



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)**

Monday 16 August 2004

**Journal
des débats
(Hansard)**

Lundi 16 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**

Monday 16 August 2004

Lundi 16 août 2004

The committee met at 1305 in room 151.

**EMERGENCY MANAGEMENT
STATUTES REVIEW**

The Acting Chair (Mr Mike Colle): I'd like to bring the standing committee on justice policy to order. The mandate of this committee is to review and report on the adequacy of Ontario's emergency management statutes.

I would like to, first of all, on behalf of the committee, thank all the invited guests for coming here today and bearing with us in this new format. We are trying to exchange ideas and in essence get more of a dialogue going with front-line experts like yourselves so that we're better able to understand the dynamics of emergency management from your professional area.

Today we are going to start with a 10-minute presentation—it can be less—from each of the organizations' spokespersons. After that 10 minutes, we will have 10 minutes per caucus for comments or questions. Then after that 10 minutes per caucus we are going to leave it open for as many questions as you want. Either the guest expert panellists can ask questions or make comments or the members of the committee can ask questions or make comments. Again, we're trying to make this work as best we can, and hopefully you'll participate. If we have to make some changes or alterations to this, we can do that.

One thing that we have to do, though, is that if you wish to ask a question in the question phase or make a comment, please raise your hand and indicate to myself or the clerk that you do, and then I will recognize you so that your name will be recorded along with your comments, because this will all be recorded as part of our legislative diary that is Hansard. So again, if you leave room for some flexibility, we're going to try to, the best we can, get your expert advice and experience for this committee. We thank you for making yourselves available in the middle of the summer for the committee's work.

I will start according to what I have on my agenda here. So we'll start with the Ontario Provincial Police; Maurice Pilon, Deputy Commissioner. Again, 10 minutes for a presentation or comments.

ONTARIO PROVINCIAL POLICE

Mr Maurice Pilon: Thank you, Mr Chair. I think before I start I should just provide some context as to

what the OPP is today, because many people think of the provincial police as just that—the provincial police. We've found, particularly over the last number of years, with changes in the Police Services Act, that we have become very much a municipal police service throughout the province, and then in addition, obviously, the provincial police.

We currently have approximately 8,000 employees; 5,400 to 5,500 of those are uniformed members. We also have approximately 800 auxiliary members available to us, particularly in times of emergency. In terms of providing context, I'll be providing my comments from the perspective of not only a municipal police service but a provincial police service.

1310

I want to begin by recognizing the advances that have been made and are being made in the area of emergency management as a result of the implementation of the Emergency Management Act. As both a police service and part of the provincial government, the three levels of readiness that we're working toward benefit us both as a service delivery provider as well as by ensuring the continuity of our operations.

I have reviewed the deputations from Dr Young, our ministry's legal services, and representatives from other ministries. As you pointed out, it's clear that the focus of your discussions is the need to institute extraordinary powers during an emergency, given what currently exists in the legislation, case law and common law. So I thought I'd focus my comments in that area.

From our experience, the OPP has lived through the 1998 ice storm, which has been mentioned previously, where forcible evacuation was indeed an issue. We have had several instances of public order maintenance in the context of multi-jurisdictional situations like the 2000 Windsor OAS, the extensive border delays that presented themselves as a result of the 2001 9/11 attacks in the United States that in fact caused us to close major thoroughfares, and the 2003 SARS event, where enforcing quarantines became a police matter.

It's in the context of those four events—however, I can certainly relate to others as we go along—that I'd like to provide you with an opinion as to whether the police have the necessary authority to effect their functions during a variety of emergency situations.

In terms of the forcible evacuation issue, as was pointed out by Dr Young in his deputation, the 1998 ice

storm presented us with some very unique challenges. OPP officers in the eastern region and from across the province who were there working faced instances where they were required to forcibly remove residents from their homes in order to ensure the safety and well-being of the occupants. There was much discussion at both our OPP emergency operations centre and the provincial operations centre as to whether legislation allowed for this. It was determined that in fact there was no specific legislated authority.

However, post-event, my staff examined evacuation legislation in other provincial jurisdictions—that is, Nova Scotia and the Yukon, where it does exist—with an eye to possibly creating similar authorities in Ontario. At the time, our legal services examined the issue and came to the conclusion that there were sufficient powers found in subsection 42(3) of the Police Services Act and in fact in common law, supported through case law decisions through both the Ontario Court of Appeal and the Supreme Court of Canada.

The thing we have come to understand is that a police officer who is faced with an emergency is always bound by the Police Services Act, which gives police officers the powers and duties ascribed to a constable in common law. The Supreme Court of Canada has held that one of the principal duties of police officers in common law is to protect both life and property. A recent decision of the Ontario Court of Appeal noted that this duty obviously includes preventing death and serious injury.

The Supreme Court of Canada went on to say that while residents have a recognized privacy interest within the sanctity of their home, the public interest in maintaining an effective emergency response system is obvious and significant enough to merit some intrusion on a resident's privacy interests. However, the intrusion must be limited to the protection of life and safety. It's clear from these findings that the police currently have the authority to forcibly evacuate where the life and safety of the person is in jeopardy and that there are sufficient judicial safeguards in place to ensure that they do not abuse this power.

Therefore, on the issue of evacuation during emergencies, it's my opinion that we need not create additional powers since they exist and can be locally exercised, thereby respecting the notion of the lowest competent level of response. Having said that, in practical terms, in the absence of legislation that specifically authorizes evacuation, and forcible evacuation if necessary, it sometimes becomes a very difficult issue in dealing with the residents who choose for their own personal reasons not to leave a facility or a residence. You'll find that the elderly in particular do not wish to leave. They become confused and so on.

So I would say that while we have the authority, it could be very much tested in law. It would be much easier if the law did specify that that authority existed.

In regard to enforcement of quarantine orders, again going back to the 2003 SARS outbreak, police did play a role in the enforcement of quarantine orders. While

obviously the primary response was dealt with by the medical officer of health, police were called upon to assist in some circumstances.

I think you've already heard about the legislation that's in place and the authority of the medical officer of health and so on, but basically when a person fails to comply with an order, a judge may order that a person be taken into custody and admitted to and detained in a hospital named in the order. It also may order that a person be examined by a physician to ascertain whether or not that person is infected with an agent of a disease, and, if found on examination to be infected with an agent of a disease, that they be treated for the disease. A judge's order may be directed to police to assist in enforcing the order.

The act itself provides some authority to police, acting under the direction of the medical officer of health, to enter any premises to conduct investigations and make inquiries for the purpose of the act. However, the act does not provide specific authority for police entry to a private residence without the occupier's consent.

In exceptional circumstances where the apprehension of a person in a private dwelling is required in furtherance of the act to protect persons and the public from the spread of a disease, obviously there are provisions for what is known as a Feeney warrant, or an endorsement to a judge's order would be advantageous. But that issue again would take some time and, depending on the urgency of the matter, could prove to be difficult.

Presently the police would be required to rely on the same powers under common law and the Police Services Act that allow for forced evacuations. I guess the only significant difference would be that the police are actually taking a person into custody in that case rather than just moving them away from an emergency situation.

There is no provision during health emergencies for the release of personal medical information by medical facilities to police. That's an issue where we think it would be beneficial if there was some way to inform the police or indeed any emergency service worker of the potential risk they face in dealing with people or places, depending on the circumstances.

I guess the bottom line, in relation to SARS, is that it forced police services to look beyond their usual statutes and consider what their role would be in the case of a health emergency. Understanding our role in executing a judge's order did take some time. However, with the combined efforts of numerous police services, the police position that was advanced in respect of medical officers of health was both consistent and defensible.

Another area I'd like to touch on is traffic enforcement, stops and checkpoints. I know there have been discussions here about emergency plans related to provincial nuclear emergency response and a foreign animal disease plan that indicate the police may be required to establish road closures, checkpoints and traffic stops. These measures are all taken in furtherance of public safety by limiting access to contaminated areas and enforcing prohibited movement of infected animals, respectively.

To make a long story short, the Highway Traffic Act does provide sufficient authority for the police to control traffic. It's my opinion that the Highway Traffic Act, combined with the previously mentioned sections of the Police Services Act, provides for adequate police powers to restrict movement on Ontario highways, as well as interception of the transportation of infected animals.

I'll just touch on public order maintenance and crowd control. The current order-in-council responsibilities for major events fall within the Ministry of Community Safety and Correctional Services. Intergovernmental conferences such as the 2001 OAS Summit of the Americas pose unique challenges for law enforcement. A delicate balance must be struck between the right to express dissent and the need to protect life and property. Command responsibility for major events falls to the policing service of the jurisdiction. Command decisions in these events are made based in large part on local knowledge, local standing operating procedures and intelligence information. Consequently, site command of these events, as in any emergency, should be free from bureaucratic interference.

1320

Given the dynamics of major events, police authorities rely on a variety of legislation to ensure public safety and maintain public order. Just as an example, some of these statutes are the Criminal Code of Canada, the Trespass to Property Act, the Highway Traffic Act, the Public Works Protection Act, the Police Services Act and, obviously, the Charter of Rights and Freedoms. But the combined application of these statutes provides an adequate legislative foundation to ensure public safety and maintain public order during major events and, in my opinion, no further powers are required for these specific types of events.

I've just shared with you some experiences from four types of emergencies or major events and hope I've been able to give you a sense of what the police do. But the extraordinary powers the police have on a daily basis are just that: extraordinary powers. As such, we feel there is an enhanced duty to focus on public safety, which is our primary responsibility, and that there are safeguards in place to respect citizens' charter rights. To the police, the fact that these powers exist in a variety of statutes, case law and common law is a common thing.

I mentioned a couple of things in terms of potential for improvement. Obviously, if you have specific legislation that authorizes specific activity, that's preferable to relying on the courts to interpret whether or not you had the authority to do what you did in an emergency situation. For example, access to medical records for the purposes of public safety would certainly be a good thing from the emergency services provider side.

I should also point out that you're going to hear from others here in the emergency services area, our colleagues from the RCMP and the Ontario Association of Chiefs of Police. The reality is that we find ourselves working hand in hand, right across this province, on a daily basis. But specifically in times of emergency, those

relationships are called upon to ensure that we have a seamless approach to public safety. Whether it's a federally led initiative, in which case the RCMP might perhaps have the lead, or a provincial initiative, where the OPP demonstrates leadership, or a municipal initiative, where the municipality has the lead and others are there to provide support, our main focus is public safety. As I pointed out, I believe we do have sufficient authority at this time to deal with the things we have to deal with.

The Acting Chair: Thank you very much, Deputy Commissioner.

OFFICE OF THE FIRE MARSHAL ONTARIO

The Acting Chair: Next, representing the Ontario fire marshal's office, are Doug Crawford, deputy fire marshal, and Barry McKinnon, chief of emergency management and response.

Mr Doug Crawford: Thank you, Mr Chair. I did have a presentation with some slides that I could share with the members.

The Acting Chair: Yes, and if at a later date the presenters want to present us with anything in writing or additional information, please do so in your own time.

Mr Crawford: Good afternoon, ladies and gentlemen. On behalf of the fire marshal's office, we appreciate the opportunity to participate on the essential services panel this afternoon.

A bit of context on the fire marshal's office: We are an office within the Ministry of Community Safety and Correctional Services. We provide advice, assistance and support to the Ontario fire service, among other things within our legislation.

My intent in this opening statement is to briefly touch on a number of areas that we believe may be of some interest to the committee, and we can follow up later, if that's so.

First, we in Ontario are very fortunate to have an excellent police, emergency medical service and fire service that work extremely well on a day-to-day basis. The Ontario fire service is composed of approximately 500 fire departments. Of these, 28 are comprised of full-time firefighters; 152 are what we call composite in nature, meaning they have both full-time and volunteers; and there are 323 departments that are exclusively staffed by volunteer firefighters.

From these figures, you can see it's an interesting mix, and you can conclude that the fire service capabilities are often quite varied throughout Ontario. It's clear that they will offer a variety of services based on the needs and circumstances of their local community. This is the only emergency service that relies heavily on the volunteer component.

We find that most of our legislated role is contained in the Fire Protection and Prevention Act, which was passed in 1997. The act sets out the roles of municipalities in the province in providing fire protection services. The FPPA sets out many of the powers and responsibilities of the fire marshal, assistants to the fire marshal and fire chiefs.

The FPPA identifies a number of actions that these parties can take in fulfilling their role to deal with emergencies, investigate fires, or take preventive action to reduce the threat of fire. Depending on the risk to life, powers may include the use of force without a warrant to gain entry. These powers are balanced by providing specific remedies within the legislation as to what the fire service can actually do to address those situations. Last, I would just like to reinforce that the powers in the FPPA, as you would expect, generally relate to the risk of fire, and that's where they flow from.

The delivery of fire protection, as I've said, is a local responsibility, and today we have those 503 fire departments in the province providing that day-to-day service. Since the 1950s, this province has had a system of mutual aid to share local resources in times of significant emergencies. Today we have 46 mutual aid systems. They are typically set up within counties, districts and regions, and the fire marshal appoints a fire coordinator for each of those systems. Municipalities have continually demonstrated their willingness to share resources with other communities. They have also deployed their resources throughout the province in times of extreme emergency. The resources available within the system are regularly updated so that the information is available to us at the time of an emergency.

After September 11, the province responded to enhance the existing response system and determined that a program should be implemented to enhance chemical, biological, radiological, nuclear, and heavy urban search-and-rescue response capability in the province. It was determined that the most effective and efficient approach would be by entering into partnerships with municipalities. This system allows fire coordinators of the mutual aid systems to request specialized assistance through the provincial operations centre to assist in the resolution of significant emergencies in a municipality or area that has formally declared a local emergency or anticipates declaring one.

In the slide of the province, we have a number of circles designating level 1, level 2 and level 3 teams. These slides identify the levels 2 and 3 teams that are in place under agreement with the province. The teams were selected to be protected based on risk, geographic location, existing capabilities, and the ability to enter into an MOU with the province. All municipalities are expected to have that level 1 awareness. Toronto continues to develop its HUSAR team, and the province has an MOU with Toronto to access that resource.

The OFM, with our partners, has developed fire department training, including awareness, operations and technician level for hazmat and CBRN. We've also developed a multi-agency senior officer program targeted to senior officials in the emergency responder community. Our goal in providing that multi-agency training is to ensure that the three primary first responders have the opportunity to train and develop together and that all that training links back to hospitals/communities. To be effective, we need to work together on developing co-

ordinated standard operating procedures, incident management systems, and communications. It's recognized that these are critical factors in large-scale emergencies and that this would enhance day-to-day operations.

1330

I'd like to conclude by saying that the significant emergencies that we've faced have been very complex, and it's impossible to think in advance of all of the details we may have to face. Our legislation, as I said, focuses generally on fire, and we have a pretty good track record dealing with fires over the years and have identified some of the appropriate solutions. The legislation does that, but an ability to redeploy needed resources and to communicate effectively are cornerstones of providing an effective, coordinated and safe response.

In a fire emergency, the local municipality is typically the level of government that has most of the resources to remedy the situation. The provincial role is very much to support those local resources. In the future, we need to ensure that efforts to remedy situations that are difficult for us to consider today are not impeded by a lack of authority to take the necessary steps.

In the event of a large complex emergency involving multi-agencies and where public safety is involved, we need to ensure that someone has the authority to make the necessary decisions so that we can get the job done.

The Acting Chair: Thank you very much for being shorter than the time allotted.

The next presenter—

Mr Peter Kormos (Niagara Centre): Chair, that having been the case, I'm just interested in the very—in his closing statement, he talked about the need for the [inaudible] authority to make the necessary decisions. I appreciate that's what he's saying, but I wonder if [inaudible] now, rather than waiting till the end to talk about—like what, for example?

Mr Crawford: One of the examples that comes to mind is during the SARS emergency. The fire service was very much involved with the other first responders. One of the issues that came back to us was developing a protocol for what we call tiered response—in other words, when different emergency services agencies would go in. That was necessary, because in York region, for example, a number of the emergency services individuals had been exposed at an early stage and then were quarantined.

We were quite concerned that if we continued on that path, we would end up with many other first responders being taken out of service for a period of time. It was very necessary that we develop the protocol that all of the three first responder agencies would accept and work with. That would be one of those examples of something that cuts across the lines.

Mr Kormos: Sure, and having said that, you're not talking about a need for some sort of legislative reform. What has happened by way of developing that protocol?

Mr Crawford: I wasn't focused there on legislative reform.

