteen eighty-three.

The Acting Chair: Excuse me, just for Hansard's sake: That was Neil McKerrell, chief of emergency management in Ontario. Would you say again what you just said, Neil, into the mike so we can have that reported for Hansard? Just identify yourself.

Mr McKerrell: I'm Neil McKerrell, chief of Emergency Management Ontario. The Emergency Plans Act, which was the legislation before the Emergency Management Act, was brought in in 1983. There was nothing prior to that.

Mr Hudak: Was it in response to this series of natural disasters or was it just a—

Mr McKerrell: I was born then but I wasn't around in those days. It was a response, as I understand it, to the Mississauga situation and also to Three Mile Island, the nuclear event down in Pennsylvania.

Mr Hudak: The point I'm trying to put my mind around is some of the enumerated emergency powers that are listed. These are significant intrusions into civil liber-

ties: setting prices, searches without warrants, closing facilities, evacuation, as I had mentioned, mandatory recruitment and such. Obviously one would take extreme caution if we were to tread in these areas, if at all.

This is a gross generalization, but there seem to be two tracks here. There are the natural disasters that you seem to fear are going to get worse in their nature and frequency, and then you have manmade disasters like terrorism and bioterrorism. You might even want to put SARS in that category potentially, but pandemics are a bit of a new arrival—not since 1911 or what have you. There are two paths that the committee could go down. We could go down a path of better coordination, management and devotion of resources versus changing or updating the act to include more enumerated powers.

First, do you have any general advice on which path this committee should pursue with its limited resources? Second, is that path the right one for both natural disasters and acts of terrorism?

Dr Young: I think you need both. Certainly the amount of resources committed and the recognition of the risks that emergencies pose have been increasing in Ontario. We still have a way to go, but we're moving along that path. We're a lot further now than we were before.

I think the piece that we haven't done anything about is the emergency powers piece. I recognize the civil liberties and the issues that are raised and I treat them seriously. I would emphasize again that I think what's overriding them and what we have to remember is that these are powers to save lives. We need these things to manage and get control of an emergency and to save lives and, to a lesser extent, to save property and improve the quality of life for those who are in an ice storm situation, for example.

I think the extraordinary powers would only be used for limited periods of time in extraordinary circumstances with checks and balances and accountability there. I honestly believe that if they exist the chances of needing them are less, because I think the management is much easier.

The best example I can give you is that as the chief coroner, I had the statutory ability to call an inquest into any death in the province. There were parts of the act that talked about the need for people to co-operate. If somebody was not interested in having a meeting and settling things short of an inquest and I said to them, "Look, that's fine. But one of the options available to me might be to have an inquest. They're expensive and they take a lot of time and it'll be much more difficult. Or would you rather sit and have a discussion and see if we can work it out another way?", 99% of the time they decided that the best way to do it was to come and have a meeting. I rarely, if ever, couldn't somehow get their co-operation by pointing out that the statutory power was there if I needed it. I called an inquest where I felt it needed to be done. I said prior to the meeting, "If at the end I think there needs to be one, there needs to be one."

I see the act in very much the same way. The use of the powers is one element of an emergency, but it's an important element. If I'm sitting in the provincial operations centre and the river is flooding and somebody won't leave and I don't have any ability to say, "Get them out of there," frankly, that worries me.

Mr Hudak: So the advice to the committee is that if we do consider additional extraordinary powers in the act, we should not restrict them to an act of terrorism or bioterrorism versus a natural disaster. They should be broad-based.

Dr Young: No, because I can't tell you which will happen. Unfortunately, there are risks of both of them. Some of them overlap. Your good example was that you have trouble deciding on SARS because it could have been either. That's the world we live in now.

Mr Hudak: Again, if we do update the Emergency Readiness Act and put in additional extraordinary powers and if we model ourselves after other provinces, as soon as the Lieutenant Governor in Council declares that a disaster has taken place, it triggers all those enumerated powers?

1510

Dr Young: You could look at systems that require, for example, if there is time, and you always have to remember in an emergency, whatever system—even the declaration of an emergency right now requires the Premier. There are some acts that require a larger group of cabinet to make the decision, and that's fine as long as you can get the larger group together and as long as there's time to do that. So you have to put—what would you call it, a notwithstanding clause?—some kind of an override in, in the event that you need something. Even though the act has the extraordinary powers, it may be that the decision to use the extraordinary powers has to be made by a set group of cabinet, with an accountability mechanism to the Legislature later. But you've got to also recognize that it could be that there isn't time: It's the middle of the night and a decision has to be made. Then the next day, for example, I would become accountable back to cabinet, or the next week or whatever it was. It's the flexibility that has to be there, but I think the accountability has to be there as well, and the recognition that these are extraordinary powers.

Mr Hudak: That was my next question, actually. It would concentrate significant power, if we were to contemplate Quebec's or Alberta's or Saskatchewan's legislation—something similar in Ontario—in the Premier's hands or those of cabinet. So what accountability mechanism is there to the Legislature? Does it exist in other jurisdictions? Is that imposed with a super majority of some kind?

Dr Young: Generally what happens is that if you declare an emergency, there has to be a report back to the Legislature within a fixed period of time so that you get the accountability back for an accounting. But again, you don't want to be in the middle of trying to prepare the report back at the time when you're trying to manage the emergency. You want it timed so that it's accountable

and it's current enough but it isn't at the zenith of the problem, because you're awfully busy and awfully tired at that point.

Mr Hudak: Which I can understand, with the degree of concentration the cabinet would have to have with the problem at hand.

The Acting Chair (Mr Wayne Arthurs): That's 10 minutes. Maybe you can hold your next question.

