



**Legislative Assembly
of Ontario**

First Session, 38th Parliament

**Assemblée législative
de l'Ontario**

Première session, 38^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 13 October 2004

**Journal
des débats
(Hansard)**

Mercredi 13 octobre 2004

**Standing committee on
justice policy**

**Emergency Management
Statutes Review**

**Comité permanent
de la justice**

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

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**

Wednesday 13 October 2004

Mercredi 13 octobre 2004

The committee met at 0905 in room 151.

**EMERGENCY MANAGEMENT
STATUTES REVIEW**

POLICE ASSOCIATION OF ONTARIO

The Acting Chair (Mr Mike Colle): I call the standing committee on justice policy to order. Just to inform people again, we're undertaking a review of the emergency management statutes in Ontario for the purposes of updating and improving emergency management processes for the province. We've been meeting over the summer and we are going to continue today and tomorrow with more deputations. We're going to start today with Bruce Miller, who is the chief administrative officer for the Police Association of Ontario.

Mr Miller, the way we are conducting these hearings is that in the first part you're free to give as much of a written presentation as you'd like and then leave time for questions or comments by the members. We have approximately a half-hour at your disposal to do with what you wish. Thank you very much in advance for coming today.

Mr Bruce Miller: Thank you, Mr Chair. Did the fire-fighters sleep in? Because the police were on time. I've always wanted to say that on the record.

The Acting Chair: No, there are horrendous traffic problems all around here. There's construction wherever you look. Like someone said to me this morning, "The road to success is always under construction."

Mr Peter Kormos (Niagara Centre): I want the record to show that I didn't laugh in response to that and I'm not endorsing it.

Mr David Zimmer (Willowdale): I just spent about 10 minutes at the intersection of Bloor and Avenue Road.

Mr Kormos: Next time, turn the car off.

The Acting Chair: Go ahead, Mr Miller.

Mr Miller: My name, as you mentioned, is Bruce Miller, and I am the chief administrative officer for the Police Association of Ontario. I was also a front-line officer for over 20 years with the London Police Service.

The Police Association of Ontario, or PAO, is a professional organization representing over 21,000 police and civilian members from 63 police associations across the province. The PAO is committed to promoting the

interests of front-line police personnel, to upholding the honour of the police profession and to elevating the standards of Ontario's police services.

The PAO is a progressive and innovative leader on policing issues in Ontario, and we've included further information on our organization in our brief.

We appreciate the invitation to address the standing committee on the adequacy of Ontario's emergency management statutes and would like to thank all the members for their continuing efforts for safer communities.

We believe we have an excellent history of response in this province due to the professionalism and dedication of emergency responders and our history of working together for safe communities.

Our board of directors, in consultation with our membership, took a number of steps to prepare for our appearance today. We reviewed the existing statutes, including the pertinent sections of the Police Services Act. We have also reviewed our members' response and involvement in such incidents as the 2003 power black-out, SARS, the eastern Ontario ice storm and issues that arose out of the terrorist attacks on the World Trade Center. We also examined our response and involvement in localized emergencies such as floods and tornadoes. Finally, we reviewed the presentations that have been made to you.

The PAO believes that the current legislation and common law provisions are sufficient to deal with emergency situations. We support the importance of planning for identifiable threats both locally and provincially, but recognize it is impossible to plan for all emergency situations.

We do, however, believe that certain steps need to be taken with this important issue. It should be noted that we will be addressing this matter solely from the perspective of front-line police personnel and will not attempt to speak on behalf of all emergency responders. The police will play a key role in any emergency situation and will play a lead role in many, if not the majority, of situations. The key to adequate and effective policing has always been staffing, training and equipment. We would like to address those three areas as they pertain to emergency management.

0910

Adequate staffing levels are key to day-to-day community safety. Many, if not all, police services are hard-

pressed to answer daily calls for service let alone large-scale emergency situations. We agree with the government's statement that we need more police officers to keep our communities safe. We understand fiscal realities but believe that safe communities are a priority for the citizens we serve. We would urge the government to make the 1,000 new officers a priority. We believe that at the very least the new officers could be phased in to lessen the financial impact. All three provincial parties have identified the need for additional front-line officers, so we will not dwell on this issue. We strongly support the government's commitment to put 1,000 new police officers on Ontario's streets during their current mandate.

Training is an obvious component of emergency management. We looked at this area to prepare our submissions. The results underscore the value of this committee's review. We were very surprised to discover that the Ontario Police College does not offer any training whatsoever in emergency management. The Ontario Police College is one of the finest facilities in North America and should be a leader in this field. We strongly believe that funding should be put in place to ensure the necessary training in this area. We also believe that the college should take a lead role in coordinating training with the other emergency services due to the expertise of its staff and the excellence of its facilities.

Finally, we have been advised that the cost for senior-level courses at the college may as much as triple next year. Many services will be reluctant to pursue training due to budgetary concerns. Training in this important area must be legislatively mandated to ensure compliance.

Our third and final area is equipment. I think many, if not most of us, tend to think of the need for very elaborate equipment to deal with emergencies. Certainly, there is a need for this type of equipment, but we would like to highlight one important and neglected area. In November 2000 the then Ministry of the Solicitor General issued a communicable disease policing standard. This standard or guideline was developed by the policing stakeholders, ministry staff and other experts in the field. The standard, which is copied for your information, also contained a ministry-designated equipment list. Many services were quick to follow the guideline. Unfortunately, many other police services were not.

Our members have been actively involved in responding to many suspected incidents of bioterrorism since the attacks on September 11. The vast majority of these calls were anthrax-related. Front-line police personnel were also actively involved in the SARS crisis, and many officers were quarantined as a result.

The ministry circulated bulletins on both anthrax and SARS, advising the policing community that the disposable masks and disposable suits contained in the designated equipment list were adequate equipment to prevent them from exposure. Unfortunately, many police services had failed to provide this inexpensive equipment. Both the mask and the suit, which an officer might only need once in a career, cost less than \$10 each. However, both items could save his or her life.

Our members responded to the calls whether they had the equipment or not. However, we believe this equipment needs to be in place and should be legislated, as are many of the other standards, to ensure compliance in officer safety across the province.

In closing, we'd like to thank the members of the committee for the opportunity to appear here today. We believe that there is great value in this type of review. The PAO would be more than willing to provide our input into any draft legislation the committee might recommend. We greatly appreciate your interest in community safety and would be pleased to answer any questions you may have.

The Acting Chair: Thank you very much, Mr Miller. If we could start with the official opposition: Mr Dunlop.

Mr Garfield Dunlop (Simcoe North): Thanks very much, Bruce, for coming forward today. We're at the tail end of this process as we head toward possible legislation.

I'm curious about your comments about the training and the police college. Can you elaborate a little bit more on that? Specifically, could you refer to any costs that may be associated with that and in particular what you would like to see in that training program?

Mr Miller: I think everybody recognizes that training is an important component of emergency management. There are so many issues to consider, and this committee has been dealing with that. A lot of police services may not have been through a major emergency situation. There is no training program for emergency management right now. We contacted the college last week and spoke to the director and were very surprised to learn that there is no training. I think the college sees great value in it. It's something that should be looked at to ensure that the training is in place. It's not necessarily for all officers. It should start at the supervisory level and work its way down. The college could also take a lead role in coordinating training for the other emergency services as well, because police, fire and paramedics work so closely together.

Mr Dunlop: So you're suggesting that each police service send X number of people to Aylmer, starting immediately? Is that what you're saying?

Mr Miller: That's right. When you run into these situations, there are always so many issues with equipment and communications that are often inadvertently overlooked because the training and expertise aren't in place. We see that as a big step forward, especially if it can be coordinated with the other emergency services.

Mr Dunlop: You're suggesting, then, that draft legislation should include the mandatory use of equipment, plus training programs?

Mr Miller: That's right. Emergency training can be included by regulation in the Police Services Act. It has been included in other areas before.

Mr Kormos: Thank you, sir, for your submission. The theme of the need for ongoing training, persistent training, is a recurrent one in many of the submissions made here. You talk about the need for training but you

also make reference to the cost of training. I come from Niagara and we've got one of the larger police forces in the province, but like every other municipality, we have a chief of police who has to fight tooth and nail with the police services board around budget and is constantly being called upon to trim budget proposals. Policing is labour-intensive; that's the long and short of it. If you want good police forces, you want to have a good complement of police officers, especially in smaller-town Ontario.

Later this morning we're going to hear from the chief from Moose Factory, from the Moose Cree First Nation. I know some of these folks had occasion to do the Bisson mini-tour of the far north, visiting places like Attawapiskat. That's not necessarily within the realm of your jurisdiction, because these are our native police services. But good grief, in remote and northern Ontario the level of staffing and then equipment and training is abysmal compared to the worst possible scenario you could point out in more urban southern Ontario—one, because of the availability of training and, two, because of the cost.

Are you proposing, if the province is serious about emergency readiness, that it invest some money in supporting police services getting the adequate level of training for their police officers?

Mr Miller: There's no question that we've always supported funding for training. Of course, there are other ways to lessen the cost as well. Certainly, working with the college can be done—video training, things like that. But you need a certain level of mandated training.

Just then, when you mentioned Moose Factory, we also represent the Ontario Provincial Police. It has detachments in Moosonee that I also visited about two years ago. We are spread out across the province, and there are certainly different needs with different services.

0920

Mr Kormos: I'm interested in your statement that, "The PAO believes that the current legislation and common-law provisions are sufficient to deal with emergency situations," because that is one of the divides, if you will, that this committee may not acknowledge having but seems to be underlying, and that's basically the McMurtry position that the PAO seems to adopt. Yet at the same time you say, "We'll be pleased to assist in the preparation"—and I'm sure you will; your involvement would be more than welcome—"of any legislation that might be drafted." So having said, as you did, that you believe the current legislation and common-law provisions are sufficient, what would you contemplate participating in by way of assistance in terms of legislation that might be drafted?

Mr Miller: Two points: First of all, we may have missed something when we reviewed these areas. That's very possible as well. Also, there is an opportunity to legislate or regulate some of the ideas we've suggested in terms of training. We reviewed some of the police submissions. The majority of the groups, as we saw it, seemed to feel the common law provisions and current legislation were adequate, in their view. There seems to

be some argument over how far common law extends, but in our view, everything seemed to be sufficient.

Mr Kormos: I guess part of what concerns me is the 1,000 new police officers—some newspaper columnists are predicting that to be among one of the next set of promises to be broken; the cost and even the strain, as some commentators have put it, on Aylmer police college with the 1,000 new police officers. So I have some concern about whether that promise is going to be kept, just like those astute commentators. But if you had your druthers, where do you think the province should start? Should we be focusing on legislation or should we start by picking up and improving the level of training across the board? If you had one priority, where would the priority be? Obviously not restricted to those two choices; you may have half a dozen other alternatives or options.

Mr Miller: I think the priorities have to go together. You need the staffing and you need the training. Great steps could be made with coordinated training for the emergency services run out of the Ontario Police College. That would be a big bonus in the end run for all Ontarians, to ensure that their emergency services are properly trained and coordinated so that these issues aren't dealt with when the tragedy or disaster occurs but are taken care of ahead of time.