Mr Kormos: I'm not quarrelling with you; I'm saying, here you are giving an illustration of something that

didn't need legislative amendment. So what has happened since last year around developing the protocol that you say was sorely missing?

Mr Crawford: One example that we dealt with at the time was drivers' licences. At the time, there was legislation that did not allow the fire services, as an example, to drive an ambulance if it was necessary. That was quickly put through the system during the emergency.

Since that time, Dr Young has been appointed as the commissioner of emergency management, and it's our understanding that his role is to pull together those different agencies and different priorities, so that in a time of emergency, we can move those things through the system more quickly.

Mr Kormos: Having said that, what has happened? What has been done?

Mr Crawford: As I spoke about in my presentation, we worked very closely with the other response agencies. We provided training at the fire college to all of those first responders so that we can identify what's needed to work together, so we can be working together upfront. Therefore, when we're in an emergency situation, we've gone through the thinking ahead of time as to how we'll work together, how we'll operate together on those large things. We've put a lot of effort and a lot of time into training, into working with each other on how to deal in these emergencies.

The Acting Chair: We'll give you more time to ask more questions as we go around the next round. We'll come back to those.

1340

ROYAL CANADIAN MOUNTED POLICE

The Acting Chair: The next presentation is from the Royal Canadian Mounted Police: Inspector Marty Van Doren, assistant criminal operations officer and Ontario RCMP critical incident coordinator.

Mr Marty Van Doren: My comments here will be somewhat unique because the RCMP in Ontario is a support role in many cases, with the exception of under the national counter-terrorism plan. Deputy Commissioner Pilon spoke about the laws, and they were well articulated. There is no point in duplicating that effort.

This panel participation is timely on my part because the RCMP is mandated to conceive, develop, implement and sustain a standardized, all-hazards RCMP emergency management system from the federal component to across the country.

EMS is focused on the RCMP's role, readiness and response capabilities and capacities for emergencies and disaster events. Effectiveness of response is directly related to the preparedness effort and precedes any event. Successful resolution of an event is dependent on the ability of responding agencies—and I emphasize—to communicate and coordinate their efforts despite the stress imposed upon them by the emergency or the disaster or the lack of clarity regarding the situation that confronts them.

Emergency management statutes, be they provincial or federal, provide the mandate and direction to the various emergency services groups and outline their expected responses. It is therefore essential that the various emergency management statutes be complementary and standardized in their approach. It is also compelling that the stakeholders, the emergency service providers, be active participants in the creation and modification of that legislation. It speaks to why we're here today. There is no point to enacting legislation that does not speak to the anticipated needs, or sets standards that are not attainable or adequate.

This division, as all other RCMP divisions, is actively engaged in the standardizing of our emergency operational plans under the direction of our RCMP headquarters. The strategic goal is to enhance, facilitate, enable and support RCMP operational capabilities and mission accomplishment by instituting a force-wide coordinated, integrated and partnership-focused all-hazard EMS. The key is comprehensive planning coordination with multiple agencies and jurisdictions, which will result in more and different organizational relationships and performance standards.

Although the RCMP is not the police force of jurisdiction in Ontario, we still have obligations for EMS responses; some are legislated, some are on a request basis and some are morally induced. One example of a legislated response would be under subsection 6(2) of the Security Offences Act. Under 6(2) of the Security Offences Act, the RCMP is responsible for providing immediate operational police response to emergency situations that arise under the Security Offences Act, now the national counter-terrorism plan.

As indicated under 6(2) of the Security Offences Act, agreements are now in place with all the provinces, except for the province of Quebec. We also have agreements in place with the Ontario Provincial Police and all the municipal police forces in the province of Ontario. Other examples of RCMP involvement would be during the power outage of August 2003. We were actively involved in that situation. Currently, we are providing backup for the OPP while their third TRU team is being re-established.

The RCMP is an active participant in the exercises with the various EMS providers.

The post-9/11 world environment with the new world order dictates a coordinated response consistent with the expectations of the Canadian populace and the international community. Subsequent to 9/11, the RCMP has put considerable effort into developing a response capacity in relation to the national counter-terrorism plan. In that regard we have created what's called a special operations communication centre in Toronto. The acronym is SOCC. In this special operations communication centre, the RCMP, the Ontario Provincial Police and all major GTA police forces are housed. The Department of National Defence, CSIS, CBSA—the Canadian Border Security Agency—are all involved in this. They all have their data banks available and they're all fully operative

within the special operations centre. All checks can be conducted in a one-stop recommendation.

Also co-housed within this structure is the provincial anti-terrorism unit and the integrated national security enforcement team which the RCMP is composed of.

The Acting Chair: Thank you. I'm not sure what to call you—Inspector? What would be the proper—

Mr Van Doren: “Inspector” is fine.

ONTARIO ASSOCIATION OF CHIEFS OF POLICE

The Acting Chair: The next presentation is from the Ontario Association of Chiefs of Police: Greg Stasyna, head of the Toronto police public safety unit. Go ahead.

Mr Greg Stasyna: Thank you, Mr Chair. Good afternoon. I'm Greg Stasyna of the Toronto Police Service. I've been asked to represent the interests of the OACP in your presentation, and we'd like to thank you for the opportunity to speak.

What I'd like to do is just give a quick background from a Torontocentric perspective with respect to policing. Some of the things I'm going to cover have been mentioned already by some of my other colleagues here. What we're looking at, from my perspective, and what I'm asked to represent, is a municipal policing perspective with respect to emergency management preparedness in Ontario.

There are many revised statutes of both Ontario and Canada that effectively give us a degree of authority in maintaining control and preserving the peace with respect to emergency, and a lot of these were tested last year—I'm not going to revisit them—such as the great power failure, SARS, and even the preparations for Hurricane Isabel; we developed a ramp-up process.

The previous year, I believe, from a policing perspective, not only woke up the people of Ontario to various types of emergencies and disasters that can appear and happen in this area, but also woke up a lot of the police agencies that everyday policing really has to expand far beyond what we normally practise. We have to be ready at all times, which we find we aren't always. I think that's perhaps a facet of Canadianism: We don't react until a major emergency is upon us and then it might be too late.

Post-9/11 has done a lot of things recently with municipal policing in emergency management. Speaking from the Toronto police perspective, and following a quick history of it: Until about the mid-1990s, the Toronto Police Service was exclusively responsible, in the Toronto area, for the development of emergency management and the plans and protocols that go with it. That switched in the late 1990s, when the purpose of that whole program was switched to works and emergency services under the commissioner at that time and to an office of emergency management. Toronto police, along with its other policing services and brother and sister first responders, still maintain a large input as the thin edge of the wedge within this, and we realize that.

Some of the concerns with respect to policing in emergency management focus around not so much legislation—the legislation is quite strong—but tweaking the preparedness and the fact of working together in a harmonious, joint emergency preparedness scenario. In Toronto we have something called enhanced emergency management. What that is basically focusing on is a more, shall we say, consolidated approach to emergency management with police, fire, EMS, public health, works and emergency services and all our primary partners focusing a synergistic effort with respect to responding to what we call level 2, level 3 emergencies, or the major disasters and events that may affect the city and area.

Some of the programs we've already looked at are things like CBRN, where we have a chemical, biological, radiological, nuclear team here that is a joint team; a heavy urban search-and-rescue; and pandemic and epidemic planning through our public health, which is probably the most, shall we say, intangible type of planning because you can't really see it, you can't shoot it, you can't handcuff it, you can't stop it, from a policing perspective. That's probably one of the greatest challenges: not only to protect our front-line policing responders, along with our brothers and sisters from fire and EMS, and of course the public at large, but to protect ourselves. We've certainly learned a lot of lessons from last year's SARS in not only protecting the public but in dealing with legislation, such as the Health Protection and Promotion Act, that we're not normally dealing with.

One of the themes we're leading toward in this, and suggesting that the committee look for, is more enhanced training and education at an emergency and disaster level. Toronto police ran such a level field exercise in April 30, in conjunction with its partners, called exercise collaboration. This was a joint team chemical-biological attack focused at Humber College. We picked Humber College because they offered up the geography, and as our community partners, we felt that would be a good link-up.

We looked at the dissemination of a sarin-type agent and its impact upon the emergency responders and the community at large. The exercise in general was a success, but it did test our mettle and it did prove that we only have a thin layer of veneer in sustainability in responding to such an event. Over 300 emergency response personnel, including Sunnybrook and Women's College Health Sciences Centre, along with Toronto police, fire and EMS, responded on this occasion to triage and treat and transport 26 affected victims, so it took quite a knock and beating out of our resources. To sustain something like that in a populated area such as Toronto would take a big effort not only in the policing but in the emergency services at large.

One of the frustrations I've been asked to bring up is a lack of federal support directly to us. I'm not saying that it's a lack of co-operation, because we receive excellent co-operation from our provincial and federal counterparts—from DND, RCMP, Emergency Management Ontario, OPP, and I can go on and on. We still have a

challenge of seeing any sort of sustainable funding being filtered down from the federal government to the provincial level to be used for enhanced emergency management in respect to disaster and emergency preparedness. Some of it is getting down but not to a sustainable level.

One of the challenges is keeping our memories clear as things fade. Without the media, probably our memories of the power failure and SARS fade off into the distance, and other natural disasters and events, and then sort of going down to history. We've got to keep that wave of planning, wave of preparedness, wave of financial support, wave of co-operation between police and other front-line responders going. We can't just step up at the last minute and pay our insurance premiums, just before an event or just after an event. As with the definite incidents that recently happened in Peterborough, it shows you that something could happen anywhere and any time, and the OACP definitely realizes that. So we've got to be as ready as possible and we've got to look to our more populated areas to provide support to the less populated areas, as with, say, the joint CBRN team in Toronto.

One of the other big things we've got to look at is information dissemination. We're in the era of memorandums of understanding—co-operative efforts between municipal, provincial and federal entities, not just with police but all entities. We've got to remember that information sharing is important, and timely information sharing during an emergency or disaster is even more important, so that we can hone our resources and respond appropriately. We're fortunate in Ontario that we have a good practice, but we've got to maintain it through joint information centres and co-operation.

One of the latter points that I wish to mention is that of maintaining the integrity of local authority. With these enhancements through provincial, federal and municipal resources in honing our responsibilities to an emergency, we've got to remember that the site is the site, and is controlled or should be controlled by local officials. In that case, we look at the site of Toronto being controlled co-operatively, depending on the nature of the emergency or disaster that affects us, by local and municipal first responders. We look for support and shoring up on sustainability of our resources, but we've got to be very careful in that we've got to maintain the integrity of site command and site control, particularly through newer entities like incident management systems, which are now developing on a provincial level, and we applaud that and see that, but we've got to maintain that it's there to support the site.

One of the things we'd like to recommend with respect to enhanced emergency management is to continue the streak that we've been going on: Don't let up on our preparedness, don't let it die on a back burner somewhere, because we never know when the next big one is going to happen to us—anywhere in Ontario, or Canada, for that matter. The integrity of our capability from the policing side of things to preserve peace, maintain the integrity of the laws and work with our emergency

responder partners is paramount. Increased clarification and the ability to police protectively and with indemnification is very important. One example has already been mentioned—I'll just reiterate right now—and that is with evacuations. In Toronto, the Toronto police have several different iterations of evacuation plans. As we know, it may be absolutely impossible to evacuate a city like Toronto safely.

1350

However, one of the things I've been asked to bring up to you is the discussion of a waiver for the non-provision of services in an area that's been evacuated and for people who refuse to leave. As we know, that is a hot legal topic: trying to force people out of their homes, which they own and may want to protect, in a state of emergency where an evacuation has been ordered. However, with that said, we have to make sure that if people want to stay, are insistent and refuse to leave, the appropriate protocols for use of force, or acknowledging that there is a waiver to the local police service and other services that covers them for non-provision of services once an area is evacuated, have been examined fully.

In conclusion, I think we're moving in the right direction with respect to emergency management. It has to be an enhanced mode, that we all work together. We can't work in our silos of information any more. I'm sure the OACP wants an enhanced thrust put into that so that we all work together for a better disposition and response from front-line and all other supporting elements in emergency management. Thank you very much.

The Acting Chair: Thank you, Mr Stasyna. We're just going to go around and I'll get back to you when we have questions.

The next presenter—yes, Mr Kormos?

Mr Kormos: If I may, as you know, I endorse this round table but it's not very round.

The Acting Chair: It's square.

Mr Kormos: It seems to me there are some things he mentioned—and I appreciated hearing them—that I'd like to comment on and query, with the anticipation and hope that subsequent people speaking may add to that. That's why I'm asking that it not be too—

The Acting Chair: That's why, when everyone has made their presentations, we'll allow for that very thing to happen.

Mr Kormos: OK. It is a square table, again.

The Acting Chair: Hopefully, as I said, we'll try and work it out and if we have to make adjustments, we will.

Mr Kormos: OK, gotcha.

The Acting Chair: I anticipate that we can respond to that, but let me know if it works.

Mr Kormos: That flow chart has no arrows.

ONTARIO VOLUNTEER EMERGENCY RESPONSE TEAM

The Acting Chair: The next presentation is from the Ontario Volunteer Emergency Response Team, OVERT. The presenter is Shane Harbinson, executive coordinator.

Mr Shane Harbinson: Let me begin by thanking the committee for the opportunity to be here. As the officer in charge of the Ontario Volunteer Emergency Response Team, I represent one of the most utilized community response groups in the history of Ontario. Our unique experience in having worked on the front lines with various government agencies in dozens of major incidents allows OVERT to approach today with a very unique perspective.

As a point of context, the OVERT program was developed as Ontario's first second-tier response agency and is based on several professional emergency response teams. The program was modelled following the principles and guidelines of local emergency services, including police, fire, EMS, public health, EMO, social services and the Canadian military.

OVERT is a new vision in volunteerism, more closely aligned with the commitment, dedication and professionalism of volunteer firefighters than with any other program in the province.

The OVERT program provides local authorities, CEMCs and directors of emergency measures a viable second-tier response to major incidents. This capability allows the deployment of professionally trained and experienced volunteers into critical supportive roles to help the overwhelmed emergency services during a major incident.

In the past 24 months, OVERT has seen a dramatic increase in the number and duration of major deployments: 18 deployments in six separate jurisdictions, responding to every imaginable incident from child abductions in Toronto to the blackout of 2003, SARS, and most recently the Peterborough floods. In total over this period of time, OVERT personnel have deployed for a total of 75 days, providing in excess of 15,000 hours of service.

Until just three weeks ago, OVERT provided services to over 3.5 million Ontario residents. Now, after successfully negotiating a response package with the Ministry of Health's EMAT—emergency medical assistance team—OVERT is providing services through EMAT as part of a province-wide response capability. The agency is also in the midst of negotiations with the Toronto Emergency Services HUSAR team for provincial response.

One of Ontario's greatest assets is in both our citizens' and the business communities' ability to innovate and develop new products and programs that strengthen and help the province as a whole. Unfortunately, with community-based response initiatives, too often we see bureaucratic interference that in no way helps or encourages the expansion of such programs, despite widespread support at the local level.

I'm here today to come forward with four recommendations, the first and strongest of which is the continued development and support of the provincial government for a limited province-wide, second-tier emergency response program.

The second recommendation is the adoption of a classification for community-based emergency response

teams or a similar model to identify, separate and classify the hundreds of emergency response teams that currently exist or are going to be created.

Third is that WSIB coverage be extended to all volunteers who are involved in front-line, second-tier community response.

Finally, we recommend the recognition by the province that our front-line emergency services require immediate assistance when they are overwhelmed at the beginning of a major incident. Through this recognition needs to come the provincial support for cost-effective programs that see a rapid, immediate response to help the overwhelmed front-line services and the communities they serve.

The Acting Chair: OK, Shane. Thank you.

TORONTO EMERGENCY MEDICAL SERVICES

The Acting Chair: The next presentation is from Peter Macintyre, manager, community safeguard services, Toronto Emergency Medical Services.

Mr Peter Macintyre: Thank you for this opportunity to present here on behalf of the paramedics of Toronto and the men and women who provide paramedic service across Ontario.

We've heard a lot of talk here about SARS and the blackout, and certainly SARS had a significant impact on the emergency medical service system around here. In a disaster, there are a number of issues we need to look at, one of which is the need to balance the recognition that this is not business as usual, that these are extreme circumstances and things may have to change, versus the legitimate requirement to protect workers, protect the public and protect our first responders. So what happens to things like collective agreements, the Workplace Safety and Insurance Board, the Employment Standards Act, the Occupational Health and Safety Act? Are they going to be abrogated completely during this, or are there going to be limits placed on them? If there are going to be limits, who decides what they are, who decides how long they last, and, if people don't like them, what is the mechanism to say, "I don't like this"? What is the appeals process?

