



**Legislative Assembly  
of Ontario**

Second Session, 40<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Deuxième session, 40<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Thursday 27 February 2014**

**Journal  
des débats  
(Hansard)**

**Jeudi 27 février 2014**

**Standing Committee on  
Justice Policy**

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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  
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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

Thursday 27 February 2014

Jeudi 27 février 2014

*The committee met at 0833 in committee room 2.*

### MEMBERS' PRIVILEGES

#### MR. CHRIS LEWIS

**Le Président (M. Shafiq Qaadri):** Chers collègues, j'appelle à l'ordre cette séance du Comité permanent de la justice. Je voudrais accueillir notre prochain présentateur, Commissioner Chris Lewis, of the OPP, who will be sworn in by our able Clerk.

**The Clerk of the Committee (Ms. Tamara Poman-ski):** Do you solemnly swear that the evidence you shall give to this committee touching the subject of the present inquiry shall be the truth, the whole truth and nothing but the truth?

**Mr. Chris Lewis:** I do so swear.

**The Chair (Mr. Shafiq Qaadri):** Please be seated, Commissioner Lewis. Welcome to Parliament. I know you are well familiar with the protocol here. You have five minutes in which to make your opening address, followed by questions in rotation. Please begin now.

**Mr. Chris Lewis:** Thank you, Mr. Chair. Good morning, committee members. It's my pleasure to appear before you here today. I'd like to thank you for the opportunity to inform you about the role of the OPP in this matter that is being reviewed by your committee.

I will outline for you the progress that the OPP's ongoing investigation into the allegation that government emails were illegally deleted. It is alleged that the deleted emails related to the cancellation of the construction of two gas power plants in Ontario. But I want to be clear that the OPP is not investigating the cancellation of the two power plants—just the alleged deletion of emails.

I know, however, that you will appreciate that questions on the specifics of any evidence collected to date, if I answer them, would potentially prejudice the prosecution of any offences that may result from this investigation. There is a significant public interest in preserving the integrity of the criminal investigation and ensuring that any persons that have committed offences are ultimately held accountable for their actions before a court of competent jurisdiction.

As always, any police investigation must respect the charter rights of every person, including the right to not be subject to unreasonable search and seizure, the right to legal counsel and the right to remain silent.

Let me start by bringing you up to date on the OPP's ongoing investigation into the alleged illegal deletion of these emails. In June 2013, two members of provincial Parliament requested an investigation based on reports that emails related to the cancellation of the two power plants had been illegally deleted. If government representatives have reason to believe that a criminal offence has occurred, they file a complaint and the OPP may initiate an investigation.

I can confirm that the OPP commenced an investigation under the direction of a detective inspector from our anti-rackets branch. This major case manager is heading up a team of investigators from our economic crimes section. Additional investigators from the anti-rackets branch are supplementing this team as required. Support staff from our evidence management unit have also been utilized to manage and process evidence seized for review, and OPP investigators have conducted interviews with more than 20 people during the course of this investigation, which has focused on the greater Toronto area and Queen's Park. These interviews have provided the investigators with an understanding of the individual roles and the structure of the former Premier's office, and I am told by our investigators that the OPP is receiving good co-operation from senior government officials in this matter.

I should also mention that Information and Privacy Commissioner Dr. Ann Cavoukian and her staff have also been very helpful to the investigators working on this case.

As you're probably aware, the OPP executed a search warrant last week related to this investigation and seized a number of hard drives from government computers. The investigators are examining these exhibits for items of evidentiary value. As you know, an enormous amount of data can be stored on a variety of devices, such as compact discs, thumb drives and hard drives. It is not unusual for the OPP to seize thousands of gigabytes of information in some of these investigations. This data analysis is a lengthy and complex process, but a thorough review of these exhibits is essential for a proper and complete investigation. This particular effort requires a complex, multi-faceted criminal investigation. I can tell you that the OPP is devoting the necessary available resources coordinated through our major case manager to conduct a complete and thorough investigation into the allegations.

I should point out, though, that our electronic crimes section is currently stretched for resources and each new case creates a bigger workload and backload, so I cannot predict when this intense investigation into the allegedly deleted emails will be finished or whether charges will be laid.

The OPP has investigated crime and corruption offences through our anti-rackets branch since its formation in 1960. The anti-rackets branch consists of police investigators, civilian staff and forensic accountants. The criminal investigative expertise of these teams is often utilized throughout the province in both OPP and municipal police jurisdictions. These cases are often multifaceted and their offences are frequently not easily recognizable. They require dedication and a diverse skill set to bring them to a successful conclusion.

Co-operative partnerships between police, legal experts, information management specialists, information technology specialists and forensic accountants are essential. The complexity of these cases drives the time required to complete the investigations.

**The Chair (Mr. Shafiq Qadri):** Loath as I am, Commissioner Lewis, to interrupt the commissioner of the OPP, the time is now expired. I now move to the first line of questioning. Mr. Tabuns of the NDP, you have the floor for 20 minutes.

**Mr. Peter Tabuns:** Good morning, Commissioner. Thank you for being here today.

**Mr. Chris Lewis:** Good morning, sir.

**Mr. Peter Tabuns:** I understand that there are constraints on what you can tell us today, and you've outlined some of that in your opening remarks. Can you tell us how many investigations the OPP currently has under way regarding the Ontario Liberal government?

**Mr. Chris Lewis:** I cannot state with certainty. Of course, we're still conducting an investigation into the issues around the Ornge ambulance air service and this investigation. Other than that, I don't know any off the top of my head.

**Mr. Peter Tabuns:** All right. And you said in your remarks that you can't currently give us a timeline on when you expect this investigation to be complete.

**Mr. Chris Lewis:** I cannot. I never can on an investigation of any kind.

0840

**Mr. Peter Tabuns:** All right. Would you be willing to provide the warrants that were issued to the OPP with regard to the data centre?

**Mr. Chris Lewis:** I would not. They've been sealed under court order.

**Mr. Peter Tabuns:** Which court issued them and which court sealed them?

**Mr. Chris Lewis:** I do not know.

**Mr. Peter Tabuns:** Is there anyone in the OPP who would know and could tell this committee?

**Mr. Chris Lewis:** The officer in charge of the investigation would know. They're sealed under court order so there would be quite a legal discussion around the ability

to turn those over to the committee, but I don't know the exact answer to that.