Mr Kormos: My concern about training as a stand-alone—I've got a firefighting service down in Niagara-Pelham. These guys are doing lotteries and bake sales to buy a thermal imaging machine, which is how you search for people in a smoke-filled burning building. All the training in the world in terms of using that sort of technology means zip if, in this case, that firefighting service doesn't have the equipment. I presume the same could be said about police officers in terms of training them to do things they're not going to be able to because they don't have the tools to do it. So I suppose it's dangerous to take any one of these things as a stand-alone. You have to look at it from a more integrated perspective. That means, at the end of the day investment, cash, money. Is that fair?

Mr Miller: It always comes down to dollars at some point.

Mr Kormos: Thank you kindly. We'll be rotating, I presume, as topics develop.

The Acting Chair: Yes.

Mr Zimmer: When there's a crisis in a small town in Ontario that has a local municipal police force, two or three police officers, and it obviously requires a larger police force, how does a smaller police force go about integrating or hooking up with a larger entity? Are there any problems that you're aware of there and, if so, how do you think they could be fixed?

Mr Miller: We've never seen any problems at all. There certainly are mutual aid provisions. The OPP, by legislation, also by the Police Services Act, is mandated to render assistance in these types of situations. Certainly, police services have a history of working very well together. I've never seen any issues. Fires in

northern Ontario, the eastern Ontario ice storm: It's quite regular that other services will send additional personnel down.

Mr Zimmer: Just to follow up, when you get into these situations, who has the ultimate authority in a local disaster; that is, how do the local municipal police force and the larger entity coordinate or integrate the command structures?

Mr Miller: By the letter of the law, I couldn't tell you who would have absolute authority. I believe it would be the local chief, but we haven't run into those sorts of situations. When the OPP or another municipal service has come in, they've always worked together very co-operatively. It would be the local chief of police, as I understand it, but—

Mr Zimmer: But it's not clear?

Mr Miller: —it's a non-issue. It may be clear. It would be something I'd have to research to be positive.

Mr Zimmer: Would you like it to be clear?

Mr Miller: It certainly hasn't been an issue for the province in dealing with these situations, that I'm aware of.

Mr Zimmer: Thank you.

Mrs Liz Sandals (Guelph-Wellington): Thank you for coming this morning, Bruce. Just a quick question first. I'm assuming that any of the amendments that you explicitly suggested in fact would be amendments to the PSA as opposed to emergency management.

Mr Miller: That's correct.

Mrs Sandals: So that would not be specifically amending the Emergency Management Act.

Can we think a bit about what the role of the police might be in an emergency which doesn't relate to some criminal act or potential criminal act? I'm thinking of something like SARS, something like the ice storm, those sorts of emergencies. What has the role of police forces been during those sorts of emergencies?

Mr Miller: Certainly in terms of ice storms and disasters of that nature, a lot of times the police—although everybody works together co-operatively—tend to take the lead role because in many situations the local emergency management communications centre is built in conjunction with the local police service. In terms of SARS, it was more of a backup role in providing security at hospitals and also responding to calls for assistance.

Mrs Sandals: In something like an ice storm or perhaps a major explosion, would you be involved in evacuation issues, travel management, those sorts of issues?

Mr Miller: There's always evacuation, security, traffic control. I know there was some discussion about mandatory evacuation. Things of that nature are certainly problematic to enforce, just with sheer numbers. I don't think you could ever put enough police personnel or emergency people on the street to be able to enforce a mandatory evacuation order. I think that would be very difficult.

Mrs Sandals: This is certainly an area the committee has looked at, the whole area of when there is a need to

evacuate an emergency area, perhaps because of a flood or some sort of other natural disaster. Obviously you've been looking at the record. There's been a bit of debate, in the case of evacuation, if there's a need to enter a home to check whether there's an elderly person there or a family, or children need to be evacuated, whether the common law provides the authority for police to enter.

While I'm certainly not a lawyer, looking at the cases the researchers have brought to us around the common law provisions, authorization to enter without warrant seemed to be related to some sort of suspicion of criminal activity. Clearly, in an evacuation situation, criminal activity has absolutely nothing to do with it, which then raises the question, in a non-criminal situation, where it's simply a need for emergency evacuation, would it be helpful for front-line police officers to know that they do have the authority to enter to assist people who may need assistance, as opposed to some sort of apprehension of criminal activity? Is that an issue that has come up for front-line police officers?

0930

Mr Miller: If this committee recommends it and puts forward draft legislation, we would take it to our council for some input. But in many of these situations, common sense prevails too, in terms of common law provisions and just from experience.

I remember, when London was devastated by a tornado back in 1982 and many houses were badly damaged or destroyed, common sense did prevail and officers entered homes to check for people. It hasn't been an issue over the years.

Mrs Sandals: So nobody challenged your right, although it was perhaps unclear whether or not you had the right. Is that fair to say?

Mr Miller: We've always gone under the common law provisions. Could that be challenged down the road? I suppose the way everything is going, there's a good chance it could be and would be.

Mrs Sandals: Just society becoming more litigious.

Mr Miller: It hasn't been a problem up until now.

Mrs Sandals: The other area we've discussed is prohibiting travel either out of an area or into an area, looking again at either natural disasters or health-related issues. Would it be helpful to know that you had the legal authority to prevent people from either leaving an area or entering an area? This isn't about closing a road for traffic safety reasons; this is simply managing the flow of people in and out of an area because of an emergency situation.

Mr Miller: I suppose it could be helpful, but in actual fact, whether that law is in place or not, we're always going to have officers in emergency situations doing traffic control and security, either keeping people out or not letting people out. Certainly keeping people out is something we've done a great many times over the years.

Mrs Sandals: Does the current law actually provide you with the authority to do that in the absence of criminal activity, or is this something where it would be helpful to have the law clarified?

Mr Miller: It's something that certainly hasn't been an issue, that hasn't been challenged.

Mrs Sandals: Thank you.

Mr Dunlop: Just a quick question to Mr Miller. Stated on the second-last page of your comments is the possibility that the police college may triple their rates next year.

Mr Miller: We've been advised that the police college will now start charging actual costs. There will be no supplementary funding for courses. It's our information, although the final prices aren't out, that the senior-level courses at the Ontario Police College will as much as triple next year, and certainly that causes us concern.

Mr Dunlop: You've been advised as the association? Do you know if all police services have been notified of this?

Mr Miller: All police services and our association were notified that full cost recovery will take place at the Ontario Police College starting next year for all senior-level courses. The fees for the recruit class have been raised from \$5,000 to \$7,500 effective January 1, but there will be full cost recovery and we're advised that will be about a tripling for all courses at the college.

Mr Kormos: We've got, it seems to me, some concerns, not inappropriate, around what the powers of police are or, quite frankly, the powers of any citizen in the context of, let's say, entering a house. People like Mr Zimmer and Ms Broten are probably far more capable of telling us the law in these regards, but it seems to me that for something to be a criminal offence—now forgive me if I'm wrong, to any of you—there has to be criminal intent. You see, when I enter your house, I'm not *prima facie* committing an offence unless I'm entering your house, breaking into it with the intent to commit an indictable offence, as I recall that particular section of the Criminal Code. So it's worrisome, and I'm not purporting to tell people what the state of things is, to suggest that police officers don't have the right—I mean, "right" is a strange word in this context—or the ability—because "ability" is more proper than "right"—to do something without fear of repercussions.

It seems to me that a police officer or any citizen, any person, would not subject himself or herself to criminal prosecution or any other sort of action were they to do something in *bona fide* good faith—"bona fide"; I suppose it's redundant—entering into somebody's home to rescue somebody. Nobody's going to get charged with break-and-enter or a criminal offence if you smash down somebody's door to rescue a person drowning in the bathtub or a person who's had a heart attack on the basement floor at the bottom of the stairs.

I know there has been work done already in this regard, and I'm wondering if there is an ability on the part of research, without writing the text on, let's say, Criminal Law 101 all over again, to give the committee a little bit more of a definitive answer, a little better, clearer perspective on this whole business of rights and powers versus abilities, things people can do, be they police officers or non-police officers, without fear of repercussions.

I'm inclined to agree with the Police Association of Ontario. I can't think of a cop who's going to worry about whether or not they're going to find themselves in trouble—or firefighters. I mean, these are people who, as we know, rush into danger when other people are running away from it. I can't think of a single one who's going to bother himself or herself with that sort of thought process when they're doing what they do on a daily basis.

I just wish we would have a more—because I appreciate the question that's being asked. I'm not of that school that believes we need the warrantless entry power, because I believe there's an entry power that's there, that's historic, because that which is not prohibited is permitted. I don't know whether that's a valid axiom or not. I'm just a little worried that we might get caught up in this fear, in this concern, without clear and definitive advice from legislative research in terms of the status of laws. My understanding is more akin with Mr Miller's than it is with the sense that police or firefighters or anybody else are constrained from doing certain things. I wanted to raise that.

Look, the message we're getting is pretty darned clear from the police association, representing police officers across this province, and I believe they do, and that is that the bottom line is, we need more training. We need money to do it. We need the resources to give effect to it. We've got to perhaps be creative. Reference is made to using videotapes, but I suppose pure training is one of the things that can be developed. That means you have to first train the trainers in their respective police services. I quite frankly am far more interested in pursuing that than getting caught up in powers, rights versus abilities. That's why I appreciate legislative research giving us the definitive answer, something that is beyond debate, that is so clear and absolute that one couldn't possibly quibble with it.

Thank you.

Mr Zimmer: That's the longest question I've ever heard.

Mr Kormos: It was a comment. You ain't heard nothing if you want a long one.

0940

Mr Miller: One thing I'd just caution the committee about—certainly, I'm not a lawyer, but I know that sometimes when we legislate in one specific area, to say you can do it in this situation, sometimes it implies that you can't do it in other situations.

So if we had the power to enter buildings just in emergency situations, we also enter buildings when we get a call about somebody not having seen their neighbour for a couple of days and the newspapers are starting to pile up outside. When we arrive, if we can't get into the house with a key from the neighbour, our members are going to have to force their way in. But I wouldn't want to see us legislate those powers in one area and solve that problem, but then it causes us problems in other areas because we don't have the legislative protection there, because it would be quite routine for us to enter people's homes in situations like that.

Mr Kormos: If you recall the McMurtry report, it's exactly what he warned about. Be careful about legislating certain powers, and there's a Latinism that covers that, which Mr Zimmer knows and I forgot a long time ago. Once you state certain specific, explicit powers, there's a presumption to be made about things that are not contained in that specific direction, possibly to the detriment of a police officer's ability to do those things that he or she could have done otherwise. Mr Zimmer may want to speak to that. He can at least tell us what the Latinism is.

Mr Zimmer: I'll leave you to struggle with it.

Mr Kormos: I'm not going to even try to remember. It's been a long time, Mr Zimmer.

The Acting Chair: Just a couple of comments and a question, Mr Miller. As you know, the committee is not looking at emergencies per se. We're looking at the extraordinary, unprecedented emergencies. We're looking at worst-case potential scenarios.