Mr Hudak: Let me just finish this one, Chair. I'll be quick.

Mr Kormos: Give him one minute of my time.

Mr Hudak: Thank you.

Do other jurisdictions contemplate, whether it's in Canada or elsewhere, that beyond simply a reporting-back mechanism there would be some accountability mechanism where the Legislature as a whole would agree to the period, agree to the decisions that are made? Are opposition leaders brought into the process? Are there models like that? If we're going to strengthen the act, how can we strengthen the accountability of the government to other parties and to the Legislature as a whole?

Mr Lipman: There are different models like that. For example, some of the models provide that the declaration, while made by cabinet or maybe even a minister, if it were to be renewed, would have to be by the Legislature, or if it were to be renewed for a certain period of time, would have to be by the Legislature. In other words, maybe you could have one renewal by cabinet, but if it was going to be a longer-term extension of the declaration, then it would have to be by the Legislature. I think Quebec has that model.

Mr Hudak: The current limit on the term is how long?

Mr Lipman: It varies quite a bit. I think the Quebec one, since we're talking about that, is sort of 10-day renewals, but if it's for longer than 30 days, it must go to the Legislature.

Mr Hudak: Thank you, Chair.

The Acting Chair (Mr Mike Colle): Mr Kormos?

Mr Kormos: Doctor, I don't quarrel with your observation that, for instance, your power as a coroner gave you leverage, but, I mean, Tony Soprano could say the same thing, right? So, really—well, no, think about it. At the end of the day, your analysis is fine, except I think it goes backwards. In my view, it goes in the wrong direction.

Let's also observe that before the early 1980s we were functioning without a charter, so the sanctions regarding behaviour by authorities were somewhat limited. People could do things because there was little—again, I have no historical evidentiary support for this other than anecdotal. Police did things before the charter without repercussion because they could, because there were no repercussions other than internal disciplinary things. There was no litigation that could flow, for instance, or it was marginal and not very successful.

I see the lay of the land, in terms of the list of extraordinary powers that are being sought. Again, nobody disputes; without even examining them in a sophisticated

way with respect to emergency management, nobody doubts that. Quite frankly, police work would be so much easier if they didn't need warrants for searches, if they didn't have to abide by the rules that they do, for instance, in obtaining inculpatory statements, as compared to exculpatory statements. So I appreciate that, but is that really the choice? Is it really a matter of, "Either I have these powers or I don't"? What I'm worried about is that this is getting very limited to the wish list or the shopping list of these extraordinary powers.

Dr Young: Let's take the warrantless search, for example. That's a good trigger-button one, where you can say that there are dangers. There is no question there are concerns. There's a lot of case law about warrantless searches. What we're talking about here are situations where you're trespassing or doing a warrantless search as part of managing an emergency, not for purposes of criminal charges or anything else.

Mr Kormos: So give me a "for example" in real life.

Dr Young: OK.

Mr Lipman: One of the things we had talked about—and this goes back to why we need certain powers—was what the powers of the police are to evacuate somebody. We're not sure.

Mr Kormos: We're talking about warrantless entry. For the purpose of evacuation?

Mr Lipman: Yes, for the purpose of evacuation.

Mr Kormos: Hauling somebody out of their house?

Mr Lipman: Yes, to ensure that somebody has evacuated.

As you know, there's case law about entry in the context of responding to a 911 call. The cases seem to say there that you don't necessarily need a warrant because you're responding to a crisis. This is the type of entry without warrant that we're contemplating and powers that other jurisdictions contemplate as well.

Dr Young: So, trespassing, for example, along the same context: You have a particular area of a river that's going to flood a large area, and either the landowner is not home or refuses entry, and yet the failure to act in that one area may result in a huge problem further on.

Mr Kormos: But, for example, doing what? You want to have access to that property. There's a potential for flood. Give me a "for example." I really do have to get a picture.

Dr Young: I'm sorry, I don't understand the question.

Mr Kormos: There's a potential of a flood. You want to enter on to property.

Dr Young: Yes.

Mr Kormos: Why?

Dr Young: Well, because we may build a dike around that area. You may take action to save a community, because this is the critical place that's going to give. For whatever reason, someone says, "No, I won't," or they aren't home.

Mr Kormos: So why would the power you seek have to be warrantless? It seems to me you're talking about—

Dr Young: Well, that's trespassing there. But say you had to take an action where you've got to go into their

house for some reason, or the example of doing a search and someone's trying to avoid evacuation and they're hiding in their house. You may need warrantless entry in order to get into the house to get them out.

Mr Kormos: You can probably assume—my bet is that you've got judiciary that can act as the gatekeepers for these sorts of things. In the criminal context, the police use them with short notice in emergency situations all the time. Now, I appreciate you're not going to get 1,500 warrants to evacuate 1,500 people, but that's the evacuation, as compared to, let's say, building a dike or entering on to property to address a river or stream—

Dr Young: The evacuation, if it's either a torrent of water coming in the direction or a wall of fire—the phone lines are melted at that point.

Mr Kormos: I've seen the movies, yes.

1520

Dr Young: But you're going to have trouble finding and processing it at that point. Simply in practical terms, getting a judge to understand the situation and issue a warrant—I'm not sure they would have the power to issue warrants anyway because they issue warrants relative to the Criminal Code, they don't issue relative to emergencies.

Mr Kormos: The Provincial Offences Act allows for some level of judicially supervised intervention, doesn't it?

Dr Young: I'm not sure. I defer to any lawyer, but I don't know that a judge can overcome these powers if they don't exist somewhere in a statute.

Mr Kormos: You'd need a legislative basis, of course.

Dr Young: That's the emergency act.