**Mr. Peter Tabuns:** Who is the officer in charge of the investigation?

**Mr. Chris Lewis:** Detective Inspector Paul Beesley.

**Mr. Peter Tabuns:** Okay. Can you tell us the kinds of charges that you are considering laying in this matter? I'll just preface this by saying that when I read the Archives and Recordkeeping Act, there were no penalties in that act. So clearly it isn't the ARA that's the centre of this. Which sections of law are you relying on?

**Mr. Chris Lewis:** We're conducting a criminal investigation, so we're looking at the Criminal Code of Canada. I cannot say that charges will be laid. I cannot say that a criminal offence has occurred.

**Mr. Peter Tabuns:** I understand that.

**Mr. Chris Lewis:** But certainly in the original complaint there was a reference to a potential breach of trust, criminally. If in fact emails were destroyed, is that destruction of data? Would that fall under a criminal mischief charge within the Criminal Code? I don't know.

I'm in an interesting position as commissioner, in that at any given time we have hundreds of thousands of investigations ongoing—certainly not of the public interest, potentially, of something involving government, but some very serious charges. In fact, we had two people shot and killed last night in the Napanee area of Ontario. So I cannot know all the details of these. In very significant cases like this, I deliberately don't know the details because I don't want to inadvertently say something in the media or at any time that may prejudice the investigation or subsequently hurt a prosecution. I'm sure no one in this room would want that to occur.

**Mr. Peter Tabuns:** Absolutely true.

**Mr. Chris Lewis:** I know very high-level details.

**Mr. Peter Tabuns:** I'll see if you know the next detail. When we first had Information and Privacy Commissioner Cavoukian come forward with her report, we understood that there was a data centre in Guelph and there were computers here at Queen's Park and the Ontario public service. This data company didn't figure in any of our understanding of what was part of the infrastructure for providing data services. What's their relationship to Queen's Park? What services do they provide and why would they have hard drives that were of value to you?

**Mr. Chris Lewis:** I don't know the exact details of it, but I am aware that computers were being stored at that facility. Through what mechanism or process, I don't know.

**Mr. Peter Tabuns:** All right. You noted that you had spoken with the Information and Privacy Commissioner. Were they aware that information was being stored at this particular location?

**Mr. Chris Lewis:** I don't know. I myself was not in communication with the Information and Privacy Commissioner, but I know our investigators were.

**Mr. Peter Tabuns:** Can you tell us who the primary subjects of your investigation are?

**Mr. Chris Lewis:** I do not know.

**Mr. Peter Tabuns:** You've noted previously that the Premier's office has co-operated with your investigation. You said senior—

**Mr. Chris Lewis:** "Senior government officials" is what I have been told in the briefing that I did receive.

**Mr. Peter Tabuns:** Did investigators obtain a search warrant to go to the Premier's office?

**Mr. Chris Lewis:** They did not.

**Mr. Peter Tabuns:** Would there be any reason that the Premier couldn't tell us that no search warrant was required?

**Mr. Chris Lewis:** Any government official is in a difficult situation when asked about any ongoing investigation. Even if they do know details, what they want to release publicly and potentially hurt an investigation is another issue altogether. So I don't know what the Premier was told about the visit. I know our officers visited there. It was more looking at the layout in relation to different interviews they conducted and trying to understand the workings of the office physically—what was where, who sat where and that sort of thing. That's all the details I know. I don't know if the Premier would know any more than that, if that.

**Mr. Peter Tabuns:** So I imagine you can't describe to us in any more detail the visit to the Premier's office.

**Mr. Chris Lewis:** That's all the details I know.

**Mr. Peter Tabuns:** Okay. Have any political staff or MPPs declined to be interviewed by your investigators?

**Mr. Chris Lewis:** I don't know that with certainty, but I'm not aware of any off the top of my head.

**Mr. Peter Tabuns:** When you say you talked to senior members of government, I assume you've also been talking to senior civil servants. Is that—

**Mr. Chris Lewis:** Yes. Our investigators would have talked to—whether they be political staff or Ontario public service employees, I don't know; or some of both. I assume only, but I don't know that for a fact.

**Mr. Jagmeet Singh:** Good morning.

**Mr. Chris Lewis:** Good morning.

**Mr. Jagmeet Singh:** In terms of the team that you have working with you, are there any specialists that are involved? To give you an example, in Ornge, because of the nature of the offence that was perhaps being investigated, there were chartered accountants involved in the forensic audit. Similarly, are there any sorts of experts that are being involved in this investigation?

**Mr. Chris Lewis:** Within the anti-rackets branch, we do have forensic accountants that are on full-time staff. Whether they're engaged in this or not, I don't know. I suspect not, but we do have IT specialists that are technical crime investigators and have the ability to get into digital storage devices, whether it be hard drives or whatever, to retrieve data, which is a very involved process. I know there is some level of engagement by them. I don't know at what stage, but I am told that one of the reasons this is taking as long as it is currently is because of the backlog that they're facing in other cases.

Many of the cases they're investigating involve child luring or sexual exploitation or homicide, so in the priority of things, sometimes those other issues take priority in their work.

**Mr. Jagmeet Singh:** So in terms of specialists, there are some IT specialists that are involved with data recovery. Any other specialists at all?

**Mr. Chris Lewis:** I don't know of any others.

**Mr. Jagmeet Singh:** In terms of the data that's being looked at, were hard drives and other computers seized by the OPP at this point?

**Mr. Chris Lewis:** I don't know what was seized. If I have even been told, I don't recall. I tend to think there were hard drives, but that's just a guess on my part, based on my limited memory and knowledge.

**Mr. Jagmeet Singh:** Normally speaking, for any sort of investigation of data or data recovery, is it the normal course to actually seize the physical computer or hard drive to be able to investigate it at headquarters?

**Mr. Chris Lewis:** It is normal course, yes.

**Mr. Jagmeet Singh:** And is there anything in your mind that would lead you to believe that this would be anything different in this circumstance, in terms of your IT specialists?

**Mr. Chris Lewis:** No. If our IT specialists are involved, then, generally speaking, there are hard drives or some sort of storage device involved for them to be looking at.

**Mr. Jagmeet Singh:** Would you be aware where? Would it be from the Premier's office, would it be from any particular ministry, that the hard drives of computers were seized from?