As you know, one of the things that was the determinant conclusion of the 9/11 commission is that the lawmakers, emergency planners never looked outside the box. They never said, "What if?" They weren't imaginative or creative enough, if you want to use that term. So that's what we're charged with. We're not looking at your everyday emergency; we're looking at beyond SARS, beyond the blackout.

Whether it's McMurtry or others, they weren't there in that situation, and I'd be very interested in hearing from former Minister Clement about what it's like to deal with the SARS situation, building, as they said, the boat in the middle of a storm in the ocean. So that's what we're looking at. So it's not everyday emergencies. We're looking at a declared provincial emergency. We've only had two declared in Ontario's history.

I guess the thing that this committee is concerned about is that we were given quite a list of enumerated emergency powers across Canada. I don't know if it concerns you, but it certainly concerns, I think, myself. If you look at the list of powers of jurisdictions across Canada and North America in these emergencies—we've talked to people in California and in New York—essentially, we have huge gaps here in Ontario. If you look down the list, whether it be regulating or prohibiting travel, evacuation, mandatory recruitment, establishing emergency facilities, constructing work etc, we have none of these powers in our statutes here in Ontario. So Dr James Young basically said, "Here are the gaps, and when you consider legislation, look at the gaps."

I guess the question I have to you is, as an association, you don't have any problems with us looking at the best way of filling those gaps so that we can deal with these extraordinary situations that may never occur again, or may occur 50 years from now?

Mr Miller: No. We support this review 100%. I think one thing that jumps out when you mention looking outside the box—it's something we hadn't done. We were really surprised when we saw there was no training for police personnel in this field, because I know there's

certainly a lot more for firefighter personnel. So that's an important first step.

When we see the committee's recommendations come out—we really look forward to having a look at the legislation. All I can say is, from a practical standpoint—and personally, I've only been involved in one emergency situation, and that was a tornado in London—speaking for our members, things have worked pretty well. I know there was some talk about problems with collective agreements and things of that nature. It's never been an issue in our field, because things like that have been waived and met. Management and the associations have worked together in the best interests of the front-line people and the communities.

A lot of these things have worked well in Ontario. That's not to say that that's always going to be the case and there will not be a need for this legislation. It is a problem, and I'd urge you to check with council. If you legislate in one particular area about having powers, does that curtail you in other areas? If we have the power to go in and check homes in an emergency situation—and I realize, when we use "emergency" today, we're talking about a major disaster of some scope and magnitude. My question for council would be, would that limit our powers, where we've gone in before by common law to check on the welfare of a person who hasn't been seen for several days, where we need to get in? I just wouldn't want to see that hurt.

The Acting Chair: Yes, and I think we're going to have that. That will be very valuable information; I totally agree.

The other question I have is, one of the emergency responders from emergency services who was here at one of our roundtables mentioned that one of the concerns they had is about first responders, whether they be fire, police or EMS, having a problem sometimes with being notified of the existence of an infectious disease. In other words, if you're transporting or have to move that individual, should you have the right to know or should you be alerted about the fact that that person could have some contagious or infectious disease?

I've had front-line officers who transport prisoners from the Don Jail to the Metro West Detention Centre mention to me that right now, the way the privacy laws exist, you don't have a right to be told that you are carrying someone with HIV, perhaps, or in contact with a person with HIV. The comment made here at this committee was that there should be some notification provision for first responders in terms of the fact that they might be putting themselves in danger and to take extraordinary precautions when they're transporting someone who may have some kind of contagious, infectious disease. I wonder if you'd comment on that.

Mr Miller: Certainly our members deal with people with infectious diseases on a daily basis. In terms of transportation, our transportation is usually limited to planned transportation: to court facilities, detention facilities, things like that. We usually have that information; the facility will pass it on out of common sense.

We're always dealing with people in day-to-day situations. I just don't know how you could legislate that area. When I show up at your home or somebody else's for a call, we usually find out only afterwards, if we're lucky, that this person might have had a disease.

I'm not exactly sure it would be that big an issue for the policing field; certainly more for paramedics and people transporting people. But most of our transportation is planned.

The Acting Chair: Dr Low, who spoke before this committee, was talking about the same thing on a different scale, about the access to information from hospitals, from data collection, especially in the area of health, whether they had the right to that information to deal with the emergency. I guess that's part of the bigger problem. It comes right down to: Eventually someone has to implement that strategy on the ground, and at what point does privacy have to take into consideration the public safety interest and those providing public safety? Those were the sort of intriguing questions posed to us.

Mr Miller: Certainly we've had that ongoing debate with Bill 105, the blood samples act. The bill was a private member's bill by Mr Dunlop that I think only two members of the Legislature voted against; it had wide support. But unfortunately, when the regulations came in, the bill was badly hurt. We're going into consultations in about 10 days to try to improve the bill. It's a big issue when our members are exposed to diseases and can't find out whether that individual has a disease. It's not just exposure in terms of being airborne; we deal with a lot of blood contamination, being spit at, being bitten. These are things that we face all the time.

0950

The Acting Chair: That's exactly the same type of thing that this committee is grappling with, which is really on a much larger scale—an unprecedented emergency. We're trying to say, how do you deal with that? It's something that we're trying to look at legally and also in terms of the rights of privacy, etc. So Bill 105 is a great illustration. I appreciate that reference. We're looking forward to seeing what happens with your consultation.

Anyway, on behalf of the committee, I want to thank you for a very thought-provoking presentation. Hopefully, you'll continue to be in contact with the committee, as we will with you, in terms of our process of dealing with this legislation on emergency preparedness.

Mr Miller: Thank you very much.

Mrs Sandals: Mr Chair, could we just confirm that leg research will try and find some sort of comment on the question which Mr Miller has raised, which is, if you put a positive authority to enter without warrant one place, is that then implicit that you don't have it at other places because you've explicitly put it at one place? I think it would be very helpful to the committee to get some sort of feedback on that issue, because that's quite an important issue, that in looking at the management of provincial emergencies, we don't want to encumber the management of day-to-day emergencies. So it would be helpful to have some feedback on that.

The Acting Chair: I think that direction has been given to research. We will get that information back and we'll make sure you get a copy of that too. Thank you, Mrs Sandals.

TONY CLEMENT

The Acting Chair: The next presenter is the former Minister of Health and Long-Term Care of the province of Ontario, the honourable Tony Clement. Tony, can I call you that?

Mr Tony Clement: No longer honourable.

The Acting Chair: Before you get started, thank you very much for taking time and interest to help this committee in this very important deliberation, because we're certainly looking forward to your first-hand accounts on the reality of dealing with an extraordinary emergency, as you dealt with in those extraordinary times and, if I may say, I think in an extraordinary way. I compliment you on the way you dealt with that as the Minister of Health. That's why we were very anxious to hear your deputation today. It'd be very helpful to the committee. Again, a deep appreciation for taking time out to be here.

Mr Clement: Thank you very much, Chair. I appreciate your interest in my views on the matter. I took the opportunity to peruse some of the previous deputations over the past few weeks to this committee. I wanted to compliment the committee on its work to date, because even in the discussion I just heard this morning, you get a sense of how enormous the potential is to get things wrong if there is not the right kind of preparedness involved. The amount of spadework that you're doing now, I think, will stand the province in good stead in the future.

What I propose to do, Chair, if this meets with your approval, is that I do have some prepared remarks, and I'd be happy to engage in discussion afterwards.

The Acting Chair: That's fine. Go ahead.

Mr Clement: The unfortunate thing is that we've got a lot to learn from, both here in Ontario and elsewhere. That's the bad news. No one ever wants to talk about emergencies. In a sense, we had a period of time, as I think Dr Young mentioned to this committee earlier, when we had a lull in emergency situations. We had a little vacation, which is surprising, given the size and the complexity of this province. Then, all of a sudden, we had a perfect storm of emergencies, if I can use that language, all of them on top of one another, but also very different in the nature of the scope of the threats. So we had the ice storm, then the terrorism threat, then the pandemic possibilities of SARS, and then the blackout. Now Ontario can boast a wealth of experiences from which to learn. We would not, of course, be joyful that we find ourselves in this situation but, as the adage goes, we can make lemonade out of the lemons and learn our part from the province's experiences.

I wish to confine my remarks to the SARS emergency, although when I was in the role of Minister of Health and Long-Term Care, I was involved in the province's

response to the 9/11 terrorist attacks and the power blackout of August 2003. The SARS outbreak was a signal moment, though, in which all levels of government and every provider of health care faced a common enemy and the need to co-operate and collaborate. Unlike, for instance, a power outage, SARS represented a new and an unknown threat, which goes to your remarks earlier this morning, sir, where it's not planning for the knowable but planning for the unknowable that is perhaps the challenge.

We should recall that, at the time of the spread of the SARS virus, we did not know how it was spread, the length of time of incubation and how deadly the disease could be. The health system was required to respond to something already spreading in our hospitals and doctors' offices, yet so new that it didn't really have a name or many identifiable characteristics when we first learned of the virus.

Given this start to the emergency, I agree with those who have concluded that the health system did well, given the challenges outlined, and the truly heroic efforts of those involved cannot be minimized. Once the emergency was declared, the first time such a move was instituted in Ontario, within hours, the provincial operation centre was up and running and a chain of command was established.

Essentially, there was a three-pronged leadership command that reported to the Premier and decided all major questions. The Commissioner of Public Health, Dr D'Cunha, the Commissioner of Public Safety, Dr Young, and myself as the health minister essentially became inseparable, and our staff fused together to become one organizational unit.

Some have questioned the structure, and it did have its moments of tension, as one would expect, given the circumstances, but I have to say that it worked well overall for three reasons: First, each one of us had complementary roles and skills, which made us more wise, I'd have to say, and knowledgeable than any one of us would have been separately; second, we combined the roles of officials and politicians well, about which I'll say more soon; and third, the troika set-up made sure that most communications were focused and non-contradictory, thereby giving the public coherent and complete messages.

My experiences with this set-up lead me to conclude that it would be difficult to replace it with a single, all-knowing "leader" for the next crisis. In any crisis, you need a combination of skills, experiences and backgrounds. Furthermore, I strongly believe that the leadership must always include an elected official in the mix, similar to the role that I played in SARS.

As part of the troika, I signed off on every SARS directive drafted by Drs Young and D'Cunha, and I also participated in any major media conferences or daily messages to the public. I believe this to be critically important, because the public has a right to expect public accountability by the politicians they elect. If the leadership in a crisis does not include elected officials, the

public quite rightly would ask whether they are shying away from their responsibilities in a time of crisis.

Including political leadership does not politicize the emergency. I would argue that it actually has the opposite impact. By acknowledging up front that the public has a right to hold politicians accountable in times of crisis, we create a signal to the elected officials that we expect that all decisions will conform to the best interests of the public. Any partisanship will be instantly detectable, and the politician will be correctly held accountable for not putting public health above political gain.

In the case of SARS, it meant that, at the height of the emergency, I and my federal counterpart were at pains to work together, even as we disagreed over the need to have better procedures at our borders and airports to prevent community spread. It also meant that I refused to declare the end of SARS at the end of the first outbreak, despite media and public pressure to do so, simply because, in my judgment, this would not have been in the public health interest.