Mr Kormos: I appreciate there are circumstances under which it is totally impractical—the wall of fire, the raging river—but you haven't talked about judicial gatekeeping at all.

Dr Young: It exists, for example, in the Health Promotion and Protection Act. There are three levels of quarantine. There's a verbal level; there's a letter from the MOH, which is a section 22 order I believe; and then there is a judicial order which requires the police to come and take them and then they go to wherever it is chosen that they go. It might be a hospital, it might be a jail or whatever. So there are models for that. In that circumstance, it's a step-by-step process and the judicial order is only at the most severe and it's worked its way up to that. But that's what you're talking about and it does exist, certainly in that act.

Mr Kormos: You see, one of the problems then is that I don't think you can talk about these things without talking about, as Dr Young says, various degrees or stages: somewhere, again, for the purpose of contemplating it, the level of urgency is so high that it requires immediate action. In that respect we're going to get legal advice as to what extent, I suppose, the common law protects—because that's really what you're talking about, protecting the actor who violates the integrity of the property or the integrity of a person's home or the

integrity of that person's body. But then there are other situations with varying degrees of urgency where you may want judicial supervision, but then that makes me recall the legislation—you'll remember this, Tim—that the last government passed around abused women, which was intrusive and permitted summary removal of abusive partners from the household; you might recall that as well, Chair.

The bill passed. There were all sorts of caveats raised during the hearings about the adequacy of the staffing of justice of the peace offices. The bill was never proclaimed, because one of the fundamental problems was that we just didn't have the judicial personnel out there to make it work the way it was intended to work. So I'm thinking about a situation that the doctor is talking about where you could well want to have a level of intervention which would have attached to it judicial supervision and then, holy moly, you get into the whole question of the adequacy of staffing, for instance, of justices of the peace alone, never mind competence. Lord knows, that's an issue in and of itself, in view of the crass political patronage that tends to accompany those hack appointments. It's interesting, and you're saying that that is yet another consideration, then, for this committee. If it's going to talk about that sort of stuff, it's got to talk about the ability of the bench to perform that role. Thank you kindly. Again, I appreciate what you're saying.

Dr Young: I know that.

The Acting Chair: No doubt we will be addressing that very thing, hopefully.

Mr Zimmer: I just want to get this in some historical perspective. I understand that there was an Emergency Measures Act, 1963. It basically dealt with what we were going to do in the event of a nuclear war or a war situation. That got repealed in 1976. Then there was an Emergency Plans Act, with the emphasis on plans rather than powers, in 1983. That was preceded by a white paper consultation by Solicitor General McMurtry at the time. That followed the Mississauga train derailment in 1979. There was a comment in the white paper which addressed this issue of special powers. The comment from the white paper was: "We think it preferable that the common law powers of police and other emergency personnel continue to be delineated by the courts and that the emphasis on the draft bill focus on planning," and of course, by implication, not on additional powers. I think it would be helpful to the committee to have your thoughts on that perspective, on the 1983 white paper, because we're moving from scenario A to scenario B here.

Dr Young: I think the number, the risk, the magnitude and the complexity of emergencies has changed. It speaks volumes that what we were focused on and what everyone else at that time was focused on were plans. It didn't talk about training, it didn't talk about exercises and it didn't require them. Until our recent amendments, municipalities weren't required to have plans. Most did, but not everyone in Ontario did.

Things have evolved and the thinking has changed dramatically, but so has the society. The ability of people to follow direction and do things and to argue about things has changed the whole societal attitude. My own thinking would be, thinking back to that age, it would be a whole lot easier to manage some of these things then than it is now. It's just a different time.

Neil, do you want to add anything?

Mr McKerrell: I've never seen that to which you're referring. I've never heard of it. What I was started off with was the Emergency Plans Act. So my apologies for the incorrect information I gave you before.

Mr Hudak: Good research.

Mr McKerrell: Yes, indeed.

In terms of the progression, I think Dr Young has it exactly right, and that is that we're living in far different times now than we were then. Ontario has been really very blessed. We've lived in relatively calm times and we've been very fortunate, notwithstanding Hurricane Hazel and the ice storm and so forth. You can look at other parts of the world, other jurisdictions, and see that they've had to contend with far more than has Ontario.

When we started looking at the situation in Ontario back in 2000, we did comparisons internationally, at both the Commonwealth and the state level. We looked at Australia. We looked at New Zealand, the United Kingdom and the 10 largest American states being most comparable to life in Ontario. That was where we began to realize that we've been living a very comfortable existence here in Ontario. It begs the question, how long can we get away with that? So as times have been changing, it became clear that we'd better do something different.

Mr Zimmer: Unrelated to my work at this committee, I was at a convention these past few days in Madison, Wisconsin, sponsored by the council of state governors. It was all the Midwestern governors: Michigan, New York, Illinois right through to Minnesota and so on. They had a publication which they've produced which is a summary of how all those states handle this question of emergency measures. They call it emergency measures. They have indexes and lists of powers and a comparative analysis of how each state deals with these issues that we're discussing today. I recommend that for you—

Mr McKerrell: Is that the governors' guide?

Mr Zimmer: Yes.

Mr McKerrell: There's a book put out by the governors' association in the States. It's quite good. We have that.

Mr Zimmer: Oh, you do.

My last question is, if there were to be additional emergency powers and so on, one of the things we have to be mindful of is the checks and balances, so that nobody goes off on a toot. I don't mean any disrespect when I say that.

Dr Young: I'm not going to be here forever.