**Mr. Chris Lewis:** It could be all of the above. I don't know. The search warrant was actually executed at the facility. I don't know the specifics of that facility, and I know some devices were seized from there. I don't know what they were.

**Mr. Jagmeet Singh:** In terms of anti-rackets, maybe you could just explain what their specific expertise is, in terms of the types of investigations that they're involved with generally, and what level of expertise they bring to the table.

**Mr. Chris Lewis:** Our anti-rackets branch is world-renowned. It has been around since 1960. Many of our previous commissioners served in anti-rackets, and some of our deputies. They almost always do financial/economic crime investigations, so they're looking at often fraudulent schemes and illegal movement of funds and things like that, for the most part. But in current years, as we get more and more into the computer and data age, I'm assuming that some of their work has changed, but I'm not familiar enough with it on a personal level to say.

**Mr. Jagmeet Singh:** In terms of assisting with the investigation with a view to potential charges being laid, are there any particular prosecutors that are being consulted or any legal counsel that are involved or being consulted or participating in any way in the investigation?

**Mr. Chris Lewis:** There often is, but I can't say that without a doubt in this case. I haven't been told that anyone specifically has.

**Mr. Jagmeet Singh:** Okay. And generally speaking—maybe not a specific name or a specific prosecutor—are you aware of any prosecutors at all being involved in this particular investigation?

**Mr. Chris Lewis:** I'm not.

**Mr. Jagmeet Singh:** Often, we've noticed—and this is something that is somewhat premature at this point in time, and I acknowledge that because we're not sure what the nature is of any charges or if any charges are going to be laid at this point, but at the time when it does become something that you are considering and charges are laid, what is your view with respect to a special prosecutor being assigned to this case, given the political nature and perhaps other sensitivities of this case?

0850

**Mr. Chris Lewis:** If in fact charges are laid—and there is no indication of that at this point, but if they are, a special prosecutor would not be an unusual request for us. We have done that in the past, in other cases. For example, in the prosecution of even police officers at times, we have consulted outside prosecutors from other provinces in some cases.

**Mr. Jagmeet Singh:** In this case, applying your experience in other cases that may have some similarities, do you think the special prosecutor or the outside prosecutor would be someone outside the GTA, or would you be looking at someone outside the province?

**Mr. Chris Lewis:** That would be based on whatever it is they found and whatever the potential charges might be. It wouldn't be uncommon for us to go to another province, or even seek a prosecutor from the Department of Justice federally, once again depending on what the nature of charges are, if in fact they're laid.

**Mr. Jagmeet Singh:** In the Ornge committee, we were given an indication of a potential report coming forward from the OPP, and then there was follow-up with respect to that, with respect to the type of investigation that's going on in some more detail. Can we expect, perhaps, a report from your end with respect to this investigation?

**Mr. Chris Lewis:** There will be a report written. Whether it's in the form of a crown brief that ultimately goes to a prosecutor, whether or not we would actually provide anyone else with the report—that would depend, I suppose. I can't make that promise, and there may be some legal reasons around that, whether there would be freedom-of-information issues or not. If it becomes criminal, it's disclosed and that becomes a no-brainer. If it's not, then we will obviously have to explain what we did find or didn't find. But how we turn that over to anyone in a report, I'm not quite sure.

**Mr. Jagmeet Singh:** As a committee—and I'm sure you're well aware—that's investigating the gas plant and many issues around that, including the email deletions, the record deletions, it's within the purview of this committee to have information regarding that. It would be

fully within the right of this committee to request something of that nature. Now, depending on what you'd be able to provide, it would have to be vetted for certain sensitivities—

**Mr. Chris Lewis:** Right.

**Mr. Jagmeet Singh:** But in terms of our authority to look into that type of information, that is exactly what we've been given the mandate to do. Given that, and if we requested something of that nature, would you be in a position to provide us with an update in the form of a report?

**Mr. Chris Lewis:** I fully understand the powers and authorities of the committee. Something would have to be discussed with a lawyer, because I don't know if there are any overwhelming and contrary legal reasons that we couldn't. Barring none, I don't see that as an issue.

**Mr. Jagmeet Singh:** Within, or perhaps before, during or even at this point in time of the investigation, has the government, in terms of the Premier, any ministry, or any minister or any other elected official or a staffer, reached out to you on their own initiative regarding this investigation?

**Mr. Chris Lewis:** Not at all.

**Mr. Jagmeet Singh:** In terms of the investigation, what are your guiding principles, or the direction you're taking—where is that coming from and what is driving that?

**Mr. Chris Lewis:** The case manager is responsible to drive the investigation, follow the evidence, follow legal procedures and respect rights under all the various applicable legislation. That is it. We do not give direction to the case manager. The case manager gives direction to the officers who are working with him or her. In this case, it's a him. The individual is highly experienced in various investigative disciplines and it's his call to follow the evidence in the way he sees fit.

**Mr. Jagmeet Singh:** In your mind, what got the ball rolling, if you will, for the OPP?

**Mr. Chris Lewis:** It was a letter to me from MPPs Fedeli and Leon, in relation—

**Ms. Lisa M. Thompson:** Leone.

**Mr. Chris Lewis:** Leone, sorry. There's an "e" on that. Dr. Leone, I might add—on June 6—

*Interjection.*

**Mr. Chris Lewis:** —January 6, 2013, a letter to me, at which time I asked our deputy commissioner of the investigations and organized crime area of our force, which is one of our main commands—it was passed on, and ultimately Detective Inspector Beesley was assigned.

**Mr. Jagmeet Singh:** Within that letter, what part of that letter, or what particular comments that were made in that letter, prompted you to consider that this might be something that the OPP should look at?

**Mr. Chris Lewis:** He was alleging that there was a criminal offence of breach of trust, and he quoted another criminal offence—I don't recall off the top of my head what that was—that he believed—or they, as the signatories, believed—may have been committed in relation to the destruction of emails. So we've got senior govern-

ment officials telling us they believe criminal offences have occurred. It's our job, as the provincial police, to conduct an investigation and find out if, in fact, a crime has been committed and, if so, by whom.