Planning and emergency planning have to be integrated across geographic boundaries. Right now, the legislation requires that each municipality develop an emergency management plan, but there's no requirement in that legislation that says Toronto has to talk to Durham or York or any of our neighbours; we each can, theoretically, develop these plans in isolation, without any consultation with our neighbours. Clearly, if you do that, you're going to run into problems. We certainly ran into problems during SARS because many of our paramedics, as is common, don't live in Toronto; they live in Durham region. We had implemented working quarantines for our paramedics, with the full approval of Toronto public health. Durham public health worked under different rules, and they said to our paramedics who lived there,

“No, you’re in quarantine; you can’t go to work,” which created significant problems, because if we don’t have workers, we can’t provide the service that we’re going to be required to provide. So we need to mandate integration across geographic boundaries for local emergency planning.

Hospitals, specifically, must be mandated to integrate their emergency and disaster planning with the communities in which they operate. Ontario hospitals, by and large, are not involved in local community disaster planning, with some exceptions—things like the Pickering nuclear plant and the airport. So we need to make sure that hospitals, which are our primary medical response, are part of the planning process for emergency management and medical disasters.

Health care providers—and again, this goes back to the planning issue—by and large, not in Toronto but in most health care facilities and in most EMS systems, quite frankly, will rely very heavily on part-time workers. Each group develops their own emergency plan, and to upstaff in an emergency, we’re all counting on bringing in our part-time staff. But if you are counted in Toronto and you live in Durham, you’re probably counted there, because you work part-time there. Many, many nurses work part-time in four, five or six different facilities. Each of those facilities is probably counting on being able to call that particular nurse to come in to work in the event of a disaster. You can only cut the pie so small. A paramedic or a nurse can only be in one place at one time, so if we don’t have integrated planning, we can’t have that. We’ve got to have a system in place so that responders are really only counted once; they can’t be counted three times, which gives you an artificially inflated view of what resources we have available.

1400

As was mentioned earlier, access to information, especially information about who’s sick and who’s been exposed—during SARS, we had significant issues where our paramedics wanted to know if a patient we picked up and transported to a hospital indeed had SARS. Current legislation does not allow us to get that in a timely fashion. Yes, down the road, public health will notify us. But as we found with SARS, they were overwhelmed to the point where they could not provide that timely information to us to provide appropriate counselling, remediation and exposure recommendations for our paramedics.

We would implement routine precautions—in other words, treat everybody as infectious—but it’s very comforting and important for us to know, if a paramedic comes down with respiratory symptoms, whether or not the patient they took with respiratory symptoms yesterday indeed had this syndrome. If they’ve been exposed, we’re going to deal with them one way; if they haven’t been exposed, we’re going to deal with them in entirely different ways.

Immunizations: Right now, for mass immunization programs, people have the right to say, for religious or political or whatever reasons, “I don’t believe in im-

munization.” If we get a smallpox outbreak in Toronto, we know it’s not natural. We know it’s a weaponized outbreak. Do people have the right at that point to say, “I’m opting out. I choose not to be immunized against smallpox”?

That situation exists with influenza programs throughout the health care system, where we want our paramedics, nurses, physicians, firefighters and police officers to be immunized, but there’s no requirement that they be immunized, because as citizens they have the right to choose not to. But in a disaster, who’s going to tell people, “I’m sorry. You do not have a right to refuse these kinds of immunizations”?

Finally, I guess, as was predicted by Commissioner Young in his first day of testimony, we need to be funded if we want to run an exercise. Tabletop and paper exercises work very well and help us smooth down the information flows and develop a broad picture for how we’re going to respond. But the exercise Mr Stasyna talked about at Humber College was several months in the planning and cost a significant amount of money.

Our resources, certainly at EMS, are stretched so tightly now that there is no surge capacity in the system. If we were to have a chemical spill, a terrorist explosion or, I guess, just an ordinary, run-of-the-mill, common problem, we could respond, but we also can’t forget there are 2.5 million people who live in this city. We have to maintain resources to serve them. We can’t just focus all our resources on the immediate incident.

We need surge capacity in EMS, in fire, in police and in the health care system, because the system, as we all know, is stretched to the maximum. Without surge capacity, we may be able to manage the initial phase of something, but we can’t maintain that capacity over the long term. When I’m talking about the long term, I’m not talking about three months; I’m talking about three days, two weeks. I’m talking about short-term maintenance.

Thank you for this opportunity.

The Acting Chair: Thank you very much, Mr Macintyre.

ESSENTIAL SERVICES PANEL

The Acting Chair: Now we’ll go to the caucuses and do 10 minutes per caucus. Then we’ll come back to the open questions and answers from everybody. We’ll start with Ms Broten, and then Mr Dunlop and Mr Kormos.

Ms Laurel C. Broten (Etobicoke-Lakeshore): My first question is for the fire marshal’s office. You made mention of the fact that the Fire Protection and Prevention Act provides some fairly detailed powers in terms of your ability to undertake actions in the course of a fire. I’m wondering whether you can comment on when the fire departments are called upon to respond to those emergencies that are not a fire. I would think we may see that more and more in years to come. From where do you take your powers to conduct search and seizure and other steps at that point, and is that an area where you see some need for legislative change or not?

Mr Crawford: Certainly our powers in the Fire Protection and Prevention Act—when we talk about fire protection services, those are defined quite broadly in the act. From an emergency management point of view, we feel pretty comfortable that those powers are the ones the fire service needs today and into the future.

When we're dealing with some of the preventive types of situations that we may want to be into, our preventive legislation is very, very much focused on fire. I spoke about some of the powers that were provided and some of the authority. They are pretty strong powers, but again they are focused on fire. They allow us to go in and prevent occurrences from happening. Where we identify that there's a serious risk of fire and that life or safety may be at risk, we can go in and take certain actions.

I would think that if the emergency were broader than fire, those powers would need to reside somewhere, whether they were related to the fire service or to any of the emergency services.

Ms Broten: In another piece of legislation and with another agency?

Mr Crawford: Yes, but be available for the different emergency services to work on as a team if that type of response was needed to deal with that emergency.

Ms Broten: Can you just expand a little bit on the prevention powers? I'm wondering whether you could provide us with an example where you would not have the ability to take preventive measures because they're not associated with fire, which you may have been called upon to do in the past.

Mr Crawford: Whether you're looking at section 15 in our act, which allows us to take some immediate actions, or section 19, which is our more routine inspection powers, they allow the fire service to go in and do an inspection. If it's a case of section 15, where there's an immediate threat to life, it allows the fire service to take some immediate action. Otherwise, the legislation would have the fire service issuing the owner with an order. The order would cover the necessary safeguards that needed to be dealt with. Typically they relate to things like fire alarm systems, exiting from buildings—all those areas that have been well identified over time as being issues related to fire safety and fire prevention.

If you were looking for preventive issues on other subjects outside of fire, I think our legislation is a reasonable model in that we do cover both the preventive and the response side.

Have we been faced with an example outside of that? I can't think of one. The closest we would have come would be with some of the anthrax concerns that came about a couple of years ago when we had a number of substances being received in locations—white powder or an unknown substance or those types of things. The emergency responders were dealing with those together on an emergency basis. I don't know that we would ever get into some preventive issue, but that's the type of situation where you may want to look at some of our powers and think of them from the preventive side.

Ms Broten: My next question is for Mr Harbinson. In your presentation, you didn't talk to us about where OVERT and the individuals who volunteer with that organization receive their ability to undertake the actions they undertake, in terms of whether it's powers through delegated authority or something of that nature. I'm wondering if you can just comment on where the authority comes from and whether there have been any issues with respect to having proper authority to take the necessary steps in the actions you've undertaken across the province.

Mr Harbinson: In our particular case, in most cases we escalate to the services. More than anything else we're providing them with intelligence and escalating to them. So most of the powers given to us are delegation powers. Certainly internally we will have—I think it's actually representative of here. Everyone who's currently sitting here to present to the committee are volunteers for our organization. I have Toronto police officers, Toronto EMS, a number of firefighter volunteers and the OPP. I'm not quite sure how the powers would reflect to them when they're off duty. In our particular case, we are strictly there as a supportive resource to the emergency services and, as such, would escalate to them anything that needs to be escalated. Again, it's a delegated power that we escalate to them.

1410

Mr Garfield Dunlop (Simcoe North): First of all, I want to welcome everybody here today. It has been very interesting to hear the comments as we go around the table here.

To begin with, I just wanted to say something that I thought was kind of ironic or a little bit funny: the fact that I didn't see the armed forces here. I kept thinking of Mel's snowstorm a couple of years ago. I guess that was considered an emergency service at the time.

On a personal note, I want to begin by saying that in the types of emergencies that I've seen take place in the province of Ontario, it appears that things work quite well. I was hearing that around the table that, as the plan unfolds, people seem to be fairly happy with the plan we have in place today.

Maybe it was brought out to the committee in each of your presentations, but I would ask people who presented, if there was one thing they'd change or one thing they would request from the government of Ontario, what would it be—if it's OK, Mr Chair, to ask that—whether it's a change in legislation, whether it's a change in—I heard the word “funding” brought up a couple of times. I just wanted to get my head around what the people who are presenting would actually request from the province today.

The Acting Chair: Is there anybody who wants to respond to that?

Mr Stasyna: One of the things I would probably emphasize is a sustained level of awareness. Now, if that manifests itself in sustained funding, sustained practice, sustained training and education—again, I go back to my theme of Canadiana. Once these recent events become

distant in memory, we tend to lose interest, and everything goes to a back burner. Now, I'm not articulating that we should all build "Diefenbunkers" again and prepare for the rest or anything like that. Hopefully, those days are gone. However, we have to have a sustained level of interest and awareness. That's not just promoted through funding, but you've taken a step from the provincial level already, and that's the appointment of Dr Young as the commissioner of emergency management. It's fairly high-profile.

Continued practice: That's not just training and education that we deliver to our front-line troops, but practice. I'm going to put to you how many times in Canada the emergency preparedness should be done from the individual up. That's the procedure, unlike the United States, where it's top down, but they have a lot of resources from the federal government. So we've got to practice this, continue the awareness level with each individual—the media helps us with that and sometimes hinders us—and promote that among the emergency responders throughout the communities in Ontario: police, fire, EMS and public health practising on a larger scale.

Again, as was mentioned by Mr Macintyre, the exercise collaboration that we put on at Humber College was a practice event. We trained for confidence. We didn't train to humiliate one individual service. We didn't train to try to expose weaknesses of another service. We trained to co-operate together in a military concept to command large formations of troops and resources together, because that's something non-military organizations like police, fire and EMS do not do regularly. The military, as much as we like to poke fun sometimes at the way our Canadian Armed Forces equip, does practise that. They have the surge capacity to practise that, and they're very good at that.

If I have to just summarize, my comment here is continued awareness—even though we might not have an emergency for another five or 10 years of the proportions of what we had last year—and training to meet the challenge. We train for our everyday needs, our level 1 emergencies: a police B and E, an auto theft. All of those are emergencies in the eyes of the people we respond to. But something that involves the combined resources of municipalities or governments is something we have to address regularly.

Mr Dunlop: Does anybody have anything else they'd like to add to that?

Mr Van Doren: One of the things I'd like to emphasize is the need to communicate. I've been involved as the RCMP instant commander in a number of exercises involving a lot of the people who are around the table today. If there's one area where that continuously falls down, it's the ability to communicate across all agencies and all different levels and all different formats. The thing can go sideways so quickly if there's lack of communication between those agencies. Especially when you're surging up and initially responding to an incident, you all have to be on the same wavelength. I'm not sure how you'd accomplish that, if there could be a stan-

dardized communication system for emergencies across the province—or across the country would be even better—but that is something to consider.

Mr Crawford: I would just reinforce what both my colleagues have said. It's very important that we receive the ongoing support over time. When the event has happened, it's in everybody's awareness and there's strong support and those types of things. It may be a number of years before we have another event, but at the end of the day, it will be those emergency responders who will be going to that event. It's really important that in those lull periods we have the ongoing support so that we can continue to train, we can continue to put some of those resources into the inter-agency training and those type of things, so that we've had the opportunity to go through exercises. As my colleague said, the table-top exercises are very valuable to see what works well, what needs to be improved. We need to continue to keep that emphasis on being prepared over the times when maybe our memories start to dim about what's happened.

The Acting Chair: I think Mr Harbinson wanted to comment too.

Mr Harbinson: Mr Rowland is going to comment first.

The Acting Chair: Move closer to the microphone, Mr Rowland, and please identify yourself for Hansard.

Mr Steve Rowland: My name is Steve Rowland. I'm the team leader on the OVERT liaison with Durham region.

The one thing that we'd like to see is changes to WSIB. We're a wholly volunteer group of people who show up under some adverse conditions. If we can't get protection for our people, we won't have volunteers, which means the 150 well-trained, cross-trained people we have won't be showing up at places like the child abductions that went on in Toronto and the Peterborough floods and a number of other incidents that this organization has responded to. We won't be going and there will be a lack and it will be noticed.

The Acting Chair: Mr Dunlop, I think your time is up, and then we'll give you another chance.

Mr Dunlop: I appreciate that. Thank you.

The Acting Chair: Mr Kormos, 10 minutes.

Mr Kormos: I'm glad you raised that, because that obviously has been an issue with volunteer firefighters as well—the very same issue.

It's interesting, and of course we all agree—we'd be stupid not to agree—with the proposition of enhanced and ongoing training. But then conjoining that with the observation about not setting unattainable standards, it seems to me—what's the thermal imaging machine that firefighters use to find people in the dark, smoky—

Mr Crawford: Thermal imaging cameras.

Mr Kormos: Yes, thermal imaging cameras. It seems to me naive to train firefighters on the use of thermal imaging cameras when my firefighters down in Pelham have to hold bake sales, for Pete's sake.

Laughter.

Mr Kormos: Well, they do. They're doing god-damned car washes on weekends, nickel and diming to

raise money to buy one of these machines, and it's frustrating as all get out. You train them to use them, but then they don't have the tools. What the heck is the sense of going through the exercise? I want to throw that into the hopper, because I very much appreciate your comments about the need for enhanced and ongoing training.

You were very candid about talking about the big-city perspective. I come from Niagara region. We're among the top four or five, I guess, in Ontario. Like some of you, I've been up to places like Peawanuck and Attawapiskat, with one-person, two-person police forces, native policing. Mind you, what we call a crisis is often a day-to-day occurrence for them. It's part of their daily routine.

I really think it's important that we talk to folks and front-line emergency personnel from those kinds of communities because they are as vulnerable and as at risk as big-city Ontario. But you're talking about communities that rely, like many northern communities, almost entirely on volunteers for firefighters. They don't have the mass and the inherent resources that allow—police officers I've talked to up in Attawapiskat and Peawanuck, for example, get trained at the Ontario Police College and then never see the inside of a training program room again, ever, which is tragic. It's not that they don't want to. So I want to throw that into the hopper as well.

1420

Some folks were talking about evacuation. Of course, most of us were paying attention this weekend to CNN, watching Florida and the hurricane travelling through there. I'd like to know what you people think of when you're talking about evacuation. I paid special attention this weekend, among other things, because we've been talking about it here. What I understand takes place in Florida is that evacuation means you're asked to leave and you're told that there are no longer any municipal services being provided: "Don't count on electricity; don't count on sewers working; don't count on water supply." But from that point on it's, "So long, it's been good to know you." You talk about evacuating Toronto. We saw some of the problems. People were being evacuated, some of them into the path of the storm, which are the best-laid plans of mice and men.

On the issue of evacuation, what are you talking about when you talk about evacuation? Obviously we're talking about moving people out of the way of harm, but what are you talking about in terms of the logistics and the tools?

Mr Stasya: With respect to Mr Kormos's question, he brings up some good points here. Within the Toronto perspective of evacuation, we look at definite sectors, basically in response to hazardous material or a chemical spill of some sort, to evacuate a sector that's immediately affected. A very recent example of that is the fire on Highway 27 at Martin Grove last week. There was very much a concern brought up by Toronto fire that there was evidence of chemical infection that might cause damage to businesses, and we evacuated that area.