1530

Mr Zimmer: The inherent conflict there is that dealing with an abuse of an emergency power necessarily follows the exercise of the power, so it might be months

and months after the misuse of power where somebody is going to have to chase down and do something about it. If we move in this direction, we'll have to give some real thought to the mechanisms in place that would serve as the checks and balances. Have you given any thought to an approach to how you would build in the mechanisms and the types of mechanisms and how those protections would function or operate?

Dr Young: We've had discussions among the bureaucracy about these things and the need for them and we've debated among ourselves how soon should report-backs be, how extensive and at what level. I think everyone agrees they should exist; it's simply a question of how often you make it so and whether or not—I think you have to pay attention to it. It should be at a time—and I don't pretend to have all the answers—that it is a check and balance and it's there but it doesn't impede the management of it, so that it doesn't become such a big process that you become devoted to that for a few days instead of paying attention to what's going on.

I think ideally you want to keep it out of the political sphere as much as you can. Obviously there is political accountability, but personally, I worry, particularly in a situation, for example, if you had a minority government, as to whether or not an emergency could more easily become a political football and what are the repercussions of that, because you're moving off your point. The point of managing it is to manage it from a public safety point of view, using ethics as your guideline. If you stay on that principle, it doesn't say anything about politics in my mind, so you want to stay out of that sphere.

I don't pretend to have all of the answers. I think that would be the consideration I would ask of the committee, to recognize that you want the right thing being done for the right reasons. It's very important because what's at stake is human lives.

Mrs Sandals: Dr Young, if we could go back to the theoretical flood we were talking about, the more I listened the more I thought—as Mr Kormos discussed the possibility of different ways in which the bench could be involved, perhaps he was actually selling me on emergency powers. I would think of perhaps a theoretical scenario where you've got a flood, perhaps you're expecting the river to crest in the middle of the night and you don't know whether there are families sleeping with small children or whether you have elderly people who need assistance to leave their home. So in fact the powers of evacuation and trespass aren't necessarily hostile to the people you're helping. You need to attract people's attention in the middle of the night when they may not be paying attention. You might even theoretically have the situation where someone who is resisting evacuation has children in the house. It's not just the person who is resisting evacuation; they may be endangering the lives of others. So I can think of scenarios where the emergency power to evacuate or trespass would be very useful.

What I am struggling with is the system that you outlined earlier, where emergencies are first local and, in the case of the Peterborough flood, it only involves an emergency situation in a limited number of municipalities. How would you be invoking that emergency power if the emergency has only been declared at the local level? Or are we thinking that you would need some way to escalate a local emergency to the provincial level in order to drag the provincial powers—

Dr Young: That's what I would recommend.

There are two models to what you say, and your point is absolutely correct. Right now, the head of council can declare an emergency. Sometimes that's good and sometimes that's bad. Sometimes we have trouble getting the heads of council to declare an emergency and sometimes we have them calling it for what turn out to be either political or very trivial reasons.

I would not necessarily think you would want to vest a local council or a local mayor with all of the extraordinary powers that are at the provincial level. I think if it's that necessary to use them, you'll want the cabinet involved at that point in time. My own preference would be that at that point, in order to use them, it would escalate to a provincial emergency, and the use of the powers would be part of that.

Mr McKerrell: And you can localize the provincial emergency.

Dr Young: Yes, you can localize a provincial emergency. When you declare an emergency, you generally define it. You would define it as being involved in regards to the flood of the Grand River in such and such an area. Your powers would be restricted accordingly then.

Mrs Sandals: So the current definition of invoking an emergency already allows you to say that this is a provincial emergency being invoked but it's localized to a certain jurisdiction. That already exists. Would I be correct in assuming, then, that your concern around the Emergency Management Act is not so much the way in which we declare an emergency but what follows in managing the emergency; that the current procedure or definitions which allow you to get to an emergency are working adequately, in your opinion?

Dr Young: Yes. First of all, it's very hard to define an emergency. Second, in my view, it's relatively unnecessary because at the time it's not the hardest decision. If your hardest decision is whether you have an emergency or not—

Mrs Sandals: It's not an emergency.

Dr Young: Yes. You can figure it out.

I would not put the powers too broadly. Once you do it, I think if you're going to give extraordinary powers—and I recognize I'm also arguing that you don't define them too tightly, because if you define them too tightly you'll end up with powers which don't fit the situation that actually happens. So you'll end up thinking you fixed it and then it will turn out that you didn't. You defined it wrong.

I think if you're going to trust those sorts of powers, you put the checks and balances in and you put them at a

high level of government as one of the protections as well.

Mrs Sandals: We've talked a lot about the Emergency Management Act but we've alluded to the fact that there may be other related acts. Are there specific acts that we should be looking at, in your opinion? One that occurs to me is around the whole issue of public health and diseases.

Dr Young: I think one of the things the various ministries that will appear before you will talk about is the Health Protection and Promotion Act. Health has a number of issues that they're concerned with: environment, because of the dumps with avian flu.

Again, to go back to my own experience, the Coroners Act was very useful during SARS. It became very important on occasion to order an autopsy to establish whether or not someone had SARS, because our whole method of managing the outbreak depended on whether this was a viable arm to SARS or not. We were probably all right, but the simple insertion in the Coroners Act of a clause saying that one of the purposes of a coroner's autopsy can be for public health determination resolves that. Then there's no issue any more as to whether that's a good and proper purpose—and it's relatively simple. As I said, in SARS we did it, but somebody could argue that we didn't have the right to do that.

1540

Mrs Sandals: Just one final question: You've referred to the emergency planning that goes on at the municipal level, and three different levels. Could you outline for us the three different levels of emergency preparedness, what the deadlines are for those and where generally municipalities are in terms of their preparation? The man with the data.

Mr McKerrell: Some of it.