1000

Another lesson for the future is that all planning and legislation must be flexible, lest you end up fighting the last battle. The next pandemic or public health crisis will have elements of similarity with the SARS outbreak, but also many differences. The response structure must be flexible enough to meet any new situation. That is why any emergency legislation must be broad to include powers of evacuation, cordoning off, price stabilization, resource control and so on.

Chair, as you were mentioning earlier, there's a tension, naturally, with this recommendation. From a civil libertarian perspective, this list or whatever list we come up with to fill the gaps—as you so rightly suggested—will appear quite long and indeed quite concerning. Therefore, the lesson to be learned is not to make the list shorter; the lesson is that there must be political accountability and transparency as the necessary counterweight to these powers being exercised in an emergency situation.

Let me give you an example or two. Any orders of evacuation should be countenanced or sanctioned by an order in council unless the emergency is sufficiently proximate as to render that impossible, in which case a ministerial order would do. In SARS, there were times when information was so scarce and the spread of the disease so rapid that I sympathize with the need to move quickly. Nonetheless, various means of communication are available now that make it possible to have rapid response and political accountability at the same time.

Finally, SARS showed the need for consistency in directives. There is some talk in this committee's deputations that next time, individual health providers, be they hospitals or doctors, should make their own decisions in infection control and disease management. I believe this to be a significant mistake, sacrificing the ability to react to a public health danger for the sake of a marginal ability to decide closer to the case.

In my view, this suggestion would create the mirage of better judgment, but in fact a public health emergency

requires the ability of the best minds to consider and react to a challenge, which means the sharing of information and a response which can also be shared throughout the jurisdiction. For instance, when there had been a problem with mask-fitting by nurses, the issue had to be reviewed by experts on a province-wide basis so that every nurse had the benefit of the best safety advice.

This same argument holds for the need for province-wide directives, such as in the case of SARS, in a future health emergency. If there was a problem with the directives, it boiled down to making too many decisions in too little time with no margin for error. In other words, the problem was with the nature of the crisis, not with the proposed solution. Better communications and give-and-take, if possible and necessary, would solve 90% of the problems, in my view.

Ultimately, this committee's mandate involves, as I've said, planning for the unplannable. In other words, the next public health crisis will have some dimensions and aspects of which we are currently unaware. Having said that, we need to learn from our past experiences and be even more prepared for the next time. Part of the wisdom is to learn the right lessons, in that we change the things that need to be changed but also keep the things that helped tame SARS.

I hope my presentation, by focusing in on some of those things that need to be kept as well as the things that need to be changed, assists in separating the wheat from the chaff for the committee.

I thank you for the opportunity, and I welcome any questions.

The Acting Chair: Thank you very much. Mr Zimmer?

Mr Zimmer: Before Mr Kormos stepped out, he alluded to a theme that has been running through these hearings for the last few weeks, and that's two views, one represented in a report prepared by, as he then was, Solicitor General McMurtry in 1981, reviewing some of the Ontario emergency measures situations after the train derailment out in the west end. His 1981 report essentially said that there's enough authority sprinkled around in the common law and various statutes here and there. His recommendation was that emergency measures did not require any further codification or structural review, that it could be handled on an ad hoc basis, relying on the common law and whatever was on the statute books at the time.

The other view that has developed over the last few weeks is that that's not a sufficient system to respond to a crisis, that we need more codification, more structure, more formality; a plan, if you will. In your remarks this morning, you've stressed things like the need for flexible structure. You've talked about the success of your informal troika, as you referred to it. You've talked about the difficulty in planning for the unplannable. A very general question, then: Given your experience, do you think that the system we set up to respond to an emergency in Ontario should lean toward the formal or toward the informal structure?

Mr Clement: Thank you for the question, Mr Zimmer. I would agree with Dr Young that there is a need to fill some gaps. Here's how it worked in SARS, and then you can judge whether this is what you would like officials and politicians to do in a similar situation. In SARS, when we declared the state of emergency, none of us around the table had any experience in declaring a state of emergency before. The minute we did so, there were certain things that happened immediately, such as the activation of the provincial operations centre. In the relationship of the leadership of tackling the crisis, Dr Young joined Dr D'Cunha and me because of his emergency management role.

When we declared the emergency, it wasn't necessarily clear all of the things that we wanted or expected to be done, given the powers that we thought were available to us, so in a sense we were deciding on the powers that we wished to invoke as the situation unfolded. There were times when there would be an interjection by the legal branch, let's say, of the Ministry of Health, saying, "We're not quite sure whether, under the current legislation, you have the power to do what you just did or what you are proposing to do." My view, and I'm prepared to be judged by history on this, was to do whatever had to be done to protect the public and, if someone had to take a fall later by overstretching by overstepping a boundary, I was prepared politically to take that fall. To me, the ultimate litmus test and the judgment would be how we can best protect the public from an unknowable disease at that moment, where we did not know how it was being carried from person to person and we did not know the mortality rates. There were a lot of things we didn't know at the start of this outbreak, which became evident a bit later, but not at the time.

So when it came to deciding how to quarantine people, how to enforce the quarantine, when we were discussing evacuation procedures, when we were discussing at one point cordoning off Pearson airport, and we had a discussion, I recall—perhaps a very dramatic discussion—where someone said, "The airport is not under the authority of the Ontario government; it's under the authority of the federal government," my response was, "OK, how do we close all the roads leading to the airport? If the federal government doesn't participate in this, we'll just cordon off the airport so that they still have control over their airport, but we have control over all the ingress and egress."

1010

I guess what I'm telling you is we always felt we had to do what was to protect the public interest and to protect the public good. Some of that was a little bit messy because it was not clear from the emergency powers what powers were specifically outlined and what powers were not outlined. We ultimately decided that we would do what we had to do, and we would be accountable for any slip-ups along the way after the crisis had passed. If that's an acceptable way for you to expect public officials to react, then you don't have to codify, you don't have to fill all the gaps, and to a great extent,

it's impossible to fill all the gaps because, as I said, there will always be something in the next crisis that will be different from previous crises.

I guess what I'm leaning toward is the view that it is better to at least try to fill some of the gaps, because you don't want a situation where the decision-makers are second-guessing themselves as to whether they have the right power and authority or whether they don't. Again, as long as those decisions are made with the right accountability and the right transparency, that is the public safeguard, that the decisions are made in the public interest and with the right balance between civil liberties and public safety.

Mr Zimmer: Just a follow-up question, then. So your view is to have a system with flexibility and codification, or spelling out some of the key authorities. Which of the key authorities would you spell out and which authorities would you leave on the informal, ad hoc side?

Mr Clement: Based on my remarks and, again, following up on what Dr Young said to this committee earlier, I would make it more explicit what powers of evacuation, what powers of price controls and resource controls are available to the decision-makers. I think that those are some considerable grey areas, so you can fill those gaps. But I would also stress that you are allowing for considerable judgment for the leadership management of the next crisis to respond to the particular circumstances of the next crisis. For instance, if it's a public health crisis, you're going to want to craft legislation that says that the public health officials, on the direction of the government—again, I always stress that there has to be political accountability—are also given such powers and authorities necessary to protect the public health of the community. That's going to be necessarily a broad thing to suggest, but it is going to be necessary because you're not going to be able to think ahead as to what is going to be necessary. As long as there is transparency and accountability when and after those decisions are made, that's a reasonable balance to be struck.

Ms Laurel C. Broten (Etobicoke-Lakeshore): I want to talk for a moment about some issues that we've heard in which it wasn't that clear whom the directives were coming from. I wonder if you can comment on some of the confusion that arises at times of delegation. Clearly, you, Dr Young and Dr D'Cunha were not on the front lines in every hospital, and we've heard some concerns with respect to these extensive powers and how they end up working through the system in terms of authority and direction which get delegated to others to act upon.

Mr Clement: Yes, in terms of the role and responsibility, clearly once the emergency was declared, the Premier officially, by order in council, delegated to me, as the minister responsible for overseeing the SARS outbreak. So, to me, there was a clear line of authority from the Premier, who is the only person who can propose and declare a state of emergency, to the Minister of Health and Long-Term Care. Because there was an emergency state and because it was a public health emer-

gency, that's where Drs Young and D'Cunha became part of this troika.

In terms of the derivation of power, to me, I would say that it was crystal clear who had power and authority: It was Drs Young and D'Cunha and myself, both officially or from a regulatory point of view or a declaratory point of view, and from the point of view of the relationship between us and the providers of health care.

We pumped out a lot of directives in a very short period of time. In fact, the first drafts of the directives were under the pen of Dr Young in about four hours. We went from zero directives to about 30 or 40 pages of directives in four hours. Then what occurred was, once the directives were sent out to the hospitals to at least get some modicum of infection control in the place where SARS seemed to be incubating, there became a constant discussion between the hospitals and the doctors and eventually the nurses on the application of the directives.

Someone would contact our provincial operations centre or our science committee and say, "This directive is not working very well, and here's the reason why." Then there would be another directive that would come out to amend the directive. On one level it became a steady stream of directives, and some people found it a tad confusing, but on the other level we were trying to respond to what was going on in the field and saying, "Hey, you thought this directive was going to work this way, but in fact it's better if it works this way." "Gosh, that's a good point, so we'll go and change the directive."

I don't know how you get around that. On one level, it would be great to have all of the directives in an emergency perfect the first time through, but that's never going to happen. You're going to want to have a mechanism by which the people on the front lines have some input and can react and say, "You know what? This directive is not working well."

At the end of the day, we ended up with a whole pile. The directives were probably this big—a foot high, rather than three inches high—by the end of the outbreak. If we'd had time to consolidate the directives, it would probably end up being about five inches high, but because we kept amending the amendment to the sub-amendment, it got to be quite large. Ideally, you'd consolidate them and continue to make them as precise as possible, but we were doing it based on the new information that was constantly flowing about the nature of SARS and how to deal with it.

I guess what I'm saying in a nutshell is, it's hard to think of a situation where you wouldn't want to have the input that made the directives change, knowing full well that that's going to make it a little bit more confusing than if the first directives were perfect in the first instance, which is what you hope for but what reality sometimes eludes.

Ms Broten: I just want to pick up on the issue of political accountability. The statements you've made are pretty consistent with those we heard from David Collenette, who was in a very similar circumstance to you. He also expressed that it was not always clear that

they had the authority to do what was being done, but it needed to be done, so you did it and you made the decision that you would be accountable for those actions.

I wonder if you can comment on the role that the Legislative Assembly as an entity can play in that accountability. From the federal side, amendments have been made for reporting back to the Legislature in a more formalized manner and there's accountability during question period and other things, but if you can comment on a more formalized structure of accountability to the Legislature.

Mr Clement: I think there are a number of mechanisms that are already in place but could be improved upon. For instance, the commissioner of public health now has a direct reporting role as part of her responsibilities not only to report to the minister but, as I understand it, there's more of a public accountability role there, which I think is germane and positive. Similarly, if the commissioner of public safety could also have that kind of role, I think that is a positive step.