**Mr. Jagmeet Singh:** I'm going to give you a scenario now. If someone was to walk into a provincial library and to tear up books in that library, and to tear up a vast number of books in that library—things that were of public nature and public good—what type of charge, as a police officer, or as a member of the OPP, would you consider laying if you saw—

**Mr. Chris Lewis:** That would be a criminal charge of mischief, in all likelihood, if, in fact, the individual had no right, no ownership—

**Mr. Jagmeet Singh:** And no colour of right.

**Mr. Chris Lewis:** Exactly.

**Mr. Jagmeet Singh:** Does a similar type of right apply to a digital file? If there are digital files in a computer at a public library and they were destroyed, what charge would you consider in that—

**Mr. Chris Lewis:** I believe it would be a very similar charge. I don't know the ins and outs of the current legislation, and how it applies to data, but I believe there could be a charge of mischief to data by destroying data that someone else owns and you don't have any colour of right over.

**Mr. Jagmeet Singh:** Right. Exactly. If we apply that—I know this is somewhat of an area, and if you don't feel comfortable, that's okay. We'll have other questions to get into.

**Mr. Chris Lewis:** I'll be very honest.

**Mr. Jagmeet Singh:** If a similar argument could be made that records that were supposed to be kept are the public's records, that assist in oversight and accountability, those type of records being destroyed—does that fit into the same analogy to you?

**Mr. Chris Lewis:** It may. There are so many what-ifs around that. Are they stored in multiple locations, and only one was destroyed? Are they backed up in some main server somewhere, so the local-level destruction isn't a huge complicating issue? And the reason, the rationale—was it intentional? There are so many what-ifs that would have to be looked at from the legal perspective that are beyond my knowledge and ability.

**Mr. Peter Tabuns:** Commissioner, just one or two other questions. You mentioned a potential charge of mischief to data. What sort of penalties are tied to these charges?

**Mr. Chris Lewis:** I don't know. In the big scheme of things within the Criminal Code, it's not right up there with homicide and other offences, but it is a criminal offence. At the bare minimum—I don't know if it's a summary conviction offence, a dual or indictable, so it may be the potential of the maximum of six months in jail, or it could be 14 years. I'm not quite sure where it fits in the Criminal Code.

**Mr. Peter Tabuns:** That's a big range.

**Mr. Chris Lewis:** Yes, and I don't know where it fits. Clearly, when you look at the offence—

**The Chair (Mr. Shafiq Qaadri):** One minute.

**Mr. Chris Lewis:**—then you ultimately would know where it fits in, because generally it will say, “up to 14 years for an indictable offence,” for example, or “six months on a summary conviction.”

**Mr. Peter Tabuns:** You'd mentioned earlier that you'd interviewed a number of senior people at Queen's Park on this matter. Can you tell us who any of those people were?

**Mr. Chris Lewis:** I cannot. I don't know.

**Mr. Peter Tabuns:** Okay. I have no further questions for the moment, Mr. Chair. Thank you, Commissioner.

**Mr. Jagmeet Singh:** How much time?

**The Chair (Mr. Shafiq Qaadri):** Thirty seconds.

**Mr. Jagmeet Singh:** Back to the mischief point—if it was mischief under \$5,000, that's one offence—

**Mr. Chris Lewis:** It's probably a summary conviction, yes.

**Mr. Jagmeet Singh:** Yes. So mischief under \$5,000 would be summary, and over would be indictable. Depending on the severity of it, depending on what the prosecutor does in terms of the way the charges are treated—

**Mr. Chris Lewis:** That's right.

**Mr. Jagmeet Singh:**—it could go indictable or summary.

**Mr. Chris Lewis:** That's right. How you put an amount or a figure on data, I'm not quite sure.

**Mr. Jagmeet Singh:** Right, and that's quite difficult.

My colleague must have asked you some questions with regard to this—actually, my 30 seconds are probably up now. I'll come back to it after, in the next round.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Tabuns and Mr. Singh. To the government side: Mr. Delaney.

**Mr. Bob Delaney:** Thank you very much, Chair. Good morning, Commissioner.

**Mr. Chris Lewis:** Good morning.

**Mr. Bob Delaney:** Welcome. I want to thank you for taking the time not only to be before us today, but also to congratulate you on your impending retirement—

**Mr. Chris Lewis:** Thank you very much.

**Mr. Bob Delaney:**—perhaps on behalf of all MPPs, to express envy at your pension.

You've mentioned that this is a very busy time for you, and I very much appreciate you accommodating the committee's request. We understand that you're limited in what you can discuss with the committee during an ongoing investigation. Certainly, on behalf of the government, we do not want to jeopardize an ongoing investigation in any way, and I trust that my colleagues will feel the same.

**0900**

You were describing to Mr. Tabuns some of the constraints that you face when you're discussing details of this or any other case. What other constraints do you face when you're testifying before a committee such as this?

**Mr. Chris Lewis:** Well, besides the obvious need and demand to tell the truth, I wouldn't want to identify any

victims of certain offences in investigations. For example, we would never release the name of a sexual assault victim or a domestic abuse victim or things like children who have been victimized.

But my main thought process walking into this or any similar event is that I don't disclose anything that may jeopardize the investigation. In other words, if I was to give some evidence out that I knew may taint someone who has not been interviewed yet—in terms of what evidence they will bring or what their statement would bring—that could hurt the investigation or potentially taint potential jurors if, in fact, something went to trial and it required a jury. Those are issues that are always in the forefront of my mind when I'm being interviewed by the media or in this case.

This is a rare case, to be quite honest, that I would testify anywhere during an ongoing criminal investigation. It's only happened twice in 36 years for me. The other was the Ornge situation, and some of our officers, of course, have had to testify at the inquiry into the Elliot Lake collapse. It's a very difficult situation for us because it runs a very high risk that it's going to hurt the potential co-operation of other witnesses and maybe taint the process.

Having said that, I respect the committee, and all I can do is do my best in terms of saying what I can say and what I can't.

**Mr. Bob Delaney:** No, I understand. Are there any other risks that are of any particular concern to you in testifying before a committee such as this?

**Mr. Chris Lewis:** From a liability perspective, I wouldn't want to unfairly identify somebody who maybe had done nothing wrong, and subsequently put a bad light on them. So, I just have to answer honestly and consider all those little issues as I'm thinking of my answers.