We do have various evacuation contingencies within Toronto, but it would be misunderstood if one thinks that they could evacuate Toronto completely without causing any damage or harm. We practise an evacuation drill every day: It's called rush hour. If you look at that, that is an example. But imagine the congestion if we really had to do something like that. We have a core centre evacuation plan but that's just for a restricted core, from Spadina to Jarvis to Bloor Street and to the lakefront. You must realize that into that core fall a lot of important structures such as police headquarters, Emergency Management Ontario and a lot of other headquarters.

What we have trouble doing: There is a perception that, when evacuating Toronto, all the police would do—and we take the lead on that portion of it—is direct people out; traffic control and all that. It goes a lot further beyond that when you have an evacuation, as illustrated in Florida: sheltering; housing; contingencies for animals, the infirm, infants, those in hospitals, movement of those types of people. That's why it's probably better—or the practice that we promote is shelter in place unless absolutely necessary, especially in a metropolis like this. In a smaller community, more sparsely populated, with less physical infrastructure, it's probably easier to remove and relocate people, but for a metropolis like Toronto or the greater Toronto area in general, that's not feasible. So we look at evacuation as a last attempt. The realization is the logistics that come after you tell everybody to get out: Where do they go and who feeds them?

Mr Harbinson: I think our experience in Peterborough was unique. It shows that you really deal with two types of evacuations: You deal with an immediate incident that requires an evacuation, and then, in the case of Peterborough, you have people living in conditions over extended periods of time who need to be evacuated and housed. Certainly in Peterborough the experience was that, I would estimate, close to 30% of the residents who were affected by the disaster had called in to the public assistance line asking for help, which created a huge backlog for Peterborough fire and rescue services, and that's why we were brought in to assist. In that case, it was going to each residence, evaluating their situation and then either educating them that they could go to the evacuation centre—because certainly we saw people who were living in conditions that were worse than a Third World country.

There are a lot of misconceptions about evacuation. You get people whose homes have received a significant amount of damage and under no circumstances are they going to leave, because they want to try to recover and save as much as they can. Certainly in Peterborough's case, a lot of people were concerned that if they went to an evacuation centre, it was going to result in some way in their not being able to go back to their homes. There were other cases where people were short on medicine and other medical equipment that had been damaged by the disaster, had called the public information line asking for help and were put on a waiting list for someone to

come out and see what their needs were. So we're dealing with two types of evacuations.

In the case of Peterborough, I think it's critical that we needed to be able to get out to the residents and identify those who needed assistance. Again, in Peterborough's case, the vast majority of people who needed assistance were the elderly, those who are low-income families and those with small children. If it had not been for escalation teams going out and evaluating people and identifying their needs as quickly as possible, I'm quite sure there would have been at least one or two fatalities from the Peterborough disaster.

When we deployed in Peterborough, it was approximately four days after the initial disaster had occurred, and there was a backlog of at least 100 residents who needed to be checked. Over the next three days that we were there, another 300 residents came in.

The big issue for us is that you deal with two types of evacuations. If people can't get to their residence, they'll go to an evacuation centre. But in Peterborough's case, if they could get to their residence, they stayed there even if it was detrimental to their health.

Mr Pilon: I would support those comments in terms of the different stages and what have you.

I think Mr Kormos was on point in terms of the smaller communities, particularly some of our First Nations territories. The focus is then on the community council. The emergency planning that takes place: The emergency service providers are one element of that emergency planning. As such, they may have different needs and different solutions, quite frankly, but in some cases it's just very difficult.

If you're dealing with an evacuation that relates to forest fire, for example, we work closely with MNR and some of the northern communities where there is a forced evacuation of an area, and in some cases a total relocation of communities. It's not safe to be around those areas. Usually the emergency service providers are the last ones to depart the areas and then return. In some cases we have to leave people there for security purposes, which brings me to another point.

What we saw in Florida on the weekend suggests that perhaps the area is abandoned, which I would suggest isn't the case. In fact, there are service providers who stay on-site to provide security and ensure that there is no looting and what have you. I can relate to some personal experience in a few train derailments, most particularly the Mississauga train derailment, and reflect on some of the difficulties we had in dealing with people who had been evacuated and wanted to return to their homes. We had clear instructions that they were not to return, that we had responsibility for the security and safety of their property and their belongings, and as such we had to tightly control who went in and out and those types of things.

There are different elements to it, but the bottom line is that in that emergency you're trying to get the people out of it if there is a genuine danger to their lives. If not, as has been pointed out, we need to reach out to those people to make sure that (a) we've satisfied ourselves

that they are not in danger, or (b) that there is no need for assistance of some other kind that we're not aware of.

The Acting Chair: Thank you. What we'll do now is go around the table, and if there are questions or comments you'd like to make, we'll give everybody an opportunity to do so. Basically you can ask questions of the presenters or make comments, or presenters can ask questions of other presenters if they wish, or you can ask questions of the MPPs if you wish. We'll put your names down.

I should just mention, as the clerk gets some of the names down, that I will be going to Attawapiskat, along with the members of the finance and economic affairs committee, dealing with Mr Bisson's bill on native resources. I'm going to ask the clerk to perhaps contact the emergency service personnel in Attawapiskat and Moose Factory, and I think we're going to Sioux Lookout.

Mr Kormos: Mr Bisson knows every person in every one of those communities personally. He will take you right to their door.

The Acting Chair: I'm sure. Anyway, I hope to really do that and use the opportunity there later on in September.

Mrs Sandals was first, then Mr Zimmer, Mr Brownell and Mr Arthurs.

1430

Mrs Liz Sandals (Guelph-Wellington): I've got a number of questions here. First of all, to either Mr Crawford or Mr McKinnon, I understand what you're saying with respect to the preventive powers under the FPPA, that they are focused very much on fire as opposed to biological or chemical. When you get into the actual emergency powers that you may have with the FPPA, is the same situation true? Because in many cases it's the fire service that will be the first responder if there is a biological hazard, a chemical hazard. What sorts of powers do you have in those situations, in an actual emergency situation?

Mr Crawford: I'll respond briefly, and then maybe Mr McKinnon would like to add to it.

As I said earlier, in the Fire Protection and Prevention Act, fire protection services are a defined term, and they are actually defined quite broadly to include emergencies, rescues and those types of things. So we actually believe they are defined very broadly, and it does provide the fire service with some very broad authority to do what's necessary in the event of dealing with the emergency, as opposed to the preventive side.

Mr Barry McKinnon: I guess the other area is, while we were very comfortable that we would put firefighters into a scene under our legislation, we now find ourselves working with the OPP, for example, and members of their team going in with us to do an investigation or to work on the security aspects. No one has challenged that, no one has questioned us on that, but we need to make absolutely certain that we are not, in the middle of an emergency, faced with that. So we do work together cooperatively, and it's one of the areas that we certainly are

exploring to make sure we will not have a problem at the time of an emergency.

Mrs Sandals: This gets into some of the cross-jurisdictional things that a number of you have mentioned, that there are little bits of language in this act and little bits of language in another act, but how does it all come together in an emergency situation where you've got a number of different responders, and where does that overall power flow from in an emergency situation that involves a number of you? Am I capturing your concern?

Mr McKinnon: Yes.

Mrs Sandals: Would it be helpful, then, in an emergency that is at the point where it becomes more broadly based—so even if it starts out as a chemical emergency, for the sake of argument, you then have police and emergency services who become involved—if there were emergency powers that existed that were related to the issue of an emergency as opposed to whatever it is that you individually are responsible to, so that we're looking at something at a more generic level, as opposed to trying to anticipate each of your individual challenges?

I would leave that open to any of you to respond to.

Mr Stasyna: That's a very good comment with respect to command and control. I've learned that lesson. I'm fortunate to have some military experience under my belt here and try to apply some of the orders of battle, shall we say, when working in a joint task force. However, it doesn't work that well with civilian organizations, because we come from different backgrounds, different tribes, different collective bargaining agreements, and not a hodgepodge but an evolution of different provincial regulations that have evolved exclusively, separately, for different types of things.

So the challenge is, do we need something that centrally commands us in certain situations? I think that might be more destructive in the onset because we have to co-operatively work together. Guidance, regulations, opportunities, understandings—we do have very good protocols in Toronto with respect to things like hazmat or CBRN. Generally in hazmat, the fire will take the lead. However, if it's a chemical-biological incident, which could be almost identical in nature—

Mrs Sandals: And at the beginning, you probably don't know which you've got, necessarily.

Mr Stasyna: We don't. You're scrambling for information. But when police take responsibility for something like that, in that example, is when there is an element of criminality or an active shooter or something of that nature which may cause jeopardy to all emergency responders.

To create a template that says, "So-and-so will do this in this situation"—there are many of those within our own organization, as we have our service rules and regulations. I'm not sure if you could get something that could work on a provincial level other than a guidance type of operation.

Again, the key here is to practise it and train for confidence. I know I'm going back to that theme, but I think what I learned in running a couple of exercises,

particularly joint services, is that you can't purely employ a military doctor in the orders of battle, and the artillery, the infantry and the army will do this and that, because we come from different organizations. It just doesn't work that way, unfortunately. Life would be a lot easier if it did, but we're a civilian organization, so we have our intricacies to our community and ourselves.

What I would sum up in response to your question is that guidance documents, scenario building based on risk analysis in most communities, are either conducting or have finished conducting their HIRAs, their hierarchical incidents and risk analyses, so that they know what their major risks in their communities to an emergency disaster are, and hopefully can respond better in a joint services type of operation.

The Acting Chair: OK. Mr McKinnon.

Mr McKinnon: It is very difficult, as we indicated in our presentation, to plan specifically for the incidents, so the idea of some broader power is important. But I think what's also important is that we have a structure that recognizes that we'll have to analyze the situation. For example, in our illustration we had the ministry action group talking to the provincial operations centre talking to the emergency operations centre in the community. That's crucial as we go through and analyze what's necessary and who has the ability to make the legislative change, for example, to drivers' licences. That came out of that very structure of our communicating and talking back and forth.

It's also crucial that we carry on and have things like common incident management systems, and stress that we continue those so that, as that changes from fire command to police command, we understand that's going to happen—it's a seamless transition—that we have an ability to communicate together in a language that we understand. That, while it doesn't solve the legislation problem, gets us talking. We work from a unified front, and when we do that, legislation isn't always as difficult to move through.

The Acting Chair: I think Mr Pilon would also like to respond to Mrs Sandals.

Mrs Sandals: And I have a question that flows from something else that was mentioned.

The Acting Chair: What we're going to do then is move on and you'll get a chance again, Mrs Sandals.

Mr Pilon: I just wanted to add one comment in support of what has been said here. I think, in an ideal situation, you might be able to have some piece of overriding legislation that says the police do this, the fire people do this, the emergency services/medical do this, and what have you, in an emergency. But as has been pointed out, sometimes you'll start out with a simple occurrence that escalates and has to be dealt with in a variety of ways. I think, in fairness to everyone who's here today and to others providing the service across the province and the country, we have very professional services available in this province. People know their jobs, and I think experience has told us that as long as we can get together—and the training and everything is very

necessary. But in cases where there is any confusion, there has always been the ability to come together as a joint management group of some sort and get these issues sorted out.

In a perfect world you might have one piece of legislation that says, “Here are all the powers that we bestow upon everyone, all the emergency service providers, for an emergency.” But the situation will vary so dramatically from one situation to another that I just don’t think you could capture everything. I think there are sufficient authorities vested in the various acts that are out there for us to be able to do our job. The key is for us to do it jointly.

Mrs Sandals: So if I could summarize, then, the committee should be careful that if we’re looking at additional powers, we should not be too specific, that trying to anticipate specific emergencies is probably a downfall. If we are going to do anything in terms of provincial emergency legislation, it should be relatively generic in nature, and it’s absolutely essential that it give maximum flexibility to respond to whatever emergency presents itself, rather than our having in mind some specific emergency situation that we’re trying to solve. It’s more a generic framework that’s required rather than specific details.

Mr Pilon: That would be my submission.

1440

Mr David Zimmer (Willowdale): Picking up on what Mrs Sandals said and on some of your previous answers—and my question will be to Commissioner Pilon—in planning for these big emergencies, I suppose there are really two approaches if there were legislation arising. One would be a piece of legislation that gave very general, broad powers to the police, fire service and emergency medical response teams. The other approach would be a piece of legislation in which everything was codified and detailed to the nth degree—that so-and-so did this in conjunction with so-and-so—and which got right down into the minutiae.

I’d be very interested in whether you would prefer a general approach to emergency legislation or what I’ll refer to as the codification approach. I’d also like responses from the emergency medical response, the fire marshal and the RCMP.

Mr Pilon: As I mentioned previously, I think there’s a danger in trying to codify everything. My suggestion would be that somewhere along the line we would miss something. From that perspective, I would be more inclined to support broader, principle-based approaches to the issue which allow each of us to do our own function effectively but do it together. I just don’t know that you would be able to capture everything in an attempt to codify every emergency we would face.

Mr Zimmer: Perhaps I could hear from the fire marshal on that point: codification or more general, broad, sweeping powers?

Mr Crawford: We think there’s a need that whatever is in place be flexible so it can deal with emergencies that we around the table today probably haven’t even thought

of. From that standpoint, we would be supportive of the concepts of identifying powers related to principles and those types of things, as opposed to getting “down into the minutiae”—I think those were your words—or the details. I think that may ultimately constrain us when we need to deal with a situation.

Mr Zimmer: Emergency medical?

Mr Macintyre: I would agree with that. I think there are probably some very specific things that need to be codified, but as an overriding principle, it needs to be flexible. With one-size-fits-all, you can’t develop something that’s going to cover everything. You need a broad-spectrum piece that’s going to allow everybody to do what they have to do.

Mr Zimmer: The RCMP?

Mr Van Doren: Our approach is an all-hazards approach, and I guess that’s an anti-codification type of approach. A general working concept that can be applied across all levels would enhance the response capability. All-hazards can effect that.

As a quick example, under the instant command program, there are basically about three different types of instant command approaches in place right now. If we could standardize those, that would make it much simpler to respond.

Mr Zimmer: I asked that question because there’s the so-called 1981 paper, which I think everybody has a copy of, in which they dealt with this question of whether to take the broad planning approach or, in effect, get into codifying and listing a whole series of problems. In 1981, they opted for the more general approach. The idea was that there were sufficient powers scattered around in various acts, and that with attention on planning, they could pull those powers together and use them effectively.

My last question, again to the same people who answered the last question: Can you tell me what your experience has been in sorting out the, I suppose, inevitable jurisdictional disputes that arise between the fire marshal, the RCMP, the OPP and the emergency medical response? Perhaps we’ll start with you.

Mr Pilon: You’ve heard, over the years, that there were these jurisdictional issues. I’m not going to say they did not exist, but I don’t think they were as acute as some may have portrayed them. In the case of policing, I think that whether I’m a police officer for the city of Toronto, the town of Midland or the province of Ontario, it’s recognized that we’re all sworn in for the province of Ontario. It’s a little different for the RCMP and those at the federal level.

Just going to recent history, 9/11 changed the world we live in. People don’t think in those terms any more. People think more in terms of, “Let’s get this done, and let’s help each other get it done.” So I don’t think the jurisdictional issues are as acute as they were portrayed to be at one time.

Mr Zimmer: Emergency medical?

Mr Macintyre: I would tend to agree. There are always conflicts and egos in any incident, but most of

those are dealt with at a micro level as they occur. At a higher level, I think we share the sandbox pretty well. I think it's a tribute to us and to Canadians that we don't have these huge, high-level, ongoing jurisdictional battles.

Mr Zimmer: Fire marshal?

Mr Crawford: Certainly our experience has been that we've co-operated very well. Some of the results that I think we've seen in some of the most recent emergencies were because the emergency responders were together. They discussed the issues, solved them and got on with the business at hand.

It's been my experience that those issues crop up and will always crop up in any emergency situation. I think everybody who is around the table, or wherever we might be, realizes that our ultimate goal is public safety. That's what we're there for. We resolve those differences with that in mind. Certainly, as I said, I think our experience has been good.

We've also been working on some of those training initiatives that I talked about earlier, so we can work some of those issues or disagreements through the system earlier, before we're actually faced with dealing with them in an emergency situation. I think we've done well.

Mr Zimmer: RCMP?

Mr Van Doren: There's a spirit of co-operation that now exists in the province of Ontario that has never existed in the past. It's unprecedented, and 9/11 was a huge catalyst toward that. But beyond 9/11, we've been working toward that goal for a decade or two in the province. Although we've always worked well with other police agencies, some of them represented here today, we've now extended that spirit of co-operation to all the other emergency services in the province.

Mr Zimmer: I appreciate your answers to the last question.