I would also suggest to you that we can learn from other jurisdictions. In the United States, when dealing with security threats, there is always an opportunity for members of Congress on select committees, whether it be the armed services committee or other committees of Congress, to be sworn in and to receive critical information on an as-necessary and a real-time basis.

We tried to do that during SARS. I don't know whether that has been commented upon. The two health critics at the time were Shelley Martel and Sandra Pupatello. At the start of the SARS outbreaks we actually did arrange for a briefing of those two individuals. I believe it happened one or two times in addition, so that they were always up to speed as to what was going on.

1020

That was an informal decision made by the minister. There was no procedure, but it just seemed like the right thing to do and consistent with what I did in other examples, such as the West Nile virus and some other cases where we had these briefings of opposition critics.

If you can formalize that or have a committee structure such that individuals could be sworn in and could also be aware of an emerging situation similar to what they do in the United States, I think that could very easily be grafted upon our emergency management. In fact, as I said, it's very easy to do. With today's communications, unless you have a complete meltdown of your communications infrastructure, you can always keep any number of people informed on a real-time basis. It really is not an issue now, whereas 20, 30 years ago perhaps it would have been.

Mrs Sandals: Thank you for your testimony. It's been fascinating. I too notice the parallel with Mr Collenette's testimony dealing with ministers who've been there and the interplay between professional advice and political accountability and keeping track of that.

I'm wondering specifically, because you were involved with a public health emergency, how you would see powers being divvied up between the Emergency

Management Act and the Public Health Act. It would seem to me that there may be some powers—for example, the power to evacuate or fix prices or control travel—which may be sort of generic and be applicable to a lot of different sorts of emergencies. There may be other powers that you need to invoke during a public health provincial emergency but you might also want public health authorities to have the authority to invoke in more localized health issues. I'm wondering if you could give us any guidance on what should be where.

Mr Clement: That's an excellent question, Ms Sandals. I confess I haven't turned my mind to exactly which powers would be under the Public Health Act and which would be under emergency management. My recollection during SARS was that I basically trolled around various acts of the Legislature to find whatever power I thought I needed or the system needed to make the right decisions.

For instance, when it came to what we called section 22 orders, which were forcible confinement orders in the case of quarantines that were not being kept, I would use the Public Health Act and use the authority under the Public Health Act in order to enforce that. That was where we found it, so those were the powers that we needed.

When you're talking about evacuation, it strikes me that that is more of an emergency management issue because there may be many circumstances in which evacuation is necessary and desirable.

Similarly, issues of price control: We were quite concerned at one point about the availability of masks and gowns and the prices being charged to the system for the masks and gowns. At one point we were going through 80,000 masks and gowns a day or something ridiculous. Don't quote me on that, but it was a big number.

Mrs Sandals: A very large number.

Mr Clement: But those kinds of price issues are more broad than just public health issues.

I guess I'm giving you a bit of stream of consciousness here because I confess I haven't thought about the dividing line. The only thing I would suggest, though, is that, wherever the line is, you ensure that every tool available is part of the management decisions and that whatever decision is made is accountable and transparent. I always go back to that litmus test because there are going to be a lot of decisions made that are going to be very thought-provoking in a free and democratic society. It was not something I wanted to do, to confine people to a hospital room with a guard outside the room, but in some circumstances that is what we threatened.

We had a case in SARS where an individual knowingly went to his workplace even though he was supposed to be quarantined. Whenever public health phoned the house to see how it was going with the quarantine, his wife would answer the phone and say, "Everything's fine; he's in bed. Don't worry, everything's fine." He actually showed up at work.

He made a decision that affected—first of all, he died. And secondly, he infected his coworkers. This is serious

stuff here. If we would have known that, believe me, I'd have been there with manacles and handcuffs to make sure that individual abided by the quarantine orders, and that was earlier on in the outbreak.

The next time we had this kind of issue of enforcing quarantine was when there was a Catholic high school in York region where there seemed to be some potential for spread of infection, so we quarantined the entire high school population. People were being interviewed by the media, high school students hanging out at the mall when they should have been in quarantine. I had to come down hard and it became an international story that the Minister of Health was saying that if he had to drag them into a hospital room and chain them to the bed, that's what we would be doing to end this nonsense of hanging around in the mall rather than being in quarantine.

I'm giving you that example and that story to indicate that at times you will use whatever devices available to you to protect the public interest.

Mrs Sandals: I'd be interested in that case where people were breaking quarantine. Did you feel you had sufficient powers to deal with people who were breaking quarantine fairly easily, or is that one of the areas where you did what you thought you needed to do and dealt with the political consequences later?

Mr Clement: In terms of the quarantine, we felt we had pretty effective powers. I know the federal government realized that their powers of quarantine were quite antiquated and ineffective. We felt we had better powers than the federal government in terms of the quarantine issue. I believe they've rectified that now at the federal level. That was my recollection, that that was all right.

In terms of evacuation, in terms of cordoning off those kinds of issues, I will have to tell you that if we were forced into that situation, we were going to make the decision and then worry about the niceties of the legalities later.

Mrs Sandals: Those would seem to be areas where in fact the power does not exist, and those would be areas Dr Young drew to our attention.

Mr Clement: That's right.

Mrs Sandals: Thank you very much.

Mr Jim Brownell (Stormont-Dundas-Charlottenburgh): If memory serves me right, West Nile trailed SARS—

Mr Clement: It preceded it.

Mr Brownell: It preceded it, OK. I just wonder, with those two medical situations, lessons learned from one to the other, could you just—

Mr Clement: Sure. The first year of human infection of West Nile was the summer before the SARS outbreak. Indeed, in one of these strange ironies and coincidences of the whole story, the first press conference on SARS took place as an "Oh, by the way" kind of addendum to an original press conference that I was having on year 2 of the West Nile virus fight. It was the first inkling of something to the public on SARS. I had a weekend press conference on West Nile virus in Burlington and I said at the end of the press conference, "By the way, media,

there's an emerging story with something called atypical pneumonia." We didn't even call it SARS then, it didn't even have that name. We called it atypical pneumonia. "There's a couple of cases in Scarborough. I've decided to do a further press conference on the Scarborough situation tomorrow, so please stand by." So that was the interplay there.

In terms of lessons learned, the one thing I felt quite strongly about after the West Nile virus experience of the year before was that we really had to tighten up our communications with the public. I felt I was too constrained by both the Premier's office and by the attitude of my own ministry on the West Nile virus fight, that perhaps that led to not everyone knowing that we had a problem with West Nile virus. So I was quite determined, in the SARS fight, to make sure that every bit of information we had in real time on SARS was conveyed to the public. To the extent that it educated me on the need to have constant communications, West Nile virus was a good case in point.

Mr Brownell: Thank you.

The Acting Chair (Mr Wayne Arthurs): Are there further questions from the committee? If not, Mr Clement, we thank you very much for taking the time to come in. We've learned a lot. Having you back here is wonderful from the standpoint of enlightening us, the members of the committee. On behalf of the Chair, the committee and the Legislature, thank you. It's been very helpful to have someone here who has been active in the process first-hand from the legislative function as well.

Mr Clement: Thank you, Chair. Welcome to you too. You're a lot better looking than the previous Chair, so it's good to see things have improved.

The Acting Chair: It won't last.

Could I ask the committee to recess until about five to 11? That will give us time to set up our conference call for 11 o'clock.

The committee recessed from 1031 to 1100.

MOOSE CREE FIRST NATION

The Acting Chair: We will reconvene our committee meeting. I believe we have our teleconference on at this point. Gentlemen, welcome. If you'll just give me a minute or so, I'll do some introductions and we'll go from there.

My name is Wayne Arthurs. I'm the Acting Chair of the committee. I believe on the line from the Moose Cree First Nation we have Chief Norm Hardisty Jr and Doug Cheechoo, the EPR project coordinator, coming from Moose Factory. Is that correct, gentlemen?

Mr Doug Cheechoo: That's correct, Wayne. It's Doug here. Chief Norm Hardisty has just entered his office.

The Acting Chair: Great. If I can, let me just tell you what we're up to here, to put a bit of a framework to it. This is the justice policy legislative committee, represented by all three parties. You'll certainly recognize one of the individuals here as a member, Gilles Bisson. It's a chance to say good morning and hello.

Mr Gilles Bisson (Timmins-James Bay): Good morning, Doug. How are you doing in Moose Factory today?

The Acting Chair: Our responsibility here with justice policy is to review the emergency management legislation of the province, particularly focused, though, as it relates to the scale and scope of emergencies that require provincial intervention or the activation of a provincial emergency plan, over and above what might occur at the local level.

Our process has been one where we've provided a number of deputants or witnesses, either here or by teleconference, an opportunity to provide some insights and comments on emergency management and, following that presentation, an opportunity for members of the committee from each of the parties to ask some questions or enter into some dialogue to seek clarification or additional information. I hope that meets with your liking as well.

If either you, Doug, or the chief is making a presentation, can I ask you as well to identify yourselves for us? All of this is being recorded in Hansard, so we do have a verbatim record of the committee hearing. If it's satisfactory, I can turn it over either to Chief Hardisty or to Doug, whoever is appropriate.

Chief Norm Hardisty Jr: Thank you, Mr Chair. First of all, I'd like to thank Mr Colle for inviting us to speak to you today. I also would like to thank him for visiting our community just recently.

Again, my name is Norm Hardisty. I'm the chief of the Moose Cree First Nation. We are part of the Mushkegowuk region, which is part of James Bay.

We would like to share information with you about our new far north emergency preparedness and response centre of excellence, our overall efforts to improve the emergency preparedness and response in our communities and region and to outline the challenges we are working to overcome.

The first part of our presentation will provide context, where we describe our region and the challenging conditions that our public safety and emergency response personnel face in our far north communities.

The second part will discuss our efforts to address our local and regional conditions and share details on our exciting centre of excellence project.

The third and final portion of our presentation will provide specific recommendations on how we can work together to improve emergency preparedness and response in Ontario, particularly in the far north.

At this point in time, I would like to turn it over to our EPR coordinator, Doug Cheechoo.

Mr Cheechoo: Good morning, everyone. I'd like to start off with part one, giving some background on the EPR. When we say EPR, it's in reference to emergency preparedness and response. We'll be using the acronym EPR throughout the presentation, just for clarification. So I'll begin.

Ontario's far north, home primarily to the Ojibwa and Cree Nations of Treaty 9, consists of 49 First Nations

within a territory that covers two thirds of the province of Ontario, stretching from the Manitoba border to the shores of Hudson and James Bay. In stark contrast to other communities in the province, many of our far north communities do not enjoy a basic infrastructure. This is particularly true in the area of EPR. Most of the communities do not have adequate firefighting equipment, ambulances, hospitals or properly equipped police stations. The EPR situation in the Mushkegowuk region communities, for example, is deplorable in most of the coastal communities. What is taken for granted elsewhere is simply not available for most of the communities in our region.