**Mr. Bob Delaney:** Do you have any thoughts on the OPP's relationship with government and politicians in general?

**Mr. Chris Lewis:** Well, I do for sure. In 36 years, I've never been subject to any party in government, and I've worked closely with all three main parties in this province. At no time ever has there been any pressure put on me to do things or not do things. Contrary to what, sometimes, we read speculatively in the media, that has just never happened. I wouldn't tolerate it. But it has never been an issue for me, from any minister of any party at any time.

**Mr. Bob Delaney:** So you're not worried about your independence in circumstances such as this?

**Mr. Chris Lewis:** Not at all. We've arrested and charged members of Parliament in the past, from all three parties, at some point or another, I'm sure. That's just the way life goes.

**Mr. Bob Delaney:** I appreciate that you're not actively involved in this particular investigation; however, to the best of your knowledge, have there been any roadblocks that have prevented the investigators whom you've assigned from doing their jobs?

**Mr. Chris Lewis:** Not to my knowledge, no.

**Mr. Bob Delaney:** Could you confirm that your office has had no interference from any government or Liberal Party member or staff?

**Mr. Chris Lewis:** I can confirm that I haven't been told of any, and I can also confirm that I would be told if, in fact, that had occurred.

**Mr. Bob Delaney:** Has there been any interference from any other members of this Legislature while your investigation has been ongoing?

**Mr. Chris Lewis:** Once again, not to my knowledge.

**Mr. Bob Delaney:** Commissioner Lewis, I want to thank you very much for agreeing to be here today.

I have no further questions, Chair, in this round.

Commissioner, I want to wish you all the very best in the years ahead, and I hope they're going to be fulfilling ones. I just want to take the opportunity to thank you for your service to the Ontario Provincial Police over these last 35 years.

**Mr. Chris Lewis:** Thank you, Mr. Delaney.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Delaney.

To the PC side: Ms. MacLeod.

**Ms. Lisa MacLeod:** Thank you very much, Mr. Chair.

Welcome, Commissioner.

**Mr. Chris Lewis:** Good morning.

**Ms. Lisa MacLeod:** Thank you for taking the time to meet with us today. I understand the constraints that you have. We're actually having a little joke: You've got a lot of shackles on as you appear before this committee, based on your role and the investigation that is ongoing.

As you're aware, my colleagues Rob Leone and Vic Fedeli wrote to you and asked for an investigation for two reasons: (1) As we know, there was an outstanding issue of how much the cancellation of the gas plants cost, and the Auditor General assisted us with that final number; and (2) we wanted to know who ordered not only the cancellation of the gas plants, but also who would have made it difficult for us to uncover the information that we desired. It would be unparliamentary for me to say it was a cover-up, but certainly that is a concern.

I would just like to ask you a number of questions that have come up. We had prepared some, but some of the questions that were asked by the NDP warrant some follow-up. Can you say definitively that a criminal act did not occur in this case?

**Mr. Chris Lewis:** I cannot say one did or one did not occur, and that's part of the investigative progress.

**Ms. Lisa MacLeod:** Sure. Can you tell us who the officer in charge of this investigation is?

**Mr. Chris Lewis:** Detective Inspector Paul Beesley.

**Ms. Lisa MacLeod:** Mr. Beesley. You had mentioned that resources at the electronic crime unit are stretched. I'm just wondering: What is their role with the anti-racket squad? I know that the anti-racket squad is an elite organization within the OPP; I know it is world-renowned. I'm wondering how they work together, are their resources pooled or shared and if you require more resources at the electronic crime unit in order to

investigate this particular file. Can you elaborate a little bit more on that?

**Mr. Chris Lewis:** The electronic crime section is separate and apart from the anti-rackets branch. It's part of the same overall investigations and organized crime command that has specialists in a variety of areas. They're a tool for investigators, which may be homicide investigators, drug investigators or, in this case, anti-rackets branch investigators, to help them do what they do, similar to a forensic identification officer who may go to a crime scene and look at blood, take photographs, look for fingerprints and that sort of stuff. They're a tool. So they don't get used in every investigation, but there was a time we had one person in there doing investigations around commercial crime, fraud, movement of funds and that sort of stuff to an era now when we have over 30 in there and we have a caseload backlog of a couple of years.

As cases come in, if there's a public safety priority, like a child being abused or something to that effect, those cases bump up to the top of the queue and some of the other cases fall off. It's just a juggling act for the manager of that section to make sure—in this case, she—has the resources appropriately applied to the investigations, depending on the importance and the severity.

**Ms. Lisa MacLeod:** Has the electronic crime unit ever, in your knowledge, been deployed throughout anywhere in the provincial government before in this type of an investigation, to recover hard drives?

**Mr. Chris Lewis:** I don't know that they have or have not—nothing I'm aware of.

**Ms. Lisa MacLeod:** Is that possible for you to let us know—to have your staff find out for us?

**Mr. Chris Lewis:** I can try and find that out, yes.

**Ms. Lisa MacLeod:** Thank you. In terms of the anti-racket squad, perhaps you could elaborate a little bit more not only for the members of this assembly, but I know there's a lot of media here, so there are people at home watching. Can you elaborate a little bit more—I know you talked briefly about what some of the things are that the anti-racket squad does. Can you highlight a few of the cases in the past that Ontarians might be familiar with where the anti-racket squad has gone in and done an investigation?

**Mr. Chris Lewis:** They've done many investigations, even some within the federal government, and conducted investigations into the RCMP where there were allegations of criminal fraud.

For many years, the anti-rackets branch virtually investigated nothing but fraud, whether it be financial crimes or fraudulent schemes. As the years went on, they got into credit card investigations, theft of identity investigations and then, more in recent years, fraudulent schemes. Economic and financial crimes have kind of grown because the technology—

**Ms. Lisa MacLeod:** Are there any ones that folks would be familiar with that you can think of right off-hand?

**Mr. Chris Lewis:** Oh, huge land fraud schemes in the city of Toronto years ago; the Church of Scientology investigation we had many work on for many, many years.

**Ms. Lisa MacLeod:** That explains everything: Dalton McGuinty and the Church of Scientology. No?

**Mr. Bob Delaney:** Chair, on a point of order.

**The Chair (Mr. Shafiq Qadri):** Mr. Delaney, a point of order.

**Mr. Bob Delaney:** Chair, I object to this attempt to use innuendo in something that's completely unrelated. Ms. MacLeod knows that she's really straying from here.