There is so much work to be done to bring Ontario up to a level that would be considered consistent with international best practices that it was simply broken up into chewable chunks, if I can put it that way.

The first chunk is to bring everybody up to a minimum acceptable standard that we call the essential level. That applies, by the way, to all 446 municipalities and to the provincial government as well. That's supposed to be achieved by December 31, 2004.

The next level is enhanced, and that raises the bar. Again, it applies to municipalities and to the provincial government. That's to be achieved by December 31, 2005.

The third level is comprehensive, and that's to be achieved by December 31, 2006, by which time there will be a new standard brought out in North America, principally in the US, the NFPA 1600—National Fire Protection Association—which covers emergency management. That is becoming—it's not there yet—the North American standard for best practice. By January 1, 2007, there will be the latest version of that put out.

We're involved in the standard-setting body for that group, EMO is, and we believe that, of those two levels, the comprehensive level achieved by December 31, 2006,

will be very close to that new level that's coming out in January 2007. If there's any tweaking that's required, we're allowing an extra 12 months to get the tweaking done, so that by December 31, 2007, we should be right up there.

Mrs Sandals: Dr Young made reference to the fact that Peterborough was ahead of the deadlines, that it was already at the enhanced level. Are a number of municipalities in that situation?

Dr Young: I didn't say necessarily they're at the enhanced, but certainly in terms of the planning and their coordination and their approach they were—

Mr McKerrell: They've done a good job.

Dr Young: They've done a very good job, yes.

Mrs Sandals: They're ahead of the game compared to some.

Dr Young: Yes, they are quite enhanced.

The other thing I'd add to what Neil said is that what gets added as we go along is that your basic plan then starts to get into more and more detail around risks. So it's the risk piece of the work now. The first piece then is for them to identify the risks. The next piece is to start to write more detailed plans and to work out all the local critical infrastructure. So as we go through the various levels, that's the kind of detail that's never been there that gets added.

Mr Arthurs: Dr Young, I don't want to get into the minutiae at all, but looking at the various areas in which powers would be considered, in my limited experience with some emergency situations, either actual or planning strategies, one of the fundamental problems tends to become one of communications. We've had communication systems either break down or overload. Is there a need for the ability to get primary access? Is it practical even to achieve that from an emergency planning standpoint? In the blackout situation we managed to work up until our BlackBerries crashed on the system, and I know we tried to do some nuclear emergency planning when communication networks broke down. The practicality of it—and that's why even bringing the public into play—

Dr Young: If you look at the write-ups of any emergency there's always a chapter on communications and it always talks about how it broke down. It's a big problem.

We're approaching it in a number of ways. We're trying to add to our Internet ability and give more information on Web sites and update that way. From SARS, for example, we're looking at it being able to give more information out to professional bodies because you've got the need to educate the medical people at the same time as you're educating the public. We're looking at different means of getting it.

We've got a ham radio set up right in EMO. We've got satellite phones. We've got BlackBerries now. We've got cellphones. We're buying a cache of radios that operate as a unit, as a system, and we've got them stored and ready to mobilize so that we can give them out to people within government on a regular basis.

Mr Arthurs: If I can stop you for a second, rather than that level of practicality, I'm more interested in

whether or not, as in the hydro blackout, there's a need for emergency operators of all sorts to be able to take over capacity in the overall system so that the system stays up for the purposes of emergency communications. What we saw happen was that the capacity to communicate broke down because the overall system was loaded to such a degree that we no longer had reasonable access to it. Public demand for general information was so great that the capacity to manage the system was impossible.

Dr Young: Yes, we need to do more work on that, both at the communication—I mean, that certainly happened in New York. They lost capacity when the World Trade Center went down and then everybody turned to their cellphones and they blacked the system out by doing that. It's a big problem and I don't think we have the solution at this point.

Mr Hudak: A quick question, just making sure I was clear on Ms Sandals's enquiries. The emergency powers that you're asking the committee to contemplate would stay resident at the provincial authority?

Dr Young: That's right.

Mr Hudak: They wouldn't be at the municipal level or be able to be delegated to the municipal level or anything like that?

Dr Young: No, we don't see delegation as being necessarily feasible or desirable.

Mr Hudak: We haven't talked as much about the mitigation and prevention part of your presentation. I'm particularly concerned about terrorism and bioterrorism. Is Ontario currently a target of terrorism?

Dr Young: There's no specific threat against Canada, period, including Ontario, but there's every reason to believe that with the capital city, with the largest city and the economic centre, with the Ambassador Bridge and with the bridges in the Niagara region, all of those could be terrorist targets. If I was going to rank Ontario versus the rest of the country, I'd rank Ontario first by a long way for terrorism. So if there was going to be an act in Canada—and one has to look and say there have been acts in Madrid, Spain, and there have been attacks on British interests in Turkey. Certainly, walking down the street in Bali, I was acutely aware that that was aimed at Australia. Is Canada's name on the list? We're in Afghanistan. We're seen as a western society that's too close to the United States and Britain and other places. So it's our belief that while the US risk may be greater, if it suits the terrorists' interests, they'll be here too to send a message. You're seeing that kind of approach right now in Iraq, where they're going after people of multiple nationalities to send political messages to get even small delegations of a few hundred troops out. They kidnap somebody to get them out of there. It just destroys the coalitions.

Interjection.

Dr Young: Yes, that's right. Neil points out that Canada is the only one on the hit list that hasn't been touched, in fact, at this point.

Mr Hudak: So our number may be coming up shortly?

Dr Young: We hope not, but—

Mr Hudak: The likelihood could be either just to strike against Canada in general for its support of the war against terrorism or as a way of getting at the States indirectly.