The conditions of Ontario's far north communities are very different from those of other Ontario towns, and these differences have a significant impact on emergency preparedness and response. These conditions include: the communities are very remote, with many accessible by air only, requiring a much greater degree of EPR self-sufficiency than is the norm for road-access communities; the communities experience a higher-than-average rate of emergencies compared to the rest of the province; the communities have high rates of fire, violent crime and illness, which are caused by extensive poverty issues related to historical factors of colonialism and outside control; many of the houses are heated with wood stoves, with little regulation.

Communities are run by First Nation band councils, not municipal governments. Due to their location, the communities are at high risk for natural disasters, such as flooding and forest fires. Because of the small size of the communities, members of the police, fire and medical services are constantly faced with the potential that they may be involved in rescuing their own family members or close friends. This situation results in different psychological reactions and effects from those of an EPR worker in a large urban community.

Many of the residents of the far north communities speak an aboriginal language as their first language and speak English as a second language. Many of the residents have limited education levels and weak literacy skills, which makes it very difficult for them to enter the standard police, firefighting and medical services employment sectors. Often, EPR roles in communities are filled by non-native outsiders and there is a high turnover rate of employees in this sector.

I have worked in my home community of Moose Factory for many years as fire chief and also as coordinator of the Moose Factory Island search and rescue. I have also worked regionally with the Mushkegowuk tribal council, covering an area that stretches from the Moose River basin, feeding into the southern tip of James Bay, north to the shores of Hudson Bay.

The Moose Factory Island fire department is widely recognized for the expertise of its staff in provincial firefighting competitions. In the year 2000, Moose Factory search and rescue was awarded the national certificate of achievement from Canada's National Search and Rescue Secretariat. As a result of the

expertise we have developed and our reputation across Ontario's far north, Moose Factory search and rescue is a lead player in regional emergency response operations in the Mushkegowuk region. Working in conjunction with the OPP and CFB Trenton, it is routinely called in to provide professional search and rescue support to other communities across the far north.

The types of emergencies regularly experienced in the Mushkegowuk territory include flood threats to the coastal communities, often leading to evacuation, which has meant, most recently, evacuations of Attawapiskat, Fort Albany and Kashechewan First Nations, and search and rescue incidents, usually boating mishaps.

1110

The scale of search and rescue operations varies. The largest was a massive search effort that began on October 1, 1999, lasting 36 days and involving some 550 volunteers and numerous emergency response agencies. This search effort was in response to the James Bay tragedy, a tragic fall-hunting family boating disaster that claimed the lives of eight of our community members. While we were recognized by the National Search and Rescue Secretariat for our efforts during this tragedy, we grieve to know that more could have been done in this situation. We have been striving to address the recommendations from the regional coroner's review of this incident, which included a call for better coordination and communication during search and rescue operations, as well as increased public education.

Search and rescue responses to missing boaters are a frequent event in our territory. These operations are often hampered by poor weather conditions and by vast, swampy areas that are very difficult to traverse. In addition, search areas can increase by as much as three times during low tides because of the flat topography of the region.

The rivers and waters of James Bay are the highways of our people. In fact, this month is a good example of this, as many of our community members are right now out on the land enjoying traditional pursuits such as hunting and trapping. These activities often involve travelling as far as 50 to 100 kilometres by boat, in the spring and fall especially, when weather and travel conditions are at their most uncertain.

The demand for search and rescue operations has risen over the past decade and is expected to continue to increase as the population of the area grows and more of our burgeoning youth population take up their right to traditional harvesting activities. In addition, our region is building its ecotourism industry, and the number of visitors using the land and water is expected to increase dramatically over the next few years. The number of SAR-related incidents has risen dramatically over the last 15 years, with Moose Factory SAR reporting an increase in incident response of 600% since 1990, including a total of 23 fatalities. The OPP stationed in Moosonee, which has jurisdiction over SAR in the western James Bay and Moose River areas, reports a similar rate of increase.

We are determined to further develop our EPR capabilities at the community and regional level to ensure the health and safety of our people, and we are making much progress toward this objective.

Part two of my presentation is going to focus on our EPR centre of excellence initiative. For the past 15 years or more, we have been working strategically to improve public safety and EPR services with all of the communities in our region. Our current efforts are focused in a three-pronged approach that includes: the far north EPR centre of excellence, which is now under construction; the planned institute for far north EPR training and development; and thirdly, the regional EPR strategic planning process.

Our far north emergency preparedness and response centre of excellence is a \$4.5-million, 25,000-square-foot energy-efficient facility currently under construction. Our far north EPR centre of excellence is the result of many years of careful planning, design and partnership development. It is bringing together under one roof our local fire, police, ambulance and search and rescue services, as well as the proposed new Mushkegowuk regional emergency operations centre, dispatching and our new institute for far north EPR training and development.

Development of our centre of excellence facility has purposefully focused on bringing together all of our local EPR providers, being the fire, police and ambulance, along with our regional elements. Establishing a common facility is one tool that we are using to effectively establish increased levels of coordination and co-operation within and between our EPR units at the community and regional level. We are striving toward achieving a greatly enhanced ability to effectively take command of EPR incidents in the future through improved physical structures, as well as organizational development.

We are determined to improve the effectiveness of our inter-agency planning and protocol development, communication, training and public education. All of this will lead to improved emergency response times, more effective response procedures and thus increased public safety and security. Our centre of excellence building is replacing the terribly inadequate facilities the local EPR service providers have had to operate out of to date, including an ambulance bay that was a former PCB storage facility and a police station that was built in 1940.

In addition to providing space for our local EPR services, our centre of excellence will also house our new institute for far north EPR training and development. Our institute will be the headquarters for ongoing regional EPR development and training efforts, including research, planning, coordination and other activities. Situated in the centre of excellence, the institute will greatly benefit from having access to state-of-the-art EPR facilities, professional EPR personnel and communications equipment. Our institute for far north EPR training and development will provide EPR training and development services specifically designed to meet the unique and growing training requirements for aboriginal people and northerners living in remote far north com-

munities. It will provide access to custom-designed courses in a wide variety of EPR-related training and education areas.

The institute will provide a northern EPR environment and operations centre conducive to experiential training formats with ready access to local practitioners of far north EPR. The institute will be equipped to deliver a full array of classroom-based programs, including computer-assisted training and videoconferencing. The institute will thus be able to access training programs from outside and/or deliver training from a distance to other regional partner communities. Part of the institute's activities will be the development and production of native language education and training materials geared specifically for remote northern First Nation communities.

Since the spring of 2004, we have been undertaking a regional EPR economic sector strategic planning process. This included a three-day planning session with EPR representatives from across the region. We are now finalizing a regional EPR strategic plan document that will act as a guide for our ongoing efforts to improve our community and regional capacity to provide adequate public safety and EPR services. We are also finalizing the establishment of a regional EPR committee, which will oversee the implementation of our regional EPR strategic plan, as well as being the management body for our institute for far north EPR training and development.

While our planning efforts are underway, we are also implementing related projects, such as the following:

For the last 10 to 15 years, our community has been hosting training courses in conjunction with the Ontario fire marshal's office, Emergency Measures Ontario, the Ontario Provincial Police, OSARVA and the Ontario occupational health and safety organization. We've been coordinating a number of courses and programs with these agencies here in Moose Factory, and these courses have been organized by the local fire services department, but will eventually come under the auspices of the institute for far north EPR training and development. This training role has been of critical importance in the development of enhanced EPR capabilities for all communities in our region.

1120

We are in the midst of preparing a comprehensive forest firefighting, training and business development initiative so that we can increase our capacity to respond to local fires, as well as sending crews out to respond to outside firefighting needs.

We are also preparing to implement a two-year regional public safety awareness campaign called Rise and Survive. We are anticipating funding approval for this project shortly from the National Search and Rescue Secretariat.

Through our regional EPR strategic planning process thus far, we have gained a greater understanding of the needs of our member communities and have developed a direction and focus for our efforts. Our regional vision statement is "Safe, thriving communities with strong, capable and effective public safety systems in keeping

with our ancestors' path of knowledge, preparedness and survival."

We have established five goals for our region. They are as follows: (1) strengthen our EPR capabilities at the community level; (2) strengthen our EPR capabilities at the regional level; (3) generate needed financial resources; (4) establish improved arrangements with outside EPR agencies; and (5) have strong economic development and business interest and support.

There are three specific areas identified thus far in our strategic planning process that may be of particular relevance to your standing committee deliberations. With regard to our goals (1) and (2), strengthening EPR capabilities at the local and regional levels, we have discussed the development of community response units and regional response units. If these can be effectively established, these units would greatly improve our EPR capabilities. We will be looking at this further and developing these over time.

Also, with regard to goal (1), strengthening EPR capabilities at the local level, we have identified a new mechanism for the small, remote far north communities that currently do not have any full-time EPR staff in place. We envision EPR technician positions with the responsibility for prevention and response coordination, including a lead role in preparing and responding to community disasters. These EPR technicians would work throughout the year with community volunteers in all EPR areas, including prevention, response, forest fire-fighting, search and rescue and so on. These individuals would lead the envisioned community response units. These positions would need resourcing and training to enable them to fulfill their role.

With regard to goal (4), improved arrangements with outside EPR agencies, it is our experience that there is a need for a review of EPR-related protocols in the province specific to their effectiveness for remote far north communities. In our discussions we have identified numerous examples of ineffective response and wasted money due to current statute limitations. Often our local response mechanisms are directed to idly wait until EPR resources from outside of the region are mobilized and brought in at great public expense. At other times, simple, inexpensive preventative steps are ignored, leading to very costly response situations.

One example of this is the current volume of the DND Hercules rescues in our region, which could be greatly reduced at great public savings if resources could be identified to enable greater use of satellite phones for those travelling on the land to remote camps. Another potential example would be the use of the Nishnawbe-Aski police services instead of the Ontario Provincial Police for search and rescue efforts in our far north region.

The bottom line in this regard is that our far north region has unique characteristics. We believe that a detailed joint review of the current situation would generate practical response-improving and money-saving changes to the current regime of protocols and statutes.

As a final comment for this portion of our presentation, I want to urge the standing committee to fully recognize that in almost every far north community in Ontario, the current level of EPR personnel, facilities and equipment is completely inadequate, and that is completely unacceptable. In this day and age, in this province of Ontario, it simply cannot be acceptable for far north aboriginal communities such as Fort Albany and Kashechewan to have to put up with Third World or even Fourth World EPR conditions.

Part 3 of our presentation brings us to the recommendations. We have made great strides, working from the ground up, in further developing our capacity for effective and efficient EPR services in Moose Factory, but there is still much to do, particularly if we are to achieve adequate emergency services for the entire region. We have a good record of preparing for and responding to emergencies here in Moose Factory because we have a history of people working together and we have worked hard at bringing training to our staff and volunteers. However, as Dr Young pointed out earlier in his deputation, preparedness and response alone are not enough. We concur with Dr Young that appropriate systems and infrastructure must be in place so that we are ready to handle any conceivable emergency. We do not want to be caught building the boat while at sea in the middle of a storm either.

We believe our centre of excellence and our initiative may be a good model for others to learn from, not only in the far north but right across Ontario. Many of our EPR contacts across the province and beyond have expressed great respect for the concept of bringing our EPR providers all together within a single state-of-the-art facility.