Do you see any benefit in having an office or designated person in Ontario, should a jurisdictional conflict arise, who has the hammer on a very contentious jurisdictional—it may not even be a jurisdictional approach but just a philosophical difference in how an emergency should be dealt with? Should there be one person who has the hammer?

Mr Pilon: I can't envision a situation where we couldn't resolve the issue. Having said that, I think there is an ultimate authority. If we look in the world of policing, we have a minister who's responsible for policing issues. I suspect, at the end of the day, if you laid out all the ministries and what have you, we have a Premier who could resolve issues. That would be my response. I just can't envision a situation we could not resolve.

Mr Zimmer: Just a quick response from the other three. Those are my questions.

Mr Macintyre: I would agree. At the end of the day, the Premier would make a decision, or Dr Young, in an emergency situation.

Mr Van Doren: I concur in those comments. One quick addition is that we talk about leads in different situations. It's not unique that we have joint command

structures. We have done those on a regular basis. The OPP has done it with Peel recently on a national counter-terrorism plan, where we have joint instant command leaders.

Mr Zimmer: Fire marshal?

Mr Crawford: I agree that it would be very difficult to have a situation in mind where we haven't been able to resolve it, because we have worked very well together. I guess, at the end of the day, all of us believe there is somebody there, depending on what level you want to identify it at, who would make a decision, whether it be the Premier, his or her designate or whatever. I think the system is there, or at least we expect it would be there. In that one-in-a-million situation, or one in 100, somebody would have to make a decision and we would then get on with things.

1450

Mr Jim Brownell (Stormont-Dundas-Charlottenburgh): My question is probably to Peter Macintyre, but anyone else. I did have a number of questions, and most have been answered.

Because I lived through the ice storm of 1998—in fact, I was the first mayor of South Stormont when that hit—there were challenges that I faced on a daily basis as we worked over those 16 to 20 days. One of the greatest challenges was accommodating the senior population of the municipality.

We're heading into the seventh anniversary of that event, and over those seven years I know there has been a move and there is going to be a greater move in the future to keep seniors in their homes and to keep the aged population with home care and the like. Is this presenting challenges to emergency—you've probably seen this, and anybody else who would like to respond. What are the challenges, how are you coping and what do you see in the future? This might get into something specific in emergencies, which you said—

Mrs Sandals: That's OK.

Mr Brownell: But just for my own satisfaction, I am very interested in this. I'm now in the health ministry and I'm very concerned with regard to how we deal with the frail and the elderly, whom we are encouraging to be kept in our homes.

Mr Macintyre: That's a very good point. Younger people, if there's an emergency, can get out. But if you're confined to a wheelchair, if you're bedridden or mobility impaired, it's very difficult to get out. The challenge is identifying who all these people are, because there is no central registry—to put it in very crass terms, there is no registry of old people; there is no registry of people in wheelchairs. We are working now to develop lists of people who are ventilator-dependent, for instance. We identified that as a result of the blackout because those are people, clearly, if the power is going to be off for a period of time, whom we need help now.

But the issue is, who are these people? We don't know. A central registry is maybe the way to go, or at least agencies having their own lists and groups of people that share those lists on an ongoing basis.

As more and more people are staying in their homes longer, in an emergency—remember, for us to get a person out of their house and take them to a shelter, take them somewhere else, requires, in our case, two paramedics and an ambulance. On a typical day we have 95 ambulances working in Toronto. That means theoretically we can move 95 people at once, but that means we have no ambulances responding to anything else. So clearly, we're going to be faced with the issue of how we are going to move these patients, and I think the volunteer sector—St John Ambulance, fire service, all kinds of agencies—is going to have to become involved in it. Clearly, that is a huge issue. Certainly, in the ice storm one of the issues was that we couldn't get around. If there's four feet of snow on the ground, nobody is going anywhere, except if we can get Ski-Doos to go to the house and pick them up. So it does create very significant issues.

Mr Crawford: Certainly the changing demographic is something that we're well aware of from the fire safety point of view on a day-to-day basis. We've been successful with bringing our fire losses down. We recognize we have an aging population, and our seniors are one of the most at-risk groups from fire. When you add that together, just on a day-to-day basis, we recognize that we do have challenges coming down the road. We've been working on some targeted public education programs; for example, trying to get the message out very clearly to those who look after the elderly that they need to take responsibility and work with that senior on what to do from a fire safety point of view, just on a day-to-day basis.

When you overlay an emergency on top of that you would just compound the issue or the problem. We need to be proactive and we have been proactive, as I said, on some of these education initiatives and those type of things. But in a long-term emergency situation it could create some significant difficulties.

The Acting Chair: If I may comment, I recall there was a story about an elderly lady who wouldn't be evacuated because she was more concerned about her pets rather than herself. She had to get assurances that her 10 cats would be taken care of. I think you mentioned that too, Shane. There are so many other ancillary parts to evacuation that come into play here.

The next question is from Wayne Arthurs.

Mr Wayne Arthurs (Pickering-Ajax-Uxbridge): Just for my purposes, what I've heard the emergency service providers' responder saying is that there's an ongoing need for preparedness, whether it's education, training, coordination or paying the insurance premium—that's one focus—and that there's a need to protect either volunteer or employed emergency workers, particularly when it comes to health-related information. That seemed to be a bit of a theme. I didn't hear that there were any particular broad deficiencies identified in managing people or property during an emergency situation. Is that a fair assessment of the overview of the issues around emergency management legislation? I'm happy to hear

from anyone in that regard. Is there something that is not there?

Mr Stasyna: With respect to property, are you referring to the security of it, such as in an evacuated area? I'm not sure.

Mr Arthurs: I mean more generally. I wasn't hearing any substantive concerns being expressed, collectively and individually, over the ability of the responders during an emergency to be able to manage people or property. There didn't seem to be a significant situation where powers weren't substantively there that allowed you to do what you needed to do. You're probably too wrapped up in trying to get the job done at that point in time rather than having to worry about some minuscule issue that some additional power might provide for.

Mr Stasyna: I'm going to go to two perspectives here. I'm going to take Mr Kormos's comment of the small community versus the large community of Toronto with respect to things like evacuations, management of people, movement and property. In a small community, you might actually have an easier time, for a number of reasons, because there are fewer people and less property. However, you also have fewer resources to counter that. On the other side of the pendulum, we have greater resources in Toronto to do that but a greater number of people.

But it's not only the numbers we're looking at. I bring the diversity issue up now. With respect to Toronto, we have a multitude of cultures, languages and religions, who may all take different slants on the perception of leaving their home and property in the care of others or even understanding what it is they are to do. One of the things we looked at in the core evacuation plan is how we move people out who don't understand English or French. We speak a number of languages through our 911 call centre, but we don't communicate those out. We don't have an emergency notification, a separate frequency. I remember we used to listen to the old Buffalo one: "This is a test of the emergency broadcast network. This is only a test." We don't really have such an integrated system. We get excellent co-operation for communicating that from a lot of our media representatives, such as 680 News or CP24. They get the message out, or they're good at making up the message to get out if they don't get the proper information at times. I could provide a few anecdotes on that, but we're limited.

So there are a number of issues here. To summarize my answer to the question, we feel confident in certain realms, but it's a community-based issue. That's why, going back to Mrs Sandals, you can't create a cookie-cutter template for a lot of things. But you can do it for a couple of things, such as the provincial nuclear emergency response plan, PNERP, or the provincial liquid emergency response plan, called PLERP, where you can say, "This community will do that; that community will do this," where you have a high-risk event which affects not just one community, where everybody would scramble to do something. We're confident and certain around this, but we've got to look at it from a community

perspective. One cookie cutter doesn't fit all in that respect.

The Acting Chair: I think Mr Pilon wanted to comment.

Mr Pilon: I just wanted to add—and I agree with everything Greg is saying, and this is where I guess it comes in—that we, being the OPP, are a municipal service in many areas of the province but we are also a provincial service. Just as Greg has pointed out, when we have an emergency at a local level—a small municipality, for example—that may involve, from our perspective, redeploying some of our personnel. That's when the provincial side kicks in and we're able to do that. Depending on the size of the event or the disaster or the emergency, that will dictate the type of resources we need to redeploy.

1500

What we found during the ice storm and during other activities was that our personnel, who are on the front line doing an excellent job, are used to doing that type of activity. It's second nature to them. They respond; they do what they're trained to do. But at the same time there are personnel issues that surface, particularly when they are away for extended periods of time. Their family is left behind to cope. We had people who were out helping others, but their own family did not have power for days on end. So there are those issues that come into play. But I don't think that's a situation that can be remedied by legislation. I just wanted to add that.

The Acting Chair: Mr McKinnon?

Mr McKinnon: We've done well in the past, but I think where we're really going is to the future.

Let me cite an example: the threat of avian flu and how the culture here in Ontario has changed. Dr Young brought together planners from all ministries that would be involved. We examined what was going on in British Columbia. That was going on weekly. We were looking at legislative impacts. We were looking at what the role of the police, the role of fire and the role of health would be. I think that's the change, and we need that continued support so in future we'll say, "No, it's not an issue," because we examined the legislation. We knew exactly what the impacts were to veterinarians should that come along. There were some major issues that came out of that pre-planning.

This is not all about response; it is about being ready ahead of time. That is the change we have in Ontario that we didn't have before. We need to continue and support that.

The Acting Chair: Next is Mr Dunlop.

Mr Dunlop: Just a couple of quick questions. One is to the office of the fire marshal. I never even thought of this until it was brought up earlier in the meeting, and that's with our First Nations and forest firefighting by MNR. I know they do a lot of forest firefighting across our province. What is your connection to MNR and that particular program and policy and how they work with First Nations in our north?

Mr McKinnon: Basically what happens is that MNR firefighters look after the forest fires. Our office looks after the protection of assets that are in the community. We actually deploy people and work with the local community to sprinkle the community to protect it, regardless of whether it's First Nation or our unorganized communities. We bring in resources and work in co-operation with MNR to support them in their endeavours.

Mr Dunlop: Thanks so much.

My second question, Chair, is probably to you. As we work away through this committee on recommendations and a report or legislative changes, at what point will we look at funding? I say that because I've heard resources for awareness, communications and training brought up. Will that be part of our report that goes back to the different ministries or to the Office of the Premier as we look at recommendations for assistance from some of the people who have brought that to our attention?

The Acting Chair: Yes; basically there are two parts to our mandate. We are to present a report. We're going to have a summary of all the presentations, and I think our report will be based on those summaries and those presentations. Therefore, there may be indications in the final report, for instance, that the training component should be an enhanced part of our preparedness, that there seems to be a need for more enhanced training and preparation and the resources necessary to undertake that.

In the legislative part, I was thinking as the presentations were being made that perhaps one of the recommendations of this committee would be to put forth a proposal on the training component of emergency preparedness, that this be part of something that perhaps is provincially directed or mandated to enhance training, which implies that there may need be some resources for that. That is, I think, the best I can answer your question.

Mr Dunlop: I'm just curious where we'll go with that. That may come up again as we work our way through the next couple of weeks with different presentations.

The Acting Chair: That's why I think it's valuable to get—like today, I think we got some pretty specific messages on that training aspect that is critically important in terms of preparedness, along with emergency powers. The powers aren't any good unless you have the training capacity there that will enable those powers to be enacted in a way to deliver emergency protection.

Again, I think it's ultimately up to the committee to decide on where they want to go with resources and direction to the provincial government on what they should do. I would just like to also say that I think we're open for suggestions from the expert presenters on where a provincial government could best put its resources.

For instance, I think Mr Macintyre mentioned this cross-jurisdictional complexity of workers being quarantined in Durham as opposed to Toronto, and the fact that they couldn't get the workers across their borders because there were different health directives from local public health. That's an area where maybe this committee may want to make direction in their legislative report or in some kind of final piece of legislation.

Those are specific things that I think this committee's going to be charged with and grappling with: How do you do it from just a resource perspective or in a legislative framework? That's what we're going to have to find.

Mr Zimmer: Are you still doing questions?

The Acting Chair: Yes. I have Mr Kormos on, and then we can go back to Mr Zimmer and Mrs Sandals. Ms Broten is after Mr Kormos, actually. Mr Kormos?

Mr Kormos: First, I want to make sure people reading the transcript understand. I'm not one of the folks here who are equating old age with infirmity or with idiosyncratic behaviour. So my friends in CARP and the united association of senior citizens can rest assured that I am not stigmatizing senior citizens. I recognize that infirmity is an independent issue from old age, as is idiosyncratic behaviour. My neighbour wouldn't leave the house for a million years because of her darned cats, and trust me, she's not even 40.

I want to refer to—

The Acting Chair: It's how old the cats are that's important.

Mr Kormos: Well, I'm the neighbour. She's got the seven cats, but I'm the neighbour, let me tell you.

Interjection.

Mr Kormos: Well, no. As soon as the politicians moved in there with their property values, let me tell you.

Referring to that 1981 white paper—and McMurtry, as he was then, was a pretty smart guy back in 1981, and Judge McMurtry, as he is now, is a pretty smart guy. It's interesting, because in the "Special Powers" references there—I urge folks to take a look at it; it's pages 26, 27, 28—he addresses the issue of the granting of special powers authorized in the entry of private property and the commandeering of property in an emergency, and goes on to say, "It is felt that existing powers are adequate to deal with emergencies, both large and small."

It goes on to talk about evacuation and codifying the power of the police to compel the evacuation of an area. It says, "After due consideration, however, we have come to the conclusion that an attempt to codify such powers is not necessary and may perhaps be unwise." It then goes on, as others have referenced, to say, "We think it preferable that the common law powers of police and other emergency personnel continue to be delimited"—I'm not sure "delimited" was the word; it might have been the way the typist typed the word, but it could well have been. "Delimited": I'll put in [sic] after that in brackets—"by the courts, and that the emphasis of the draft bill focus on emergency planning."

1510

I suppose one of my concerns, and I put this to you gentlemen, is that especially in this age there is a passion for protecting all of us against every possible contingency. I wear my seat belts religiously. But there is somehow this sense that we can protect everybody against every possible risk that being alive and living in the real world entails. The fact is, if you live on the coast of Florida, you're at risk. If you live in parts of Cali-

fornia, because of the underlying geography, you're at risk of earthquakes. Canada is pretty blessed, because we tend not to have those huge natural disasters. Canada has been pretty immune—a small tornado in Barrie, a snowfall of 1978 down in Niagara, the ice storms. So I'm concerned about the prospect of overplanning and trying to guard ourselves against every possible contingency of being alive.

I do want to talk about communication, and I hear what you're saying about communication, but you also prompted me to reflect on the fact that I've got fire services and a police force down in Niagara—a fairly new police force, the Niagara regional police; not an old police force. I drive from Welland and Toronto, and there are at least three spots on the QEW where my cellphone breaks down and ends the communication. I'm talking to police officers and firefighters in urban southern Ontario who talk about problems not with interjurisdictional communication, but problems in communicating during their response to an emergency. Again, I'm seeing police services strapped for money, being told by councils that there's no more money, and firefighting services being told by their councils that there's no more money.

Perhaps to the fire marshal's office, and then to the policing personnel and EMS: If we're going to do things, shouldn't we have an agenda and talk about prioritizing things? How wise would it be to say, "Let's pursue as number 1 on the agenda a consistent quality of communications resources—equipment, tools—for front-line emergency response teams across the province"? Then we've got that out of the way—you know what I'm saying?—at least maybe for the next 20 years, until technology improves.

Are these folks correct when they say there are real problems in that area?

Mr McKinnon: In fact, there are two working groups established right now, one on incident management and one on this very issue of interoperability. Dr Young directed that those be put in place, and EMO chairs those two particular committees.

On the issue of interoperability, we are attempting to come up with systems in the short term that will allow the key leaders to talk to key leaders. Simply to get the technology to allow everybody to talk to everybody is insurmountable right now, and we're not convinced we need that. But we do need to be able to talk leaders to leaders. We have published, through that committee, a discussion paper. It's gone out to all the emergency services, so they will at least start to think about that as they start to purchase new technology. This is not a short fix. Radio communications technology is very expensive. If you've just spent \$2 million or \$3 million for an eight-year project, you're not going to change that out right away. So what we're talking about there is transition.

We have established a third committee, and that is to look at common, plain language. Right now, that is being coordinated through our office, but it is likely to extend to the other groups in the near future. We are developing a draft paper that will talk about how we can communicate very effectively, in plain language, so, for example,

Toronto police and fire have an agreement that whenever they interact, they will talk in simple language; they will make sure that they can communicate effectively.