Dr Young: Exactly. You've got critical infrastructure—hydro lines, computer systems, gas and oil lines—that are inextricably linked. So you could indirectly get at the United States by getting at Canada. Bridges and tunnels, all kinds of—we're so integrated.

Mr Hudak: Aside from the emergency act itself, does the province or your ministry have enough authority to try to do prevention and mitigation of these losses, ensuring that proper security exists around these targets that you mentioned? In your opening discussion you talked about the chemicals gathered in population centres, in the Sarnia area. Should the committee consider any additional powers outside of the emergency act or is it adequate today?

1550

Dr Young: I think some of the talk we've had about the odd piece of other acts being strengthened—the Coroners Act is an example that I gave you. I think that kind of inventory is worth looking at, for sure.

I think the question or the issue in all of this preparation is that it's not only having the statutory power but we have to have the will. We've got to put the resources into it and we have to actually get on with it. Certainly that's what we're pushing: to move the ministries and move emergency management up in the priority of the ministries as well so that it isn't something you think about when something has happened; instead, you think about it because it's going to happen and you'd better get going on it now.

Mr Hudak: So it's more an issue of resources and coordinating those resources as opposed to the need for an additional authority at the provincial level to make these things happen?

Dr Young: Yes. There are some legislative changes that could be made, but I think both are necessary. I think we need to make it paramount in our mind. I don't say that from the point of view of trying to be a scaremonger, because that's not my approach to life. I think you do sensible things. You're not going to prevent drownings by building fences around every river in Ontario. That's a good example. I think we have to be sensible, but I think we have to recognize that the risk of there being emergencies is infinitely greater than it was before. As we've said, we've lived a charmed life but it isn't going to continue forever, so we'd better start thinking about that and looking at it, starting with mitigation, in a whole lot different way than we did before.

Mr Hudak: Back to—you have additional information? Sorry, go ahead.

Dr Young: Yes. Neil was pointing out to me that a really good example is critical infrastructure protection. About 90% of critical infrastructure—and that would include things like the CN Tower, bridges, the Ambassador Bridge, some of the tunnels, the pipelines—is in

private hands. We had no system. We didn't even have an inventory of it at one point, let alone going into the private—we have to learn to work with private industry and get them to acknowledge that it's in their financial interests to do this work. But we also have to provide some expertise and guidance about where to spend money and where not to spend money and how to integrate their efforts, for example, into policing in their community, so that the police are aware of what they've done, approve it and work with them to make it the best bang for the buck. That's all new stuff.

Mr Hudak: But you're satisfied that existing provincial systems and legislation allow that to happen and we don't need any additional powers to compel that?

Dr Young: Yes, we're moving in all the right directions with the act except for the powers part.

Mr Hudak: With respect to terrorism and bioterrorism, are there currently terrorist cells in Ontario, in our country?

Dr Young: The answer to that would be that the outgoing director of CSIS recently acknowledged—I think it was in sworn evidence—that there were terrorist cells operating in provinces, including Ontario.

Mr Hudak: What role does the province play in trying to get intelligence, to ascertain if that's the case and to put a stop to it?

Dr Young: I think there has to be a recognition that some of the best intelligence starts at the ground level, so municipal police and the municipalities can play an important role in gathering information. There also needs to be a return of that information back to both municipal leaders and provincial leaders. I think the issue of intelligence is much broader than just the police community. There's a recognition that emergency planners, ambulance, fire and others have to know about the risks as well. It makes a big difference to me. If there was a credible risk to Toronto, I may decide to postpone a vacation. If nobody tells me about it and I'm half a world away in the jungle and you can't reach me, it's sometimes that simple. If I'm aware of something and I can start to turn my mind, and then it actually happens, I'm going to be that much better at the beginning. So it's the sharing of that that we're learning to do. The province is pivotal in that, because we're the central player.

I think we've been working a lot. My mandate has been to do that sort of civilian intelligence piece, to do the emergency management advice in planning and management, but also to pay attention to the borders. It's that combination, I think, that's actually a very good model. You're seeing it in homeland security, but with less attention on the borders and more on the intelligence and the emergency management and putting it together. We've actually done all three, and I think it's actually a very good model. You're seeing that and Ottawa is starting to duplicate it as well.

Mr Hudak: With respect to mitigation and prevention, do you feel that adequate authority currently exists in the province to investigate and root out terrorism that may exist in Ontario?

Dr Young: Yes, I think the acts are there, and I think a lot of it is coordinating the information, making sure there's not duplication and sharing it. It's not perfect, but it's come a long way.

Mr Hudak: You had spoken a couple of times about Australia. You talked about Bali and you had mentioned some of the things Australia and New Zealand have recently done on emergency preparedness. I took that in the context of terrorism and bioterrorism. I may have misunderstood that connection. What are some of the lessons from Australia and New Zealand that we may want to incorporate here in the province of Ontario?

Mr McKerrell: The interesting thing about Australia is how proactive they have been in the field of emergency management. When we started looking at it in 2000, we discovered that they were probably 10 years ahead of us, and that's a country with 20 million people. New Zealand, a country of four million people, had very elaborate emergency management legislation. So as we were looking around, we were looking for examples of whether Ontario was well placed to deal with the risks.

In fact, what we did first of all was take a look at the risk environment in Ontario. I won't get specific, but there are other provinces in the country where you could take a look and say, what are the risks there and what is the emergency management spectrum, and the spectrum to deal with emergencies in that particular jurisdiction is quite adequate. But when we looked at the scope and range of risks to life in Ontario as we know it, then we felt that where we were was a long way from where we needed to be in the public interest. That was reinforced when we looked at places like Australia, New Zealand, the UK and the 10 largest American states.