We will continue with our community and regional efforts to acquire adequate resources to develop up-to-date systems and equip and train ourselves to an adequate level. We will do this to increase our prevention and response capabilities, and we do intend to increase our reliance on our primary EPR providers in our communities and regions. Over the coming months, as part of further development of our far north EPR centre of excellence facility, we will be working with our project partners to finalize our communications and information technology plans for our facility. This includes a 911 system, dispatching, our regional emergency operation centre and our training facilities. We would certainly welcome involvement by the province in this process for our mutual benefit.

In order for us to move forward with success, we are tabling the following recommendations:

(1) That Ontario recognize the need and actively solicit the involvement of First Nations' leadership in negotiations between Canada and Ontario regarding the ongoing delivery of EPR services to First Nation communities;

(2) That the province work with our far north aboriginal leadership to launch a joint action committee to review the current state of EPR facilities and equipment

in the far north communities in Ontario and to develop and implement action plans to bring all of these communities up to acceptable standards in this regard;

(3) That a pilot project be jointly established by the province and the far north to investigate the impact of current EPR statutes and protocols on the far north, including a review of current and recent examples where existing statutes and protocols are causing EPR response delays and are leading to waste of financial and other resources, and, further, to jointly develop a far north statutes and protocols improvement action plan;

(4) That the province appoint a lead contact who can work as the provincial interagency coordinator to support our efforts in the Mushkegowuk region to enhance our EPR capabilities in our region and communities and the implementation of our regional strategy; and

(5) That Ontario work closely with our far north EPR centre of excellence initiative to assist with further development of our communications and information technology infrastructure plans for the future benefit of our region and Ontario.

1130

The Acting Chair: Thank you. Before we move to the committee, just a couple of comments. One, thank you for your insightful and thoughtful presentation, and congratulations on your centre of excellence facility. It sounds like a tremendous amount of work has gone into that and it's going to be a tremendous benefit.

Our process from this point provides opportunities for committee members from each of the parties to ask some questions to garner some additional information. If I can just ask you one more time, both Chief Hardisty and Mr Cheechoo, if you're responding, if you could give us your name again; it's for the purpose of Hansard. I'm going to begin with Mr Bisson.

Mr Bisson: Good morning, gentlemen. It's OK; you can say hi, Norm.

Chief Hardisty Jr: Hi.

Mr Bisson: I've always hated these telephone conference things. They're really hard as far as the dynamics of being able to ask questions. I guess my first question is actually to the clerk, if we can get a copy of that submission. I take it, Doug, you could provide a copy to the clerk so that we can have that?

Mr Cheechoo: Definitely. I can e-mail it, if I can get an e-mail address.

Mr Bisson: Katch, our clerk, will give you a call after and work that out. That would be useful, especially when it comes to the recommendations.

I think it was recommendation (4), in regard to appointing a contact person or somebody that you are able to work with in the ministry: Has that been floated with the ministry already, and if so, what kind of feedback did you get?

Mr Cheechoo: No. Actually, that hasn't been formally requested or floated to the ministry at all yet.

Mr Bisson: OK. I was just wondering if it had, because that's probably one of the key things. I recognize as well as you do that part of the difficulty is that the

James Bay, even though it's a big part of the map, is not on the map of most people as they're looking at police services and emergency services. This is no fault of any particular government; it's just, unfortunately, the reality. That would go a long way, so I think that makes a lot of sense.

The other thing, and I guess it's just for the benefit of our committee members, because the finance committee recently experienced the fortune, I would say, of having come to some of our communities up north. I think that Mr Zimmer, who's here, who served on that, as well as others, came away from that recognizing that the challenges we have in all of our northern communities are far beyond what people ever expected.

Specifically to emergency response, I just want to stress for committee members, when Doug and Norm talk about inadequate Third World and possibly even Fourth World conditions when it comes to emergency services, they ain't kidding. We're talking about, for example, in Attawapiskat, the Nishnawbe-Aski police, who are the police for that part of the region, don't even have a motor for the boat so they can go out and try to find a drowned victim or somebody who may be in trouble. Very basic things. The lock-up facilities in Kashechewan and most of our communities are just terrible. If we were to lock people up in the city of Toronto in the conditions that we lock people up in from Moose Factory up to Peawanuck, the Toronto Star, The Sun and everybody would be jumping on it as a scandal. Quite frankly, I think people need to understand that they're not just kidding when they say Third and Fourth World conditions. We're really, really, really in bad shape.

In fact, in a lot of our communities, we don't even have ambulances. Just recently, because of the visit of George Smitherman coming up to the north, we've just approved the money necessary to put emergency services as far as ambulances in Fort Albany. But we had been working on that for how long, Doug? How long have we been trying to get ambulances up in Kash and Fort Albany? Years now.

Mr Cheechoo: Quite some time.

Chief Hardisty Jr: Sure.

Mr Bisson: The thing is, it shouldn't take that much effort to make some of these basic things work. I just want to echo what these two gentleman are saying. We may be far away up on the James Bay, but there's still 11,000 people in need of services. Quite frankly, when you can't even rely on the very basic services, it's pretty terrible.

I just want to convey one story from Chief Mike Metat out of Fort Albany. When I was up there one particular time a couple of years ago, one of the committee members had a heart attack, and here it was 35 below zero outside. They had an ambulance but there was no garage so they couldn't start the ambulance, and we had to cart the patient out of his house and into the back of a pickup truck at 35 degrees below zero to the hospital facility in Fort Albany. It's needless to say what that does for the patient. We can't even count on the very basic services.

The recommendations that Doug and Chief Hardisty make in this report are, I think, key. It comes back to what people have been talking about in this committee, and that is, we need to resource these people. We need to make sure that we have the funding and the resources necessary in order to make things work.

I now want to come to just one question, Doug. I wasn't quite clear what you were alluding to in your presentation—I wish I had the report with me because I'd be able to reference it a lot easier—that is, the better use of existing facilities or services rather than bringing in the OPP from out of Timmins or North Bay or wherever. You referred to the Hercules. I know what you're talking about. When we need to evacuate communities, we bring in the national defence Hercules, but I didn't quite get what you were getting at there. Can you explain that one a bit more?

Mr Cheechoo: Responding to Mr Bisson's question or request for clarification, when we talked about improving response systems and making every effort to utilize our limited resources right across the province, I guess we can say, we make every effort to get the authorities that have the mandate in the province to respond to search and rescue incidents, namely, the OPP. We give them a call and we advise them that we got a call from whoever, a family, or at times it's been Nishnawbe-Aski Police Service, and the Moose Factory search and rescue or the Moose Factory fire department gets a call. We advise the OPP and we give them the information. They ask us to stand by. In the meantime, family members start calling us. These people are stranded out there. They need help right away.

So we're kind of caught between a rock and a hard place, you could say. We're waiting for the authorities, the OPP, and they take some time. I guess it has to go all the way through their system. I don't know how far it goes; to Orillia, probably. Those decisions have to be made, and it takes time. In the meantime, we know we can respond by canoe, with some of our own expertise and traditional knowledge. We may have a helicopter on site that we can hire immediately and respond.

It's very difficult to try to work with the system and the authorities in the province. There have been times when the OPP helicopter had to come from Sault Ste Marie or even Sudbury. They've run into weather delays and it has sometimes taken two days to get on site. In the meantime, they tell us, "Can you just stand by? Do not respond. Wait for us. Hold off. Don't go." We had to make some tough decisions. We've said, "No. We've waited long enough. We've got to go because there is somebody in need of help. We can't wait any longer." Those kinds of protocols, procedures and policies have to be reviewed. We have to utilize the local expertise to respond in the quickest, most efficient and effective manner.

With regard to the DND Hercules and so on, yes, there are times when they are needed, but there are also times when perhaps, by building local capacity, strengthening our capacity and providing some resources and equip-

ment, maybe we can respond to those incidents where they're not as serious and do not necessarily warrant the dispatching of such major pieces of equipment, costing enormous numbers of dollars. From that perspective, I think we can certainly meet many needs in terms of the financial cost, building capacities and so on, working together co-operatively in the whole province. I think that's where we're coming from.

Mr Bisson: Doug, just another two quick questions. The first one: In the event that you needed a helicopter to come in to do a search and the OPP is not able to get there, if you go out yourself and get one of the choppers up in Moosonee/Moose Factory to do that, is that borne by you or are you able to bill that back to the Solicitor General?

Mr Cheechoo: There are very few times I can recall that the Solicitor General has taken responsibility for those costs. Most of the time it's either Moose Cree First Nation or Moose Factory search and rescue that has taken responsibility for those costs.

Mr Bisson: It would have been cheaper to use the local choppers, I would imagine, in many of those cases, right?

Mr Cheechoo: Definitely.

Mr Bisson: I think that's what we're trying to stress here, the ability to utilize some of our local resources.

Do I have time for one other question?

The Acting Chair: Yes.

Mr Bisson: The other question was in regard to the budget for the training facility itself. Can you bring us up to date, where you're at as far as any core funding that would help cover the cost of doing the training once the building is up and running, as far as training people in emergency response at that facility?

1140

Mr Cheechoo: Unfortunately, at this time we do not have a budget for the training component, but that's something we're certainly going to be working on in the near future. When we had the sod-turning ceremony to initiate the construction last year, we had the Ontario fire marshal's office instructors on-site, so we invited them and they were quite excited and committed to coming up to continue doing the training they've been doing. Likewise, we're going to be utilizing the provincial agencies that are out there like we've been doing over these years. We've been working with the OPP, the Ontario fire marshal, and obviously we'll be getting into the ambulance services for them to provide some training. I guess we'll be looking at, as far as cost, maybe some of the training materials, the operational costs for the institute and obviously some travel costs for the participants and so on. A budget? No, not at this time. We don't have a budget, but it's something we'll certainly develop in the near future.

Mr Bisson: Just to committee members, and I'll end on this note: Some of you—in fact, Mr Colle, who is here—would have seen the facility that's being built. It's probably second to none as far as a facility. My worry is, and that's why I asked that kind of leading question: It's

nice to build a facility, and we thank the heritage fund and others from the province who funded it, but we need to make sure we've got the dollars so that it can function. We need dollars on the core side in order to have the money necessary to train people on James Bay and other parts of the north when it comes to emergency response.

The Acting Chair (Mr Mike Colle): I'm back. I was in the middle of a cabinet presentation on another matter. I want to say hi to Chief Hardisty. Norm, how are you?

Chief Hardisty: Pretty good, Mr Colle.

The Acting Chair: How's the weather up there?

Chief Hardisty: It's really nice.

The Acting Chair: Yes. It's always beautiful in Moose Factory. And Doug, hello; how are you?

Mr Cheechoo: I'm doing fine, thanks.