We are working on the two pieces: the technology that will allow you to talk, and then a language that we can understand.

Mr Stasyna: I'm just going to reiterate the remark from the Ontario fire marshal. In Toronto, we have taken some municipal steps in correcting some of this debacle. We've instituted the joint emergency services channel, which technically allows us to dial on our own radios a common set of communications channels that police, fire and EMS can talk to. That's step one.

What Mr Kormos is also referring to is the third element of C3—command, control and communications—which is the glue that holds command and control together. As was also brought up by the Ontario fire marshal, we've all developed, from our own tribal rituals of communicating, different 10 codes, protocols and procedures. That has to be done as well. Should we have something that's common? I personally—and I think everybody I've spoken to within policing—think so. We've evolved through the evolution of technology. We've corrected and combined some of it. Let's say in Toronto, we've combined the 911 communication service. That branches out, but it can get a lot better than that.

The technology is expensive, but I think our only answer to cutting down the expense of it somewhat and making it more effective is to get some sort of consolidated system that can be used by everyone. If it's a common radio system—and we also say common computer systems—it branches out from just that one means, so that we can all talk together with ease and functionality. The highest vendor is not always the best one to go with. The market is ruled by a number of highly rated professional companies that can deliver, but I guess before we buy into everything, as the Ontario fire marshal alluded to previously, we all have to have input into this, and also not forget the way the pendulum switches or swings from a large community like Toronto back down to your small communities that may have some different needs for their communication systems, where they only have Harry, Larry and Moe as police, fire and EMS, running their emergency services.

Mr Harbinson: Again, a comment from our experience in Peterborough: I know one of the issues that Peterborough fire had was that I believe their infrastructure couldn't handle any more than six or seven additional crews at a time. It's not just an issue of the fact that people are on different communication channels, but their dispatch centre is only organized to handle so many crews at a time. One of the benefits we're able to provide is that when we attend, we come as a plug and play. We come with our own instant command system, our own communications system, to help them organize. Certainly an observation from Peterborough is that they only had so many extra radios. Just about every one of the fire crews that came up there were from different fire depart-

ments, different radios, different communications, and although for the most part they all talked the same talk, the communication systems wouldn't allow them to do it. So the infrastructure was the other issue, not just the equipment.

Mr Kormos: Mr Stasyna, if I may, you showed your hand when you made reference to the military in your initial comments. I knew then that you had a military connection. Most people who didn't have a military connection wouldn't even think of making that reference. I come from Niagara, as I told you. It's a community where there's a strong movement to—as a matter of fact, the reserve has just announced restoring the Welland armouries, in addition to the St Catharines-based Lincoln and Welland. So I am a part of that community that is encouraging a stronger reserve component.

I was surprised—and again, I'm loath to refer to the Senate committee's report, because of course they are unelected, they are thoroughly undemocratic and not representative of anyone other than politically connected wealthy people. But I was surprised to learn their observation that our military was ill-prepared—this was their observation—to participate or respond to the types of emergencies that are being canvassed when we talk about emergencies. Again, I was surprised because that ran contrary to the reservists, for instance, whom I know at Lincoln and Welland Regiment. I'm hard-pressed to believe that. It runs contrary to their participation in the ice storm, for instance.

Appreciating that you may not be here in your capacity other than as a member of Metro Toronto and on behalf of the chiefs of police, but now that you're here, I'm opening the door. One of the things I think most of us instinctively say is, if you're going to talk about emergency preparedness, yes, we talk about our professional full-time units, we talk about volunteers, be they overt, be they volunteer firefighters, but we also talk about reserve units, are not spread across Ontario as much as they used to be but they are spread across Ontario. What about the observation that was made that they're not equipped, and where do we go from there?

1520

Mr Stasyna: I'll speak as an individual part-time reserve soldier. Again, I'm not expressing any policy of command because I'm not representing them, but you ask a darn good question. In my opinion, in my 21 years of experience being army reserve and some regular force, it's not that they're ill-equipped, although there are problems, and it's not that they're incapable—that's not the case. It's that there is a general level of ignorance about the use of our military within domestic operations.

Unfortunately, there was somewhat of a quasi-precedent set some years ago, with then-Mayor Mel Lastman of Toronto phoning directly and getting the military. That's not the way it works. We go through the province. Quebec is very good at getting them in for assistance. They've used them quite a bit. We don't, but they are there.

There are four different categories of assistance they have codified and can provide, which are very useful,

everything from disaster relief to deploying DART—disaster assistance relief teams—to armed assistance to law enforcement agencies in support of policing. However, there are distinct protocols.

To answer your question, Mr Kormos—and it's a darned good question—I think the problem is not that we don't have troops available, and it's not that they don't have enough equipment, although there are problems there. It's that people from the municipal level and the community level don't perceive how to get to them and how to use them. They have very strict rules of engagement within Canada for how they run domestic operations. In Toronto, there are troops available for certain types of domestic operations, who can be gotten fairly quickly if the protocols are used correctly. They're there, they're capable and they're definitely at the community level.

You gave the example of the Lincoln and Welland Regiment, which is a local reserve regiment. It has become more prevalent in past years, particularly since 9/11, that they've been used for domestic assistance—the ice storm. So the perception is that the military don't just walk around with guns fighting wars; they're a domestic response force capable of responding to any type of emergency, whether it be cutting up trees from disastrous hurricanes on the east coast last year, fighting fires in BC or coming down to Toronto in a snowstorm to help with transport, clearance of roads, triage and all that good medical stuff. So they're there.

Mr Kormos: Chair, I appreciate that you've got to move on, but I do want to hear from—

Mr Van Doren: The military are actually very attuned to domestic operations. As a matter of fact, before I came here today, we were up at the military base at 1 Yukon Lane. They have very elaborate plans in place to deal with domestic operations. The reason we were there this morning was to talk about running an exercise that would involve the RCMP, the OPP—many of the participants who are here today—in order to validate those plans and make sure they do perceive and tend to the needs of domestic operations.

So they're there, and they're very capable. There's a big difference between deploying for a domestic operation and having a member of the military on the street with a gun. There are protocols in place. They are very attuned to that, Mr Kormos, and they're talking about exercising those plans as we speak.

Mr Kormos: Thank you, sir. Chair, another argument for the abolition of the Senate: The report seems to be way off base.

Interjections.

Mr Kormos: Well, these are interesting comments. I'm just calling upon you, if we've got time and space, that perhaps it would be valuable to get some of the people from the reserve movement, I presume, to talk more directly about that. We've had comments here that I say show promise, rather than the negative comments in that Senate report.

The Acting Chair: I think we can certainly get in contact with a reserve unit, the Ontario command or

whatever. In fact, I just got an invitation to go up to Petawawa. I don't know if you know that restaurant at Dufferin and 401, Katz's Deli. He's a lieutenant colonel in the reserve and a drum master. He leads, I think, the Highlanders or whatever it is. Anyway, he's invited me to go up. I'll talk to him.

Mr Kormos: And great pastrami—you can tell him I said so.

The Acting Chair: He makes a great sandwich on the side. Sorry for the plug. Mr Pilon?

Mr Pilon: I was just going to add, Mr Chair, that the military has been very helpful in terms of providing equipment and responding, as needed, to other urgent requests we've made ourselves and on behalf of municipalities at certain times.

There are also issues that you may want to consider speaking to regular forces about, insofar as their policies, internal to the military, that in certain cases would prevent them from giving the assistance we would like to have.

I'll give an example of a public order issue. This may not be current, but they had a policy where they would not engage with the public if there was a protest or what have you. If the public police, if you will, were ever in need of assistance and had to call in the military, it just seems absurd that they would not engage, because we would obviously be in a situation where we could not handle it and would need that assistance. Where else would we turn?

All I'm pointing out is that you may want to have some dialogue with the military, as Mr Kormos pointed out.

The Acting Chair: Yes. In fact, if we could formally do that through the clerk, invite the appropriate contacts through the Canadian Forces and the Canadian reserves—

Mr Kormos: Art Eggleton isn't doing anything. Perhaps he could be pried away from his busy agenda.

The Acting Chair: I'm sure he would come too. He's the one who was the key link in getting the army here in Toronto with that snowstorm.

Mr Kormos: No kidding. The weakest link.

The Acting Chair: You can ask him about that too.

Ms Broten is next.

Ms Broten: I have three questions that I wanted to follow up with. First of all I want to say thank you to all of you for being here, because it has been very informative. I think we've all learned a lot today. For our first panel discussion, it has gone pretty well. Thank you very much for that.

One of the things this committee is searching for is certainly best practices, and an examination of best practices in other jurisdictions as well. When Dr Young appeared before us he mentioned a number of jurisdictions we may wish to look at which, from his perspective, had legislation or best practices that were helpful. I'm wondering if each of you from your own area of expertise could briefly identify for us legislation or best practices that exist in other provinces or juris-

dictions which we would be remiss not to take a look at as we conduct this examination.

Mr Harbinson: I'm glowing, so I guess I'll go first. In our particular case, we reviewed what was going on in the United States as well as in Canada and we developed a program that would work closer with the emergency services and other community groups, especially in Ontario, than they've done before.

The issue we currently have is that the number of agencies asking us to continue to provide them with service or expand service to them far outweighs our current capabilities and infrastructure. Right now I would guess we have about 28 municipalities we're providing service to and we have another 20 municipalities that currently are waiting for us to expand into their area. It's difficult to do that without provincial funding and support.

One of the things Ontario needs is a community response to major incidents. However, I think the best way that needs to be done is in a very organized and structured manner. Volunteers can be a great asset but they need to be very carefully selected, especially if they're going to be operational volunteers. They need to be very structured and they need to be integrated with significant numbers from the emergency services. If that's the case, they can positively work with the emergency services and take certain tasks from them that are supportive in nature to help them when they're overwhelmed. I think the best way for the province to approach that is that we need two agencies, at most, in the province that do it.

I think the other big thing we need with civilian volunteers is to give them experience, Peterborough again being a great example. Four years ago, OVERT could not have provided the services we just did in Peterborough. It's the experience the agency has garnered through working with Toronto emergency services, Port Hope, Durham, the OPP, Halton region, Hamilton-Wentworth and a number of other services that has allowed us to gather the experience necessary to provide additional services. I think that's why we see programs such as EMAT and HUSAR either coming to an agreement or negotiating with us for an agreement right now.

One of the biggest things we need to do at the community level—and it's a big problem right now—is that “emergency response team” has become the catchphrase of this millennium. Everybody is an emergency response team; everyone is an emergency response volunteer. Looking again at Peterborough, whenever we have a major media event, I swear there are another 20 emergency response teams that are suddenly created and that are contacting or trying to get hold of the incident commanders to be able to come out and help in any way they can. I think it's important that the province develop a practice where we can classify the professional emergency response teams as well as the volunteer side of it, and recognize that there is a significant difference between volunteer firefighters, OVERT and other third-, fourth- and fifth-tier community groups that are out there.

1530

One of the problems you have is that as an incident commander—and this certainly happened in Peterborough's case. I won't mention the team. There was an emergency response team that called up looking to get Peterborough to house them and feed them, and they were going to come up and assist in the disaster. Peterborough spent likely 30 to 45 minutes doing some research on the team, only to find out that it was a bunch of contractors that were coming up, hoping to get the municipality to house them and feed them so they could go around and charge residents service for helping them in a variety of different areas. So there are issues like that.

Especially here in Toronto, in some of the child abductions that have recently happened, the Toronto Police Service received calls from all kinds of different community groups offering assistance. As I said, “emergency response team” is now the catchphrase of this millennium. Everyone's got one or everyone's getting one. We really need to have some clarity on what they are and what their capabilities are.

The big thing is funding. We need to have some provincial guidelines on being able to provide operational support to the emergency services, and that includes funding.

The Acting Chair: Mr Rowland, and then Mr Crawford.

Mr Rowland: I would just like to add to what Shane was saying about volunteers. Just because someone shows up and says they're a volunteer, they don't necessarily fit into the same category that OVERT does, even though the word “volunteer” is in there. What he also mentioned about the particular group was that it took 35 to 45 minutes away from what somebody should have been doing that was very important to check on the qualifications for those people. That's what will happen.

I recall when I was in the military in Nova Scotia that there was a young girl missing in the woods, and a huge number of people volunteered to go and look for her. Regrettably, one of the volunteers fell off a cliff and diverted some of the resources that were supposed to be looking for the little girl to go look for him, a volunteer. It can be a good word, but it can also be a very bad word. Just because someone shows up and says they happen to be with an organization and a volunteer, if they don't have a classification as listed by the province, it takes resources away from the professionals and it can also eliminate that particular good word of the volunteers. It detracts from that as well.

The Acting Chair: In fact, I just recall that there was a person from Toronto who set up an organization to help the victims of 9/11. The monies and resources were never directed and she had no authority to do it. I knew the person. She had done this before in similar situations. I think it brings out a good point about some way of ensuring that the volunteers are not in the way of helping people, that they themselves don't become an obstruction because there is no funnelling or there is no way of

weeding through the bona fide volunteers and those who are just volunteers for the day. It's a good point.

Mr Crawford: In answer to your question about better practices, we have found Nova Scotia at times to have some interesting approaches that may be of some interest to your committee.

Also, from our standpoint, we all like to learn from our experiences, so it may be appropriate that you identify a few jurisdictions that have experienced a major emergency or whatever and just see what they have learned from it as well. You may be doing that, but that's just a suggestion, looking for best practices.

The Acting Chair: We are having the emergency measures officer from Nova Scotia next Monday. Mike Lester is coming in by teleconference.

Mr Pilon: I was just going to add that besides the ongoing work that we do with other police services, be it through the Ontario Association of Chiefs of Police, the Canadian Association of Chiefs of Police, the International Association of Chiefs of Police, we have, as a provincial organization, a long dialogue with the bordering states, and obviously the other provinces. Our experience is such that we rely strongly on the RCMP, being the contract provincial police for eight of the 10 provinces, and the territories as well. They have a lot of experience that we've relied upon to help ourselves, but we also are in partnerships with our other emergency service colleagues on an ongoing basis to review incidents, be it the Nova Scotia hurricane or the Swissair flight. We've also had ongoing dialogue with New York state and the Homeland Security folks and so on. I think probably each of us in our own areas of expertise do that sort of thing, but then collectively we get together and share those when we plan for the future, if that's of any assistance to you.

Ms Broten: Thank you. I just wanted to raise specifically with Mr Stasyna the indication of a need for more general preparedness, even at a general citizenship level. The United Kingdom recently launched a large campaign where a brochure was sent to each household that would talk about emergency preparedness. It has received some criticism, and some praise, certainly, as to the effect it has had on the citizens of the country. I wondered if you had any comment about that program.

Mr Stasyna: Yes. I've actually followed that a little bit with some interest. Public education is nothing new. It's been done at the federal level for quite some years through OCIPEP, their equivalent to our emergency management down here, the Office of Critical Infrastructure and Emergency Preparedness, which is public security and emergency preparedness now.

One has to be very careful. These things are good things. We have to impress upon Canadians and the Ontario public that emergency preparedness and management starts with them. However, we don't want to have a singular focus, say, just on terrorism or something like that, which is very high on some agendas across North America but may not be as high here—not that we should ignore it. We've got to impress upon them that it is their

responsibility to make sure they are prepared for something out of the ordinary.

Some of the media outlets have done that this week, in fact, in commemorating the great power failure of last year: "Do you have extra batteries in the house? Do you have food supplies for three days? Are you prepared to be self-contained with your drugs and medication? Don't expect emergency services to be able to support you in case of an emergency disaster for maybe a 72-hour period or some period after that."

So I think it's a good idea, and some of the onus of responsibility and the theme in our Canadian society is to focus on preparedness, starting with the individual, where we have to focus education on asking self-critical questions like, "Do we have our own fire plan?" We've gone through this for years and years but we let it die out, and not just the individual but the corporation.

There are some cultures and religious groups that actually practise emergency management as part of their cultural background. I think the Mennonites encourage all of their following to have six months of supplies in their food cupboards, not only for themselves but to take care of their neighbours. I'm not saying that we purport that everybody builds themselves a bunker to run into when a bomb goes off, but are you prepared and self-contained to manage yourself? I think that's the theme.

If we focused on an imminent event—boy, everybody had better run out and buy gas masks or level A Saratoga hammer suits—it would send a negative message and be overkill and probably do more harm than good.

But as to what the UK is doing, I think it's a good idea. I would be careful in how I framed the message. That would be my recommendation. But that's something we should go ahead and do all the time. Don't just have your fire drill after you've had your fire a couple of times; practise it regularly.