**Mr. John Yakabuski:** Thank you for your point of order.

**Mr. Bob Delaney:** And it is a point of order. Thank you.

0910

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Delaney. Ms. MacLeod, I would invite you to return to the scope of the committee.

**Mr. John Yakabuski:** Turn your sense of humour off, please.

**Ms. Lisa MacLeod:** I'm going to turn my sense of humour off; I have to do that every once in a while with Bob.

We had indicated, through my colleagues Vic Fedeli and Rob Leone, that under section 122 of the Criminal Code of Canada, a breach of trust would carry a maximum penalty of five years. Under section 341 on fraudulent concealment, which I think would probably carry a maximum penalty of two years—is that consistent with what you're suggesting as well?

**Mr. Chris Lewis:** If you say that is what it is, I believe that. I just don't know off the top of my head.

**Ms. Lisa MacLeod:** Thank you. That's a really good validation for a politician. I'm just going to say to my friends in the media: If I say it, it must be true, because the OPP commissioner has just validated that.

That, to me, is quite interesting. You had indicated that you cannot say whether or not a criminal act did or did not occur.

**Mr. Chris Lewis:** I cannot.

**Ms. Lisa MacLeod:** However, if a criminal act did occur, those who are being investigated could carry either a maximum penalty of five years for breach of trust or two years for fraudulent concealment.

**Mr. Chris Lewis:** Maximum penalty? Yes, as you've described, that makes sense.

**Ms. Lisa MacLeod:** So people could go to jail over this. That, I think, is quite interesting, and I think it's quite important to know.

You had mentioned at one point, when the NDP were talking about a special prosecutor or a special investigator, that it was also possible that the federal department of justice could be called in. Who would do that? Would that have to be a political decision based on the Premier's office or would that be a decision on recommendation by the OPP who would be investigating this? I'm just wondering.

**Mr. Chris Lewis:** That decision would be our decision to go that way. We would never be directed to go that way. We're never directed on how to proceed in any way, from a legal perspective, by a government in criminal matters.

**Ms. Lisa MacLeod:** And a government couldn't prohibit you from taking that step to seek a federal investigator or a federal prosecutor?

**Mr. Chris Lewis:** I don't think there's any privilege that allows them to prevent us; I don't know. There may be something, from a legal perspective, that I'm not aware of, but it has never become an issue when we've decided to go that route, ever.

**Ms. Lisa MacLeod:** Could you lay out the process by which that would occur? Is it a simple—do you contact the justice department federally or do you go through the federal court system? How does that work?

**Mr. Chris Lewis:** We'd ultimately have to—and I'm only guessing; I've never had to do it myself, but I know that it has been done many times. We'd have to make the request. I'm sure that, out of respect for the Ministry of the Attorney General in this province, we'd have some dialogue with the director of crown law criminal to say that we're going this route so that it's not something that he or she reads in the paper, and there may be specific people that we should go to, based on some relationship or agreement between Ontario and the federal government. I don't know. But I know that in many cases, over the years, our officers have made that decision and it has happened. The exact mechanics of it, I can't spell out for you.

**Ms. Lisa MacLeod:** When you met with MPPs Fedeli and Leone, you decided to take some steps to investigate and then initiated a search warrant. Would there be discussions—and you can answer this as generally as possible, because I'm trying to frame this in my mind—on what the possible results would be in the various scenarios and how to best approach any charges that might be laid or any reports that needed to be filed? In terms of what the next steps would be, would you be investigating the possibility of a special investigator or a special prosecutor or turning this over to the feds, or are these options that you know are out there, but you really haven't explored? In terms of the process, I'm just wondering if I can get a sense of that.

**Mr. Chris Lewis:** I never met with the MPPs myself. I've met them informally over the time since, but it was strictly a letter from them to me. The investigator was assigned through our own process internally, and I assume the investigator would have met with them to hear what they had to say, in addition to what they put in writing. Whether they had discussions around those options of a special prosecutor, I have no idea; I'd only be guessing.

**Ms. Lisa MacLeod:** I have two quick questions on the number of people. I know you've spoken with my colleagues Vic Fedeli and Rob Leone. I'm wondering about two things: One is that you had mentioned, I think, briefly—and I thought I had written it down and I

didn't—how many people you had spoken to. Is that over 20?

**Mr. Chris Lewis:** Yes.

**Ms. Lisa MacLeod:** And are we able to find out, maybe not their names, but certainly what types of positions they hold or what they've previously done with the government? Are you able to shed any light on that?

**Mr. Chris Lewis:** I don't have a clue.

**Ms. Lisa MacLeod:** Okay. In terms of your investigators, how many people do you actually have working on this file, or does that change throughout this entire process?

**Mr. Chris Lewis:** It's very fluid. There's only a handful of investigators in this case, but at times they're supported by others, depending on what they're doing. For example, executing a search warrant, you would normally bring more officers to shorten the time of the actual search potentially. If you're conducting an investigation, sometimes you have a number of people deployed on a given day, but that's not a huge number of people. So just a handful of people, as a rule.

**Ms. Lisa MacLeod:** Right. In terms of when you visited the Premier's office, and you had indicated there wasn't a search warrant, there had to have been an invitation by the staff, or was there a contact made from the OPP requesting a visit to the Premier's office when that occurred?

**Mr. Chris Lewis:** I believe that it was just a contact. It was requested by us and the co-operation was received, but it was not an invitation, to my knowledge.

**Ms. Lisa MacLeod:** Okay. So her office would have known that you had requested to be there.

**Mr. Chris Lewis:** Someone from her staff would have known, yes. We didn't just show up. It was arranged to be done at the end of the business day, as opposed to in the heart of the business day.

**Ms. Lisa MacLeod:** Are you able to allow us that information on who that contact person was in the Premier's office?

**Mr. Chris Lewis:** I don't know who it is.

**Ms. Lisa MacLeod:** Is it possible to find out? Are you able to share that?

**Mr. Chris Lewis:** I can find out.

**Ms. Lisa MacLeod:** Okay. We'd appreciate that. That would be very helpful.

The next question I have is going back to these data centres in Mississauga. Perhaps I heard wrong, but I think in one of the rounds of questioning by the NDP you had said that there could be other servers or other sites. Is that possible?

**Mr. Chris Lewis:** Well, no. Just in general, when you're conducting an investigations, whether or not I said something about if data is destroyed on one hard drive, does that mean it's not stored on another, or in a server somewhere? But that was a general question as opposed to relating specifically to this case.