The Acting Chair: Thanks so much to both of you for taking time out, as I'm sure Gilles Bisson, the MPP, said. Those of us who have travelled up to the beautiful James Bay basin discovered this pearl called Moose Factory, and in the middle of the pearl was this state-of-the-art centre which I think is exactly what this committee has been trying to find as part of the solution to emergency management and the needs that exist, especially in northern rural parts of Ontario. In fact, I've been talking with a number of my colleagues—David Zimmer was there with us too—about how maybe this could be used as a model, not only from a physical perspective but also for a training centre, whereby people from all over Ontario could almost go to Moose Factory. I think that was one of the questions I had: Is the centre going to be a focal point for updating emergency preparedness training, and is that going to be available to different government or municipal bodies throughout Ontario? Is that what your plan envisages?

Mr Cheechoo: If I can respond to that: Definitely the training institute is going to be open to anybody in Ontario, or anybody across the country, for that matter, who's interested in accepting or taking some training out of this facility, the training institute.

The Acting Chair: Yes. That's one thing we've heard over and over again. We just had the Police Association of Ontario talk about emergency preparedness training. It would certainly fit in with the approach of making people prepared. On top of that, you have the experience of many years of emergency response. I know that you, Doug, were telling me about the number of activities you've had to respond to over the years. Can you give us a couple of examples, just to put on the record, of some responses you've had in recent years?

Mr Cheechoo: The major incident that we responded to and coordinated was the James Bay tragedy that happened in 1999, about this time of year. I spoke to it a bit earlier in my presentation. It was a multi-agency coordinated response and effort. It ran in great expanse, but overall we were able to recover the victims of the tragedy and we brought some closure. It was quite successful in terms of coordination and working with the many agencies that were involved.

There have been other incidents that we've responded to in assisting other neighbouring communities. We've

been up to the community of Peawanuck to assist with some search efforts for a missing community member. Up in the communities in Fort Albany we've responded to some requests, and also in Kache and Attawapiskat. We've grown and established SAR to be recognized as a leading agency to respond to a number of different types of agencies, and we continue to play a lead role in that whole area.

The Acting Chair: I guess the key thing is that you've had the experience and the realization—you have to have this multifaceted, multi-agency response, right? One provider cannot do the job. That seems to be the whole philosophy behind your approach.

Mr Cheechoo: Yes, that's very true. There have been many times in a lot of incidents where we've had OPP personnel compliment our work. I'm quite positive and quite sure that they've learned some things from us also. Likewise, we've learned a lot from them. There's some good collaboration and there are good working relationships there.

The Acting Chair: Doug and Chief, I'm going to now send it back to other members of the committee who want to make a couple of comments.

Ms Broten: Thank you for your leadership on this issues of emergency preparedness and management. One of the reasons this committee identified the need to speak to communities outside the larger communities that most of us are familiar with is that the mandate of this committee is to look at provincial emergencies—an emergency that would be of such a large nature or scope or however you might define it. That's one of the objectives of this committee, to determine how we would respond, what powers we would need as a province. I want to ask you to speak about that issue.

The city of Toronto would have a large layer of resources that they could turn to simply by being a large metropolitan community, in the wake of SARS, for example—city of Toronto health, city of Toronto police etc. If we were to look at some type of emergency that would occur in our northern communities—for example, a forest fire—I wonder if you could share with us at what point in its size or breadth of emergency you would need assistance from the province and would no longer be able to cope with that on your own in terms of the resources you have.

Mr Cheechoo: If I can take a good shot at answering that question: I want to utilize an incident that happened in a remote community, I believe it was just last year, where they had an aircraft that went down. I believe it was in Summer Beaver. This happened last year, where there were maybe up to seven or eight community members who perished in that accident. I followed the news quite a bit and from what I could tell, nobody, not even the province, was quite prepared for such an incident to happen.

In remote communities in the province there's a lot of air traffic. Some of the aircraft we're getting are a fair size. We have Dash-8s that hold up to maybe 30 passengers. I would say that for an aircraft incident, and

with the diseases that are surfacing—we don't know what's going to pop up next. I think with any potential type of disease that could surface anywhere in the world, and especially in Ontario—even like the hurricanes. We're having all kinds of different types of weather and different weather situations in all parts of the world, and we're surrounded by water. I think we have to take a good inventory of potential disasters that could happen in our area and be prepared, and I think for those types of things we'll certainly need some big-time help from Ontario.

Ms Broten: Thank you very much for your response.

1150

Mrs Sandals: Good morning, gentlemen. Thank you very much for your presentation. You've mentioned the issues of protocols and statutes several times and sorting that out. I'm just trying to get an understanding of what we're talking here in terms of jurisdiction and who's responsible for what.

I take it when you talk about your region, essentially you're talking about the whole James Bay watershed. Is that true?

Chief Hardisty Jr: Good morning again. This is Chief Norm Hardisty. In any operation that we get into, and in this case it's emergency preparedness, I really feel that a lot of the input has to come from the grassroots people who are in the immediate area. I really feel that some agency, some organization, has to play a lead role.

In regard to your question, I really feel that common sense comes into the picture when we respond to an emergency situation—the fact that we are here, we need to play that lead role, which is inclusive of involving Canada and also the province. We need to take a look more at the common sense approach rather than looking at statutes or any type of policies that are simply not working for us. We need to work right from this area and say, "OK, this involves everybody." Certainly we need to meet the immediate needs that are here.

Mrs Sandals: Just for the clarification, though, of those of us who are located down here in southern Ontario, when you talk about that area, are we dealing with some parts of the land mass that would be under control of band councils and others that would be unorganized territory, not necessarily under control of band council but not a municipal structure either? Is that true?

Chief Hardisty Jr: If we look at the historic picture of Moose Factory and the Moose Cree people, we have an area of about six million hectares that we refer to as our homeland, traditional territory. We take responsibility, and we always take guardianship of the lands within our area. When it comes to any land, water or air emergency, we certainly feel that there is a need for us to respond to these situations.

Mrs Sandals: OK. But you've mentioned federal response through DND. You've mentioned provincial response through the OPP. You've mentioned your own search and rescue, which seems to be very active in your area. I'm just trying to get a handle on who does what and when you would call on the federal jurisdiction,

when you would look after it locally, when you would call the OPP. That's not clear to me, when and why different organizations are being called.

Mr Cheechoo: It's Doug Cheechoo. I'll make an effort to answer that. When you say, "It's not clear to me," you're not the only one it's not clear to. It's something that we have to work around and work with when the time arises. It does create some confusion. That's why we're asking that protocols and statutes—it's time to review and amend and to include community agencies that have the ability and capacity to respond to incidents now.

We're talking about protocols and statutes right from the top. If we're talking about the federal government, they enter into discussions for agreements through the province to the communities in Ontario. We have to be involved at those levels also and become more involved in those discussions and negotiations.

Mrs Sandals: So this is really then a three-way discussion that involves the federal government, the provincial government and the First Nations people, who are actually the people on the ground.

Mr Cheechoo: Exactly. It's got to happen at that level. It's also got to be incorporated into policies and procedures of the agencies throughout the province on how they're going to work more with the grassroots people or the community agencies and departments.

Mrs Sandals: Thank you very much. That's helpful. We can all continue to be somewhat confused.

The Acting Chair: I guess that wraps it up. It's Chair Mike Colle. Really, on behalf of the all the members of this committee, we do appreciate you taking this time to give us an insight into an excellent example of co-operation and emergency response coordination that you're undertaking in Ontario. That's why I think the number of us who were on the committee that heard deputations up in Moose Factory in regard to revenue-sharing, Gilles Bisson's bill, were quite struck by this example of necessity being the invention—I can't think of that phrase.

Mr Bisson: Mother of invention.

The Acting Chair: Yes, necessity being the mother of invention. But you've had to do it because there's nobody else there to do it for you.

On behalf of the committee, I want to commend certainly the Moose Cree First Nation for this outstanding leadership you've shown. I think you can give us, and the rest of Ontario maybe, an example of a model that we could use to the benefit of all Ontarians.

I want to give special thanks to Chief Norm Hardisty Jr, the chief of the Moose Cree First Nation. Thank you so much, Chief, for making yourself available.

To Doug Cheechoo, the EPR project manager for Moose Cree First Nation up in Moose Factory—someone told me it's the oldest English-speaking settlement in Canada or North America. That's an amazing place. I just talked to a member from Sarnia, you'll be glad to know, Caroline Di Cocco, and she said she visited Moose Factory to see the tour. She stayed at the Eco-Lodge too.

I think you've got the makings of an interesting place where maybe emergency preparedness first-line responders can go from all over Ontario to Moose Factory and get a hands-on course on emergency preparedness right there from experts like yourself.

Again, on behalf of the committee, congratulations on your hard work over the last five years you've been working on this. Best success, and hopefully through the work of this committee we can enhance the good work you're doing up in the James Bay basin.

The last thing I'll say is, I was certainly impressed that the Moose Cree First Nation has taken it upon themselves to be the stewards and guardians and protectors of over six million hectares of this province. We shouldn't take that for granted either.

Mr Bisson: I'd just point out, it's not only Moose Cree but every other First Nation.

The Acting Chair: Yes. It's amazing work they do, to take on that responsibility.

Again, thanks to you both. Please give our regards to all the wonderful people up in Moose Factory.

Chief Hardisty Jr: Thanks, Mr Chair. I'd like to make a brief closing comment.

Mr Bisson: Yes, but before you do, say hi to Charlie Chicken for me.

Chief Hardisty Jr: OK. I'll do that.

I just wanted to thank Doug for his in-depth and comprehensive presentation on behalf of Moose Cree. I also wanted to thank the Chair and the committee for listening to us. We apologize for not being able to make it there in person, but certainly our presentation was made very clear. The bottom line here is: Canada, Ontario and the Moose Cree First Nation, along with the communities here, need to work together to ensure that we have—I think the buzzword here is "adequately funded emergency preparedness operations." That's what we're shooting for. It is our hope that the province can help us in that regard.

Again, I thank you all, and have a nice day.

The Acting Chair: Thank you, Chief and Doug, again.

Members of the committee, we're going to adjourn until 8:30 am tomorrow in room 228 upstairs.

The committee adjourned at 1159.

CONTENTS

Wednesday 13 October 2004

Emergency Management Statutes Review	JP-323
Police Association of Ontario	JP-323
Mr Bruce Miller	
Mr Tony Clement	JP-329
Moose Cree First Nation	JP-334
Mr Doug Cheechoo	
Chief Norm Hardisty Jr.	

STANDING COMMITTEE ON JUSTICE POLICY

Chair / Président

Mr David Oraziotti (Sault Ste Marie L)

Vice-Chair / Vice-Président

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

Mr Michael A. Brown (Algoma-Manitoulin L)

Mr Jim Brownell (Stormont-Dundas-Charlottenburgh L)

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

Mr Kevin Daniel Flynn (Oakville L)

Mr Frank Klees (Oak Ridges PC)

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

Mr David Oraziotti (Sault Ste Marie L)

Mr Mario G. Racco (Thornhill L)

Mrs Elizabeth Witmer (Kitchener-Waterloo PC)

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)

Also taking part / Autres participants et participantes

Mr Gilles Bisson (Timmins-James Bay / Timmins-Baie James ND)

Clerk / Greffier

Mr Katch Koch

Staff / Personnel

Mr Albert Nigro, legislative counsel

Ms Margaret Drent, research officer,

Research and Information Services