Mr Pilon: I just want, in support of what Greg is saying, to use the analogy of Y2K. At the risk of divulging this, I would say that most of my supplies from Y2K are now used up. I suspect many Canadians are in the same boat. Many people prepared for Y2K and, as Greg pointed out, if you can get them to prepare themselves for any eventuality in the same fashion as we did—we built up a pretty good momentum leading up to Y2K. I think many of us benefited from the experience of the planning we did and so on. Even on a personal level, people were prepared for the eventuality that something would happen, and obviously many were predicting different things would happen. Fortunately, it didn't occur, but nevertheless, people were prepared, and I think if we could somehow build that same momentum on an ongoing basis, we would be very successful.

1540

The Acting Chair: Sorry to interrupt one more time. Did anyone ever do an analysis after the fact, post-Y2K, to see whether that was a legitimate exercise, or was it just hype?

Mr Kormos: What do you think?

The Acting Chair: Has that ever been done? Is anyone aware?

Mr Kormos: Yes. All of North America realized it. I mean, the same person who spread that rumour ran that campaign to raise money for the 9/11 victims.

The Acting Chair: But I wonder if anybody's aware of any kind of post-Y2K to see whether there—because I think, in terms of being prepared, we've got to be worried about this type of preparedness, that with limited resources we don't get into this preparedness mode—like you said, the gas masks—because it's something that all of a sudden gets public attention, and we divert all our attention into that area and we're not prepared for the other eventuality. That's why I raise it.

Mr Pilon: I think there was a lot of debriefing that took place following Y2K, but it was more focused on, "Were we ready?" and "Could we have handled everything?" as opposed to, "Why did we get ready in the first place?" I'm not aware of an investigation or anything having taken place.

The Acting Chair: OK. I'll give it back to Ms Broten.

Ms Broten: Mr Crawford had his hand up.

Mr Crawford: I was just going to comment on the UK initiative as well. Of course, we've been involved in the prevention side, the preparedness side, from fire safety for a long time, and to broaden that out, from our standpoint, would be very good business, within reason. Certainly if we can provide that message to the public that they do need to take account for themselves, at least for the first few days or first few hours of an emergency—that tends to be where our emergency services are stressed the most, in that early period when we're identifying the emergency and trying to get a handle on what's happening and those types of things. If people have taken some responsibility for themselves to get us over that period, it would be very helpful. So those types of preparedness exercises would be good.

Ms Broten: Thank you. One very quick question to Deputy Commissioner Pilon. You made reference in your presentation to a number of cases, and perhaps an opinion that had been made available as to the common law. If that could be provided to us, for those of us who are the lawyers on the committee, we'd love to read some case law in that regard. So if it could be forwarded to the clerk, that would be helpful.

Mr Pilon: I will do that.

Mr Kormos: Chair, you don't gotta be a lawyer to read case law. As a matter of fact, it's often preferable that you're not.

The Acting Chair: OK. Mr Zimmer.

Mr Zimmer: This is a question designed to just get a sense of how intrusive—and don't take that word the wrong way—you think emergency powers should be. So the question is—and I'd start off with Commissioner Pilon and the others I canvassed this morning—if you're dealing in an emergency situation—you can think of any situation: a fire, a flood, or whatever—and you have a competent person, with no mental disability or physical infirmity, who's not a danger to others and is not a

potential danger to others, but that competent person, not a danger or a potential danger, says, "I don't want to move; I want to stay in the forest fire," do you think, as a matter of philosophy, that you ought to be able to remove that person or deal with them against their will, again assuming that they're competent, so they're informed and know what they're doing, and they're not a danger nor are they a potential danger to others?

Mr Pilon: Well, as I said when I began my comments earlier today, our focus is on public safety, and one of the tenets of our society is the charter and the freedoms that we all enjoy. If in fact that individual is not in some way impeding or otherwise affecting the business we're trying to undertake—that is, to resolve the issue, whatever it might be—then personally I don't believe that we should be forcing them out of that area if they are of sane mind and so on and so forth.

Mr Zimmer: Thank you, and I'd appreciate a response from the RCMP and the fire marshal and Emergency Medical Services.

Mr Van Doren: I'm consistent with the approach that Commissioner Pilon just advised. It's always a gut reaction or a quick instinct. When you talk about the word "competent," that's a decision you have to make on the spot and it's not one you can make lightly. If the emergency provider judges the person to be competent, that they're fully in control and they appreciate all the surroundings and what's happening, and if they make that conscious decision to remain within that danger area, then I think you have to respect that to a degree, if it's not affecting anybody else.

Mr Macintyre: Two points about that: Yes, I think they have a right to stay there, but as a system we also have a right to say, as my mom said, "You burned your bum; now you sit on the blister." You chose to stay, fine, but recognize the fact that we're not going to put our staff at risk to come and get you after you've made this informed decision.

Mr Crawford: That was where I was going. I think from a personal opinion, on the first level, you enjoy freedoms living here in Canada and Ontario, and that's fine. Sometimes the issue gets complicated. The individual may have a family. They may have children in the area, they may have seniors in the area, so who are they making that decision for, and those types of things? From a broad brush, certainly a competent individual, as the individual was defined, does have certain rights. The difficulty comes—and it is a judgment call made at the moment—when those other things come into play. Down the road, if the individual changes their mind, do they then expect the emergency responders to be putting themselves at risk to come and help them, to extract them from a difficult situation? So it is a very difficult question to answer.

Mr Zimmer: Perhaps a comment from OVERT.

Mr Harbinson: Again just focusing on our most recent experience, that being the Peterborough incident, I know there were a couple of situations where people were living in conditions that they really shouldn't have

been, and it was more for their health and safety. I know in one case it was eventually escalated through social services to public health to get the people out. I don't know how they did that exactly. I know initially they did not want to leave the residence, but eventually a public health inspector attended the scene and the residence was cleared.

Mr Zimmer: But on a philosophical level, not on the detail, do you think a competent person, not a danger or a potential danger, ought to be able to stay in the burning house?

Mr Harbinson: I think "competent" is open to interpretation, but essentially yes, again with the understanding—I think the big issue will be that you know that if you allow a number of people to do that, a certain percentage of them are going to come back into the service. They're going to be looking for help from the emergency services. I guarantee you that's going to happen. Mathematically, so many of them are going to call in saying, "Now I need help."

Mr Pilon: If I may, I spoke on a philosophical point of view earlier. When I just heard you repeat the situation, though, you mentioned somebody staying in a burning house, in which case I would feel an obligation, a duty in fact, to take that person out, which changes the scenario, in my view.

Mrs Sandals: Could we take another scenario while they're going around this scenario thing?

Mr Zimmer: Wait a second; let me finish. The sequel to that question is, what sorts of protections would each of you need in one of these situations where the competent, not-a-danger person disregards the advice and stays on? What protections do you, as institutions, need to protect yourselves?

Mr Pilon: I think we're in an age of litigation, as well as other things. Just as we see with doing a competent collision investigation, people will sue us because they don't think we've done that. So if people believe there's an obligation for us to move people out of there and we don't act on that, then obviously there's a liability issue and we need to be protected from that, if the determination is that it's the right thing to do to leave that person there. I would say the flip side is that if we feel the obligation to move that person, again, there could be some liability in someone not believing we had that authority and coming after us that way. So there needs to be that protection there as well.

1550

Mr Crawford: The question changed my answer as well when you made it a burning house, but you would have thought that. It did that because, from my standpoint, the risk changed dramatically. The first question posed to us, as I understood it, was of a competent individual who chose to remain in a hazardous area. It wasn't a 100% risk. It was making a decision to take a measured risk. I think that when the question changed a little bit there to change the risk, it became very clear to me that I would have had a different answer as well.

I think from a safeguards perspective, that would really be a legal issue, because it does come back to a

liability. Again, it would have to be on some type of risk-based approach. Are we talking about something that's going to happen, an event that may happen or an event that has a low probability? Those are the types of things we'd have to go back to, because it becomes a very grey area.

The Acting Chair: OK. We've got Mrs Sandals and then Mr Kormos.

There is one question, I think, that this raises. I'd give the analogy about the person falling off the cliff. If there is a situation where there is an emergency evacuation or emergency activity taking place, and if one individual or small group of individuals is causing a diversion of resources from the greater public good, is that where we need some kind of direction? That's what could happen. There could be a diversion because that small group or individual will not move or co-operate. Therefore, time and resources are spent toward that diversion. That's what I'd like the experts to think about. I don't have the answer myself.

Mrs Sandals: If I could just follow up on that last question, and then I had a totally different question I wanted to ask. If you had either the person in the burning house or a person whose competence is at question or is endangering others, then how intrusive should the ability be to evacuate? Does anybody want to comment on that one? Because then we're into a different situation from informed consent, low-risk. Now we're in high-risk, possibly not informed consent and possible danger to others.

Mr Crawford: I would think that if fire service encountered a person in a burning building, they would feel duty-bound to take them out. That is just part of what they've been doing for years and years. Unequivocally, I think the risk there is an obvious risk; it's an immediate risk. Something needs to be dealt with immediately, and that's what they would see their role to be and that's what we would see their role to be.

Mr McKinnon: I think what we need to realize is that when an evacuation order is given, typically it's based on research, working with the experts and needing to have something happen very quickly. Not just the fire, but if we have certain chemicals involved and that information is given, firefighters may well decide, in that same situation, that they need to take immediate action to move them back because there are many of them. In your example, they will be burnt by other things, and we will have to deal with the consequences of that if we don't remove them at that same time. In fact, it would fall under the definition of a rescue because if they decided not to leave, we're going to be back in there one way or another getting them out. We're likely to take them out initially.

Mr Stasyna: I was just going to remark, again, that the police have guidelines that are well put in law, the Police Services Act and stuff like that: preservation of life; protection of property; elimination of the event or the incident causing the event. But it's a judgment call. If you take the case of the forest fire impinging on a

burning house, there are other statutes that can assist us in our decision, such as the Mental Health Act. Nobody walks around with a badge of competency in every situation.

However, if you switch that from hot to cold, say somebody in an ice storm who doesn't want to leave their house that doesn't have power, are they a threat? What are the resources that they would need? Is there evidence that they're going to be a threat to anybody else? In that case, we just might back away.

We have some recent examples of that during the quarantine regulations from SARS, and this was taken differently by police in different jurisdictions. In Toronto, we took a very soft approach to enforcement of quarantine and isolation orders. If a person didn't want to comply and said, "I'm not coming out of the house to do this," or stuff like that, "Well, good. Stay in your house. You've just quarantined yourself."

There are different ways of playing that, but when you're reacting to an imminent event—ie, a fire or something coming—and somebody says, "I'm not going," then we might just assume that the person is not competent, assuming there are officer safety issues that we've judged in the matter as well. What we don't want to do is, through use of force, escalate an event for somebody who refuses to come out of their house because they don't have any power, and then we get into an armed standoff. That definitely would suck away resources and raise the potential level of violence.

So from the policing perspective, there's a whole bunch of use-of-force and other factors that would impinge upon our judgment.

Mr Macintyre: From an EMS perspective, this is an issue we look at fairly regularly, because there are situations where we don't have ambulances to send to calls. In a large-scale situation, we're going to be faced with deciding on which calls we're just not going to go, period: "I'm sorry, you can call a cab; we're not coming." Maybe in the kind of situation where a person who is mentally competent says, "I'm not going to leave because of the forest fire," the system will decide, "Fine, you've decided not to go. Call us again if you want, but we're not coming."

Mrs Sandals: While you were making your presentations, I was trying to listen for instances where you talked about existing legislation that in some way or another had sort of got in your way. I think I heard three categories of concern. One was around disclosure of information, where you were concerned that in one way or another the lack of disclosure and legislative authority to disclose information perhaps endangered the emergency worker. You can talk about that better, but you talked about the need to require disclosure of information.

Another instance was around the labour legislation in various ways, where it may get in the way of handling certain emergency situations. The Ministry of Labour has actually raised this as well: Should we be considering overrides on labour legislation?

The third one is regulations around who is authorized to do something. I think the example we heard was having to go back to the Legislature to change the legislation so that a firefighter could drive an ambulance, that sort of thing. You actually had to go back to the Legislature to get the legislation changed. I'm thinking that if we were to have an avian flu outbreak—we hope we don't—you might have to override the legislation to allow a veterinarian from BC who has experience to temporarily practise in Ontario. This is around various regulations.

I guess the question I would like you to comment on, depending on your particular concerns, is, would it be useful to have emergency powers that allow temporary overrides of other legislation or regulations in the areas you raised, which were around disclosure of information, labour legislation and other regulations that define who does what?

Mr Macintyre: I'll talk about the information exchanges. It is very important that emergency services workers—fire, EMS, police—have that information. We need to be able to find out fairly quickly, does this patient have this syndrome? Quite frankly, that's not just in a disaster. If we take a patient to the hospital, we need to know so we can tell the crews if this guy has bacterial meningitis. Unfortunately, sometimes we don't hear for two or three days, and they should have been taking the prophylaxis right away. That's an issue today even in non-disaster modes. We need to have the legislation and power that says that as soon as you identify it, here's the number to call at EMS, or police or fire—"You picked up this patient at this address. They do have syndrome X"—so that we can protect our staff.

1600

Mrs Sandals: Does anybody else have any comments?

Mr Pilon: I was just going to reinforce that issue. I raised the disclosure issue. It is for the protection of our employees. I know there is some legislation in place that helps in terms of certain instances. Mr Garfield Dunlop would be well aware of that. But in an emergency, there still is not the ability to share that information currently. Perhaps in that circumstance, it would be an indicator that some type of override may be appropriate.

But I think that overrides have to be very carefully dealt with when it comes to that authority and who has the authority and how long the override is. It would have to be thought through very carefully. As we work within a legislative framework, it's not often that you would see legislation that is in place for a very good reason be suspended for any reason at all. I guess all I'm saying is that if you're considering that type of authority, it would have to be very carefully crafted, I would suggest.

Mrs Sandals: That's one of the things that, when we looked at the legislation from other provinces, was often seen in legislation. I thought it was interesting that a couple of you raised that as something you had struggled with in past emergencies: disclosure of information. You raised the instance of protecting your employees, but it

also might be disclosure of information that allows you to manage the emergency. That would be another possibility. I would think that fire, chemical and biohazards are disclosure issues.

Mr Crawford: It would be very beneficial to streamline some processes that we would need to deal with, obviously in the context that there needs to be checks and balances. The reason for us doing that needs to be focused on the emergency and trying to deal with the emergency and however that would work out, whether it would be beneficial.

Mrs Sandals: What about the instance you raised where you actually had to go back to the Legislature in order to license people to drive things? While it would be a huge issue in terms of managing the emergency, it's probably, in the general scheme of things, not a terribly intrusive override on the legislation of the province. It may be time-consuming, depending on whether or not the Legislature happens to be sitting.

Mr Crawford: In that case, events allowed us to have a bit of time to make the regulatory change. But events could have gone differently where we really had to react a lot quicker. When I say "time allowed," we did have a few days so the change was made. But if the events had gone differently, it would have been very beneficial to be able to deal with that on a more urgent basis.

Mrs Sandals: Any other comments? OVERT?

Mr Harbinson: The only issue I would have would be WSIB coverage for volunteers. During SARS it was an issue that was brought to the Ministry of Health: the fact that none of the volunteers in the province had WSIB coverage yet were providing a phenomenal amount of volunteer hours working through local public health doing quarantine deliveries, working at local community hospitals helping with assessments and security. That's an issue that we also see on a regular basis because we don't work for any particular ministry. We work across a broad spectrum. Having some level of coverage for the volunteers I think is critical, especially if we're going to be incorporating volunteers into something like the SARS of the future.

Mrs Sandals: The issue here might be a broader issue, which is, in an emergency, how do we protect volunteer workers rather than specifically—

Mr Harbinson: Of course, the other problem you run into is that local municipalities have emergencies that don't apply to the province. I'll use Port Hope as an example. Port Hope has had two incidents this year where they required, in our case, I believe 50 and 70 volunteers to assist them, because they're a small municipality and they don't have the surge capacity to deal with major incidents. So in those particular cases, although from a provincial perspective it wasn't an emergency, locally it was an emergency and, again, the same problem happens: Those volunteers do not have WSIB coverage.