We avoid comparing ourselves, in some ways, to the States, because they have such a different regime. As Dr Young pointed out, the American federal government pours a great deal of money into emergency management at the state and, particularly, the local level. That just doesn't happen in this country. So depending on what you look at, you can get a very skewed picture of where Canada and where Ontario are vis-à-vis the money that gets invested in emergency management.

Mr Hudak: Just one last sort of general question to help us for the committee, and that was the issue of the border and border security that I had brought up in my opening comments. We had an orange alert this weekend, we had line-ups of significant time at the Niagara crossings; I would expect at Windsor and Sarnia as well.

So access to markets, the impact on trade and tourism, the detrimental impact on our economy, the growing Fortress America, and if there were another strike in the States, it would no doubt get worse along our borders. That having been said, we, as Canadians, have a duty to make sure we keep our borders safe. What's your advice on the role Ontario can play in trying to remedy that issue about a free and open border for the access of goods and services while at the same time strengthening the security of North America?

Dr Young: When you get involved in any of the border issues, as you're more than aware, you're now dealing with three levels of government in two countries plus private interests, so you've got an enormously complex pot. Many of the cards and the powers and authorities lie at the federal level, but there are things we can do.

I think we've discovered in Ontario that we can, for example, put together the truckers, the manufacturers, the Ministry of Transportation, the police and other interested groups and say: "OK, if the border isn't working as well, can we have marshalling yards? Can we get the exchange of information? Can we put out an Internet site that has wait times and is accurate and updated on a regular basis?" We've done all those kinds of things.

1600

We can also enter into agreements with the federal government in municipalities like Niagara and Windsor and try to improve the physical infrastructure at our end of the bridges. Unfortunately, we're captive sometimes to bad infrastructure on the American side, but we can at least do that. Then we can put pressure on, either through the federal government or through the States or sometimes directly with the American government, and have done it on things like increasing the manpower at the Canadian border to reflect—for a while the Americans beefed up the Mexican border and didn't beef up the Canadian border substantially. So part of the delay was a manpower problem. We directly went and put pressure on them about that. We worked with the Bureau of Alcohol, Tobacco and Firearms on projects to try to have more joint operations. We've worked on things like FAST and the 30-point plan.

Part of our theory has been to put pressure in several places, and sometimes we've put pressure on the American government to put pressure on the federal government here to do certain things that will help us with our interests in Ontario. So we've come at it from all angles and tried to be a facilitator and work with industry as well.

Ms Broten: You made mention of some best practices. Obviously, this is the first day of many when this committee is going to be looking both in Canada and in North America generally. I'm wondering if you can highlight for us some jurisdictions that you think can provide to us some best-practice guidelines or identify experts in North America who you believe have a perspective that we can examine and whom we may wish to call as witnesses before this committee.

Dr Young: I'll see what Neil thinks. If I was going to add provinces, for example, Quebec, British Columbia and probably Alberta are the three provinces I would look at the hardest. I think for a small province, Nova Scotia has done very well with some emergencies. What's interesting in the Nova Scotia model is that they've integrated well with the federal government in their operations centre and such.

State-wise, Ohio comes immediately to mind, for a number of reasons. They've been very active. They also

have a number of nuclear reactors and they're fairly similar to us as an industrial base. New York and Michigan are the obvious other ones, both for their proximity and sharing the border and potential MOUs for agreements, but also for the work they've done. We've done a considerable amount of work with those states and meet with them quite regularly.

Other countries? Well, I think the best models we found were Australia and New Zealand.

That would be the group. I think you'll find them quite receptive and quite helpful.

Ms Broten: I understand from doing some reading that California has specific requirements with respect to evacuation because of earthquakes and forest fires. Do BC and Alberta also have those concerns, primarily significant concerns? I understand they somewhat replicate the California legislation.

Dr Young: I know BC has a concern about evacuation, because I saw a presentation. BC came and talked to us about the forest fires, and the issue of evacuation came up in that presentation. So I know they've been thinking a lot about that.

Ms Broten: I understand that the UK recently launched a major public awareness campaign with respect to emergency preparedness. It has received mixed reviews. I wonder if you had any comment with respect to that level of public awareness campaign. Is that something you're looking at, anticipating, or what were your views with respect to that?

Dr Young: Well, it takes budget, and theirs was set up I think primarily around terrorism. I think the criticism I heard was were you scaring people needlessly about terrorism. Personally, I'm of the school that you can't give people enough good information, and they'll learn to manage it and be OK. I would suggest we need an overall awareness of preparedness, including an element of terrorism, but we've got a long way to go for all of us getting water and food and windup clocks in our homes and being able to self-sustain. One reason you might need it is because of terrorism, so I would probably personally go at it that way.

I think the area is ripe. We haven't had the money and the federal government hasn't gone at it in a big way. I think we have to find a way to do a better job. It's partly about money.

Mr McKerrell: I can add a little bit on that. Post 9/11 in the US, everything was terrorism this and terrorism that. The emergency management community in the US has moved away from terrorism-specific stuff to recognize, quite openly, that terrorism is but one risk. They realized that they were too focused on terrorism.

I absolutely agree with what Dr Young has said, and that is that the focus shouldn't just be on terrorism; it should be on public safety and what all the risks are that impact on public safety, of which terrorism is but one.

Ms Broten: You spoke about the importance of mitigation and prevention. I'm wondering whether or not you saw that any of the additional powers would come into play at that early a stage, in terms of mitigation and

prevention overall, as opposed to once a declaration of an emergency has been made.