**Ms. Lisa MacLeod:** I see. Okay.

**Mr. Chris Lewis:** But there is the Guelph data centre that houses all the servers for—I shouldn't say "all," but

most of the servers for the Ontario public service. The facility in Mississauga: I'm led to believe that it was just a storage facility of some sort where the hard drives were stored, as opposed to being active as part of a network or a system, but just sitting.

**Ms. Lisa MacLeod:** Interesting. In terms of the co-operation you would have received or would not have received at the data centre in Mississauga, would, at any time, they have been contacted previous to the search warrant?

**Mr. Chris Lewis:** I have no idea. There may have been some investigation as part of the development of the search warrant application, some confirmation that, "Yes, we have hard drives piled here on a pallet," but regardless of co-operation in a case like that, the officers would want to obtain a search warrant, just so no one could ever say later that, "Well, I didn't know they were going to take them." It's clean; it's the proper process. But you have to have grounds to ultimately have information sworn to—that there is material there that is germane to this criminal investigation. So potentially, there was contact before to verify that it was there. Somebody obviously told them it was there.

**Ms. Lisa MacLeod:** Is this the first search warrant that has ever been issued against a sitting government?

**Mr. Chris Lewis:** I don't believe it has, but I don't know of the others.

**Ms. Lisa MacLeod:** Okay. It's so hard because we can't ask you specific questions and we have so many of those. It's trying to figure out the process so we can get answers as a result of that.

Can you comment, at any point in this investigation, if the parties that have been subject to the investigation—have they been co-operative? In other words, the 20 folks who have been investigated—have the people who house the data been helpful, or have you run into any sort of obstruction, as the privacy commissioner did, throughout your process of investigation?

**Mr. Chris Lewis:** I'm not aware of any obstruction. I was told in a general sense that we received co-operation. Sometimes some people are more co-operative than others, but I don't know details of any of that.

**Ms. Lisa MacLeod:** Okay. How much time do I have left, Chair?

**The Chair (Mr. Shafiq Qadri):** About five minutes.

**Ms. Lisa MacLeod:** About five minutes? I'm loath to give up the time, but you've given me a lot more to think about. So at this point, I have no further questions.

**The Chair (Mr. Shafiq Qadri):** Thank you, Ms. MacLeod. To the NDP side: Mr. Singh.

**Mr. Jagmeet Singh:** Thank you so much. I just want to turn your mind back to the search warrant and just ask you some general questions about a search warrant, just to put it into perspective.

To be able to get a search warrant in the first place, there has to be certain information that's laid out in an application, and that application has to include criminal charges that are the subject of this search warrant: what

charges you hope to—or potentially may be laid. Is that correct?

**0920**

**Mr. Chris Lewis:** That's correct.

**Mr. Jagmeet Singh:** There are grounds for why you think the search warrant would produce information or evidence that could assist in the laying of those charges.

**Mr. Chris Lewis:** That's correct.

**Mr. Jagmeet Singh:** And this information is compiled and then presented to either a justice of the peace or a judge, who then provides the authorization.

**Mr. Chris Lewis:** That's correct.

**Mr. Jagmeet Singh:** Sometimes in search warrants, there's information that's relied on from a confidential informant.

**Mr. Chris Lewis:** That sometimes is the case, yes.

**Mr. Jagmeet Singh:** Was that the case in this case, that you relied on a confidential informant?

**Mr. Chris Lewis:** I have no idea of that.

**Mr. Jagmeet Singh:** Okay. Are you aware if this search warrant was signed by a JP or by a judge?

**Mr. Chris Lewis:** I am not aware of that either.

**Mr. Jagmeet Singh:** In terms of the information to obtain—that's the information that you need to present to a judge or a JP to get the search warrant—

**Mr. Chris Lewis:** Right.

**Mr. Jagmeet Singh:** —the specific charges that are listed—you don't know the specific charges that were laid out in the ITO?

**Mr. Chris Lewis:** I do not know.

**Mr. Jagmeet Singh:** In terms of the search warrant itself, you indicated that it was sealed?

**Mr. Chris Lewis:** Yes.

**Mr. Jagmeet Singh:** Can you provide the reason why it was sealed?

**Mr. Chris Lewis:** It's very common that it is.

**Mr. Jagmeet Singh:** It is, but is there—

**Mr. Chris Lewis:** Yes, it is, and what the rationale for it was in this case, I do not know.

**Mr. Jagmeet Singh:** In terms of the—

**Mr. Chris Lewis:** If I could just add, Mr. Singh, presumably often the reason it is sealed is because if the details within the information to obtain or any of those details around that get out into the public realm, that potentially affects other witnesses and may somehow jeopardize the integrity of the investigation.

**Mr. Jagmeet Singh:** Okay.

**Mr. Chris Lewis:** That's most often the reason that occurs. In any investigation, as you follow the evidence, you don't know who you're going to interview next, and if that individual just read an article in the paper with all the details from your information to obtain, is that interview going to be accurate? What the impacts are, positively or negatively, on that interview become problematic for us.

**Mr. Jagmeet Singh:** In terms of the investigation itself, if you can give a percentage, how far along into this investigation are you: 50% of the way, 70% of the way; is there much more to go; is it wrapping up?

**Mr. Chris Lewis:** I cannot say. I could say we'd be done tomorrow and tonight we'll find out we have 50 more people to interview and I become a liar, so I really don't have a clue, and I deliberately don't have a clue.

**Mr. Jagmeet Singh:** Okay. Just to put this into perspective, just to understand what's going on here, we have a search warrant that's specifically a criminal search warrant that was executed, and there are some potential charges that could come out of this, but you are not in a position to say that a charge is being contemplated one way or the other at this point in time.

**Mr. Chris Lewis:** I cannot.

**Mr. Jagmeet Singh:** And some of the potential charges are anything from a breach of trust to the destruction of public records, anywhere in that vicinity. Those are potential options that could come out of this.

**Mr. Chris Lewis:** Those are options that our investigators would be looking at to determine whether one of those or some other criminal offence has occurred, followed by, if so, by who?

**Mr. Jagmeet Singh:** And if one of those offences is made out, then we would potentially see people being charged with offences that could lead to some serious jail time?

**Mr. Chris Lewis:** Well, yes. As defined by the other member, their maximum penalty could be a range of five or two years, depending on the offence.