Mrs Sandals: Barry, you were—

Mr McKinnon: We did minor research, so it does need to be furthered, but in those instances, it's my

understanding that MNR and police may have the ability to appoint them and fall under the umbrella of WSIB. I don't know the details of it but it was one we looked at. There are specific qualifiers before they go ahead and do that. There are obvious concerns about the training that's been provided and the competency, so there's some due diligence to follow, but I think MNR would be the one you would go back to initially. I'm not just sure how that works; I just raise it.

Mr Pilon: We do a lot of work with volunteers besides our auxiliary unit. With our volunteers, our policy has always been that we essentially take all the details of the volunteers and make sure that we consider them to be competent volunteers. It was always our belief that the WSIB coverage would be there if they worked under the guidance of one of our officers. I'm not certain if that's the current view but that's the way it had been previously.

Mrs Sandals: So there's probably a grey area there with respect to the particular WSIB issue.

Mr Pilon: There may be.

Mr Harbinson: During SARS, it was quite clear that there was no WSIB coverage—quite clear—and that there was nothing that could be done at the time to get WSIB coverage.

The Acting Chair: Mr Kormos?

Mr Kormos: I know this issue arose around volunteer firefighters. Municipalities were concerned, because it meant municipalities paying WSIB premiums for those volunteer firefighters. I have already indicated I endorse the proposition, and not just during emergencies. Why should a volunteer firefighter or a volunteer with any of these front-line emergency response people have that benefit only when they're in a state of emergency? I say no. We've got to resolve that.

Of course, the floodgates argument is going to be made—and it's a legitimate argument—saying, "What about the volunteer who is coaching a baseball team?" But, quite frankly, what about the volunteer coaching a baseball team, who is giving of his or her time, who suffers an injury that takes them off their payroll? Do we leave those people out to hang and dry?

I should ask you, Chair, to ask legislative research, because I'm not going to try to recount the issue around WSIB and volunteer firefighters off the top of my head that occurred over the last few years. Could we take a look at—and there was a response to that.

I also appreciate Commissioner Pilon's cautious approach—I suppose it's a matter of salary, isn't it, among other things?—to this concept of legislative override. Again, I refer you to the 1981 white paper—and I'm paraphrasing now—where McMurtry, Solicitor General and justice minister, as he was then, said, "Look, one building on fire or 100 buildings on fire, the response personnel need the same powers, whether it's one or whether it's 100, and there shouldn't be new powers because there are 100 as compared to it being one." So I think there have been some caveats.

Also, Mr Crawford very importantly mentioned that it was a regulatory change that was necessary with respect to the capacity to drive ambulances. I would caution members of the committee, with all due respect, that a whole lot of what is being contemplated doesn't involve legislation; it involves either policy or regulatory change.

I'm concerned about the discussion that took place around evacuation. Somebody who is a better Catholic or a better lawyer than I am will correct me if I've mispronounced this phrase, but I fear we've descended into *reductio ad absurdum*.

Interjection.

Mr Kormos: There you go. Are you a better Catholic than I am? Mr Zimmer having corrected my pronunciation.

The Acting Chair: He's a diction Catholic.

Mr Kormos: We're talking about these bizarre scenarios: the house on fire and so on. You see, that which isn't prohibited is permitted. Did I get that one right, Ms Broten? So if something isn't prohibited, you're allowed to do it, whether you're a police officer, a firefighter, a paramedic or Jane or Joe Citizen.

1610

Similarly—and I appreciate your comments about the litigious world out there, but I'm hard-pressed—look, cops and firefighters and paramedics do all sorts of things every day where they rely upon their training, their guts, their instinct, their compassion, many of which, I'm sure, at the end of the day, in a very technical way, constitute trespass or assault and battery, any number of things. It's absurd. I can't imagine any court in this country, in this province—this isn't Tennessee—entertaining those kinds of lawsuits; again, with all due respect to what you're saying. So I think we've got to be very careful.

Perhaps legislative research—because, first of all, there are the references that the commissioner made to various case law, various decisions, including the Supreme Court of Canada, which Ms Broten has asked for and you've been asked for already. But perhaps we could have a little bit of a review of what the 1981 McMurtry white paper talked about when they talked about the common law powers. When you read that, he was loath to start codifying them, because once you start codifying them, you bring grief upon yourself. You cause problems where problems never existed. So the only thing that's changed since this white paper was the case law around the Charter of Rights and Freedoms. Mr Zimmer's a better Catholic than I am; perhaps he's a better lawyer too. I don't know whether he'd be aware of any cases decided under the Charter of Rights and Freedoms that would impact on any of the capacities that we expect firefighters and others to have.

Look, think about this from a practical point of view. If you've got a neighbourhood, never mind a community, that has to be evacuated, the last thing cops, firefighters, paramedics have to do is get involved with one person. I mean, there's some utility involved there. They're interested in moving the maximum number of people in the

shortest period of time and, quite frankly, if some dough-head wants to remain behind, well, too bad, so sad.

It's a simple matter, again, of numbers. You're not going to start running to justices of the peace. You're really going to go in and grab that person and pull him out and think about how you're going to clean up the mess after the fact, right? You'll design something. Maybe you were apprehending someone to prevent a breach of the peace. That's never been done by police; I understand that. No. But you know, it's that historic power to arrest without laying a charge, where the police are apprehending and preventing a breach of the peace. It's sort of the ways and means act of the policing community, and I understand. God bless.

That's why legislative research perhaps, expanding a little bit on what was included in the section on special powers—because I'm worried that we're creating problems where problems don't exist, and we're also suggesting somehow that—there's not a firefighter that I know, and I know a lot of them, like everybody here, not a cop that I know and not a paramedic that I know who doesn't, at the end of the day, use their commitment to protecting people and property in the best way they can. They worry about this stuff, quite frankly, after the fact; sometimes regrettably, but they tend to worry about it after the fact.

We shouldn't be creating a litigation chill in terms of what we're talking about here. In other words, we shouldn't be saying things or reaching conclusions that cause people or give people reason to be fearful of litigation, should they be doing the right thing. Maybe what we need—Mr Zimmer, I think, was getting close to it; I think he was thinking about it—is this whole concept of good Samaritan laws. You were talking about that as well, an immunity for people who act, in the performance of their duty, in good faith in the course of protecting life or property. That might address the litigation fear, because Lord knows, we're not talking about any breaches of criminal law. That might address the potential litigation fear, although I suggest that's even premature, unless and until you see courts somehow drift into that wacky turf.

The Acting Chair: Mr Pilon wanted to comment on something you said.

Mr Kormos: OK, by all means. I appreciate that was a comment, but I wanted to make that comment now in response to, as I say, my concern about the *reductio*.

Mr Zimmer: *Reductio*.

Mr Kormos: Well, can't I say "*reductio*"? It's an eastern European accent. *Reductio ad absurdum*.

The Acting Chair: By the way, someone—talk about *absurdum*—has left their keys.

Mr Kormos: What are they to?

The Acting Chair: They're to a room in here of someone. They're to rooms in this building. I recognize them.

Mr Pilon: I just wanted to comment quickly. I'll leave the issue of whether or not a breach of the peace would constitute a rationale for doing something under certain

circumstances. If the situation warrants it, as Mr Kormos points out, I think our understanding of the common law is that we would have the authority to do it. I think I made that comment in the opening comments. But I went a little further and said that if it was specifically authorized by law, it might be easier to deal with. It might avoid that grey area.

I would just reinforce—and I think we all do rely on our common sense; hopefully we all possess that—that if it's a situation which warrants evacuation, and we have someone who isn't willing to evacuate for some reason, and we feel it's necessary, we will evacuate.

Mr Zimmer: Mr Chair, if I could just be helpful: On page 27 of the memorandum prepared on August 10 by Margaret Drent, the research officer—and that's the discussion paper on proposed emergency planning legislation, dated 1981—there's a quote from an Ontario Court of Appeal decision that addresses this. I'd just like to read that into the record. It's just a short paragraph.

The Acting Chair: OK. Go ahead.

Mr Zimmer: It's quoting a justice of the Ontario Court of Appeal.

"Police forces exist in municipal, provincial, and federal jurisdictions to exercise powers designed to promote the order, safety, health, morals, and general welfare of society. It is not only impossible but inadvisable to attempt to frame a definition which will set definite limits to the powers and duties of police officers appointed to carry out the powers of the state in relation to individuals who come within its jurisdiction and protection. The duties imposed on them by statute are by no means exhaustive. It is infinitely better that the courts should decide as each case arises, whether having regard to the necessities of the case and the safeguards required in the public interest, the police are under a legal duty in the particular circumstances."

That was the argument: It should be left as a broader power rather than a codified power because you can't anticipate every possible situation. Then you get into the whole exercise of splitting hairs: whether you have the authority or you don't have the authority, rather than a broader authority for which you're held accountable, after the event, of course.

Mr Stasyna: Just a comment on that. That's particularly why we have phrases such as "reasonable grounds," "exigencies of the service" and "good faith." Everything in Ontario, with respect to police and just about everything else, is subject to review from one organization to another.

As I was just discussing with Mr Pilon, we'll do what needs to be done in good faith. If we have to pull somebody out of a burning house whom we may perceive as not competent but who really is, then we will act to preserve life and protect property.

The Acting Chair: If I may, though, the question this poses is really Dr Young's question to all of us. He has looked at legislation and statutes right across this province and this continent. He has said that if you look at all the powers or legislative authorities other jurisdictions

have, we have the least. We have jurisdiction to basically act in one or two areas. In all other jurisdictions, they have put regulations, legislation and policies in place that give specific direction to their emergency service personnel, whether it be police or fire, to take certain actions.

The question I ask is, why is Ontario not undertaking the same legislative actions that all other jurisdictions have, in North America anyway?

Mr Kormos: Better legislators?

The Acting Chair: I don't know. I think that's really the hub of the question facing this committee. If you look at Dr Young's enumeration there of the different provinces and so forth, there's only one area where Ontario has taken action, and that's to implement emergency plans. On regulate or prohibit travel, we have nothing. Evacuate: really no powers. Requisition, use or destroy property: nothing. Mandatory recruitment: no legislative authority. Establish emergency facilities: no legislative authority. Procure and distribute necessary goods and services: no legislative authority.

1620

Sometimes the impression I get is like when we had someone from MNR here, and they had the impression they had these powers, and then when I asked him where he got the powers from, he said, "Well, we have great co-operation with municipal authorities."

So that is, I think, the crux of the issue we are faced with as a committee. We're essentially coming up blank in terms of restoring necessary facilities, of authorized paid leaves of absence, of requiring the disclosure of information like health information, of entry without warrant—we don't have that, while almost every other jurisdiction does. Anyway, I think that is the difficult question for us to answer as a committee and for us to deal with.

Mr Zimmer: In that regard, I was going to give this to you at the end of the meeting, but I have here a book prepared by the Council of State Governments in the United States. It's an analysis of the 50 states and their emergency powers legislation, what each has and how it derives and so on. This might be something the committee might want to have a look at just to inform itself.

The Acting Chair: You've got one copy there?

Mr Zimmer: I've ordered another 20 or 30 copies, but I just have the one here.

The Acting Chair: OK. Ms Broten?

Ms Broten: I guess I'd just like to pose the question the committee is looking at in another way, and that is, are we deficient in those areas? Dr Young has put that forward as a suggestion, and even when he was before this committee—and we've met with other folks, and many of those around the table today have really, in some ways, indicated that some powers do exist, but not within the context of one singular piece of legislation. The question that we're posing to all of the witnesses, I guess, is, do we need additional powers? Do we need clarification of those powers? Do we need a more concrete singular list of those powers? What are we facing as a

province? So I think it's a broader question in many ways than simply an indication that we are deficient, and do we need them? I think we need to pose, first of all, are we? Do we need them and are they missing?

Mr Kormos: Or in fact is the first problem to be addressed one of gross underfunding of firefighting services, of police services and of emergency medical response services? We can have all the most elaborate, fine, beautiful legislative structure in the world, but if these folks don't have the tools to do their job and they don't have the personpower, then we're spitting in the wind and it's all window dressing. So let's start with first things first, like funding these people.

The Acting Chair: But again, all the funding in the world is going to do nothing about entry without warrant.

Mr Kormos: And entry without warrant is going to mean diddly-squat if the communities I come from, like the communities you come from, don't have enough firefighters and don't have enough equipment for those firefighters to work with or don't have enough cops so that we've got more than one cruiser on patrol on a midnight shift in the whole city of Welland. If the bad guys only knew that—

The Acting Chair: But again, the problem was raised by Dr Young, I think it was, who said it's not a matter of resources. In some cases, I think it is resources, no doubt about that; I'm just saying that in some cases it's a matter of not only having certain legislative authorities, but then the second part of that is also the coordination between different parts of government.

We heard that example about the inability of some ministries of government or their agents to do anything about building a dike on a farmer's land without being charged with trespassing—and they would actually be charged with that. On the other hand, we heard another ministry come before us, the Ministry of the Environment, and say, "Well, we can trespass and we can build the dike under the statutory powers given to the Minister of the Environment."

So I think part of this committee's work is maybe to say we don't necessarily need new powers, but we have to have the coordination of existing legislative powers that are already there in certain ministries, but another ministry isn't aware they exist. That's one case that was brought before us.

Mr Pilon?

Mr Pilon: It may be that some of the powers that exist—and I'll just use police as the example—do not exist for others to use. That's always another issue to consider.

The Acting Chair: If you could just elaborate on that.

Mr Pilon: For example, police officers are authorized to direct traffic. Going back to the point raised earlier about driving vehicles, the police, in the Highway Traffic

Act, are authorized essentially to drive anything in an emergency. But firefighters didn't have that authority, so they had to go and seek it specifically. You may find that this piece of legislation is valid for the Ministry of the Environment but perhaps not valid for others. That may be just another issue that you would want to explore.

The Acting Chair: I think that's maybe where we need to get advice and direction from the experts in your field, to say, "Here are some of the gaps" where, through regulation, that kind of change could be recommended to get rid of that oversight, which would enable the firefighters to commandeer an emergency vehicle, I think it was, or vice versa. I don't think that's an extension—that's not an increasing of arbitrary powers. To me, it's more of a coordination of existing powers that we need to do as the government, perhaps.

Mr Pilon: That's fair.

I just wanted to respond to Mr Kormos's points, if I could. Funding is always an issue, so I won't go down that road. But in terms of the need for legislation, I'm of the view that there is some policy framework that the government can provide, and I think has provided, with the act that allows us collectively as emergency services to, if you will, pool those authorities that we have to do the job when necessary. I think that's one of the keys, making sure that the response is as integrated as it can be. The other side of that is, you may choose, as the Legislature of this province, to have a legislated framework within which we operate. I would suggest to you that it already exists, but you may want to change that.

From my perspective, I think the focus may not necessarily be on creating new powers or new legislation, but making sure that we all are aware of and can use the appropriate legislation as it exists today. I would just offer that to the committee.

The Acting Chair: I guess that's it, unless there are any more questions or comments.

Mr Zimmer: I want to turn this in.

The Acting Chair: That would be very helpful.

It's been very informative. I think you've offered sage advice, and I appreciate your candour. I think we've all benefited by your being here today. On behalf of all members of the committee and the people of Ontario, I want to thank you all for taking time to offer your advice and direction to this committee. Thank you very much for being here today.

We're going to adjourn until tomorrow at 9 am in the same room. We will have available the updated list of presenters over the next couple of days and next week also. If members of the committee have other names or organizations, we're still open to suggestions. We stand adjourned until tomorrow at 9 am.

The committee adjourned at 1628.

CONTENTS

Monday 16 August 2004

Emergency Management Statutes Review: Essential Services Panel	JP-77
Ontario Provincial Police	JP-77
Mr Maurice Pilon	
Office of the Fire Marshal Ontario	JP-79
Mr Doug Crawford	
Mr Barry McKinnon	
Royal Canadian Mounted Police	JP-81
Mr Marty Van Doren	
Ontario Association of Chiefs of Police	JP-82
Mr Greg Stasya	
Ontario Volunteer Emergency Response Team	JP-83
Mr Shane Harbinson	
Mr Steve Rowland	
Toronto Emergency Medical Services	JP-84
Mr Peter Macintyre	

STANDING COMMITTEE ON JUSTICE POLICY

Chair / Président

Mr David Oraziatti (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 Oraziatti (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 Garfield Dunlop (Simcoe North / Simcoe-Nord PC)

Mrs Liz Sandals (Guelph-Wellington L)

Mr David Zimmer (Willowdale L)

Clerk / Greffier

Mr Katch Koch

Staff / Personnel

Mr Albert Nigro, legislative counsel

Ms Margaret Drent, research officer

Research and Information Services