Dr Young: I don't think so, other than—well, it could; not the Emergency Management Act. But if there were changes to some of the ministry acts, it's possible that they could play a role in mitigation. If you're acting proactively, as we were, for example, with the avian flu—having all of these meetings and doing things—and getting in front of it instead of waiting for the emergency to gather the group together, certainly there's the potential that you could use a power that existed within an act, but it would be a lesser power. You would use that power as part of the management that would either stop it from coming or stop it earlier.

I guess the best example would be that we happened to be meeting about avian flu the day that we had the scare in Niagara Falls a couple of weeks ago. When it happened, we didn't even have to gather everybody together, because we were already in the same room. In a perfect world, with all of the right things in the act, if that had been avian flu, we might have used some of the new powers to dispose, for example, of the birds, but we may have been able, by being proactive, to have confined it to being on one farm and one farm only. So I would see that there's the potential of using something like that.

Ms Broten: One final question was with respect to the fact that you indicated that you didn't see the powers being delegated. That's what you said earlier?

Dr Young: Yes.

Ms Broten: OK, I didn't misunderstand. I guess I don't see how that will play out. In my understanding of an emergency, those persons who would be enforcing these—if we talk about regulating or prohibiting travel, for example, an order would be made, but it would be someone on the ground in a community across this province that would be implementing that act.

Dr Young: Yes, that's the difference. You're absolutely correct. That's a great question. It's the difference between using the power initially and then operationalizing the use of that power. They're two different problems. If cabinet decided, for example, that evacuation was necessary in an area, then one of the things we have to do is find a way of operationalizing that, so that every time somebody needs to be evacuated or an area needs to be evacuated, we don't have to wake the Premier up, for example. It needs to be at a level, and there has to be an operational responsibility. Once the decision to do something is made, presumably the beginning of that operationalizing starts with me, and then I would delegate down only as far as needs to be delegated down, depending on the nature of what it is.

But you don't want all of that granular decision-making being done by a politician and every time that you're using the power it has to come back up to the political level. You're never going to get anything done. It has to fall down lower in order to make it work. It has to be done very carefully in order to ensure that it's practical and workable but it's not so encumbering that

by the time you get the approval, the flood has already gone through or whatever.

Ms Broten: Similarly, there's the concern that Mr Kormos raised—

The Acting Chair: If you could wrap up, Ms Broten.

Ms Broten: Sure—with respect to the rights of individuals. Certainly we know that various acts of police officers—the legislation that provides for it isn't unconstitutional, but the conduct at the ground level is problematic. I wonder if you've turned your mind to those checks and balances that you're talking about at the very local level.

Dr Young: I think you would be very careful about using too much of that at the local level. I think much of it would flow back to the province at a senior level. If you're going to use the extraordinary powers—I agree with you. The concern is that if you put it to too many people too far down, you're going to get into problems because they're not going to be aware of the fact that they're using an extraordinary power, and they may not be trained in it and they may not turn their mind to it when they're using it. I think that's a very real concern, but it can't just be left in political hands or it becomes

impractical as well. So the question is, how far down the chain do you go at the operational level?

The Acting Chair: I know that Dr Young has agreed to come back, and we wish that you will come back. We will notify you. I want to thank you on behalf of the committee for being so accommodating and spending all this time with us today. It has been very informative and very helpful as we go down the search for better preparedness in Ontario.

Do we have a motion to have Dr Young come back?

Ms Broten: Certainly. I'd make a motion to invite Dr Young back to provide more advice and insight to us at a later date.

The Acting Chair: OK. I'd also like to thank Neil McKerrell, the chief of Emergency Management Ontario, and Jay Lipman, general counsel, legal services branch, for coming.

Again, Dr Young, we really appreciate your insights. On behalf of the committee, we look forward to talking to you again.

We're back here tomorrow at 10 o'clock. The committee is adjourned.

The committee adjourned at 1613.

CONTENTS

Tuesday 3 August 2004

Subcommittee reports	JP-4
Emergency management statutes review	JP-7
Ministry of Community Safety and Correctional Services	
Dr James Young, Commissioner of Emergency Management	
Mr Jay Lipman, counsel, legal services branch	
Mr Neil McKerrell, chief of Emergency Management Ontario	

STANDING COMMITTEE ON JUSTICE POLICY

Chair / Président

Mr David Oraziotti (Sault Ste Marie L)

Vice-Chair / Vice-Président

Mr Bob Delaney (Mississauga West / Mississauga-Ouest L)

Mr Michael A. Brown (Algoma-Manitoulin L)

Mr Jim Brownell (Stormont-Dundas-Charlottenburgh L)

Mr Bob Delaney (Mississauga West / Mississauga-Ouest L)

Mr Kevin Daniel Flynn (Oakville L)

Mr Tim Hudak (Erie-Lincoln PC)

Mr Frank Klees (Oak Ridges PC)

Mr Peter Kormos (Niagara Centre / Niagara-Centre ND)

Mr David Oraziotti (Sault Ste Marie L)

Mr Mario G. Racco (Thornhill L)

Substitutions / Membres remplaçants

Mr Wayne Arthurs (Pickering-Ajax-Uxbridge L)

Ms Laurel C. Broten (Etobicoke-Lakeshore L)

Mr Mike Colle (Eglinton-Lawrence L)

Mr Vic Dhillon (Brampton West-Mississauga / Brampton-Ouest-Mississauga L)

Mrs Liz Sandals (Guelph-Wellington L)

Mr David Zimmer (Willowdale L)

Clerk / Greffier

Mr Katch Koch

Staff / Personnel

Ms Margaret Drent, research officer, Research and Information Services

Mr Albert Nigro, legislative counsel