**Mr. Jagmeet Singh:** Depending on the offence, of course.

**Mr. Chris Lewis:** That's the maximum penalty.

**Mr. Jagmeet Singh:** That's right.

**Mr. Chris Lewis:** But that's a decision for the courts to make.

**Mr. Jagmeet Singh:** Of course, and really only at this time, your job and your role is to basically investigate whether or not an offence has occurred and then take the evidence that you have gathered and collected and provide it to an attorney, who will then prosecute it, and ultimately a judge makes a decision whether or not someone is found guilty or innocent.

**Mr. Chris Lewis:** Yes, sir, that's exactly it.

**Mr. Jagmeet Singh:** Okay. I just wanted to understand some more details around the scope of the investigation. Are there further interviews that are scheduled or that are anticipated at this point?

**Mr. Chris Lewis:** I do not know.

**Mr. Jagmeet Singh:** Are there further search warrants that are being applied for, and are you anticipating any further searches?

**Mr. Chris Lewis:** I don't know that either.

**Mr. Jagmeet Singh:** To date, we've heard of one search warrant. Were there others, or was there simply that one so far?

**Mr. Chris Lewis:** I'm only aware of that one.

**Mr. Jagmeet Singh:** Okay. Beyond that search warrant, there were interviews that were conducted, and so far, you said 20 people have been interviewed.

**Mr. Chris Lewis:** That's correct.

**Mr. Jagmeet Singh:** That's up until what time?

**Mr. Chris Lewis:** That's up until me getting here today.

**Mr. Jagmeet Singh:** Okay. In terms of the nature of the various investigations that you're conducting as the OPP, I would submit that this is quite important, that our government is accountable and is not conducting activity that could be criminal. I would like this to be considered something quite serious in priority. Where does it fall, right now, in terms of the priority for the OPP?

**Mr. Chris Lewis:** I guess the investigators would know better, but if, in fact, it was an ongoing criminal offence, that changes things. There's no suggestion of that. If someone did commit a criminal offence, do they still work for the government or for the party? I don't know. There are a lot of factors there. I'm just considering in my mind, if I was the lead investigator in this, what I'd be looking at. Is somebody's life in danger? Is someone about to be victimized? Those really change our priority levels. If you're responding to a break and enter and a call of an assault on a child comes in, you obviously leave the break and enter and you go to the assault of the child.

These are issues and balances that we have to deal with every day, because we just are never going to have—nor should we—enough people to respond to everything at once and do it all right away. So in the world of priorities, I trust the deputy commissioners, who trust the people that report to them, to give it the proper level of priority. That changes; it's a fluid thing. It could change tomorrow if, God forbid, we had another significant occurrence of some sort where people were killed or lives were threatened.

**Mr. Jagmeet Singh:** Right. You've indicated that there's a Guelph data centre. Obviously, there's the data and the hardware and the actual offices themselves. Were there other locations or sites that you've contemplated or that you have searched?

**Mr. Chris Lewis:** I'm not aware of any.

**Mr. Jagmeet Singh:** Okay. In terms of the next steps moving forward, is there any sort of timeline you can provide us with at this time in terms of when you anticipate, roughly, that your investigation will be completed or roughly when you'll be in a position to say, one way or the other, whether or not there are charges that can be laid?

**Mr. Chris Lewis:** I cannot even estimate that.

**Mr. Jagmeet Singh:** Okay. I'm just going to throw up some numbers. Months? A year? Multi-year? Any sort of range that you can provide.

**Mr. Chris Lewis:** I don't know. Certainly, they'll do it as quickly as they can and as effectively as they can. That's their role and their job, and I have every confidence that they're not sitting drinking a margarita and not actively working on this. But once again, priorities being what they are, getting the data out of anything they seized; who to interview after that; does that lead to maybe more search warrants somewhere—that's all very speculative. I don't have a clue where it may go, so I can't even hazard a guess.

**Mr. Jagmeet Singh:** Okay. Just a moment's indulgence.

Thank you very much, Mr. Chair.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Singh. To the government side: Mr. Delaney.

**Mr. Bob Delaney:** We have no questions, Chair. Thank you, Commissioner Lewis.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Delaney. Back to the PC side: Ms. MacLeod.

**Ms. Lisa MacLeod:** Thank you very much. I was really concerned about the line of questioning by the Liberals. I'm surprised they didn't take the opportunity. Commissioner, to your knowledge, has the OPP ever conducted an investigation into the office of a sitting Premier?

**Mr. Chris Lewis:** To my knowledge, no.

**Ms. Lisa MacLeod:** To your knowledge, is this the first time an OPP investigation included a physical search of a sitting Premier's office?

**Mr. Chris Lewis:** It was not a search of the Premier's office, just to correct the record. It was a visit on agreement, co-operatively done after hours to not disrupt the daily flow of business in the Premier's office. It was very much just to look around and kind of understand the layout and how the process—

**Ms. Lisa MacLeod:** So you looked around; you didn't search.

**Mr. Chris Lewis:** No. They weren't going through desk drawers. It wasn't that sort of thing.

**Ms. Lisa MacLeod:** Okay; they were looking around.

**Mr. Chris Lewis:** There was no search warrant. They weren't actively looking for evidence. It was described to me as more of a familiarization exercise.

**Ms. Lisa MacLeod:** Is this the first time there has been a familiarization exercise in the Premier's office?

**Mr. Chris Lewis:** I don't have a clue.

**Ms. Lisa MacLeod:** But to your knowledge, no.

**Mr. Chris Lewis:** Not since I've been commissioner.

**Ms. Lisa MacLeod:** That's a new one: a familiarization. Okay. There we go.

**Mr. Chris Lewis:** That sort of thing isn't uncommon—where you want to go and have a look at something. It may be a field where something occurred and you want to look at it and kind of get a sense for—

**Ms. Lisa MacLeod:** Like a first date.

**Mr. Chris Lewis:** When the witness told me he walked west, where did he walk from? That sort of thing is quite common. It's just not always an office per se.

**Ms. Lisa MacLeod:** Okay. Can you perhaps give us an explanation of how the investigation process works? We've had this familiarization tour. We've now had a search warrant. Are there any obligations and co-operative mechanisms in place that require any of those who are being investigated—the previous Premier's office staff or the current Premier's office staff. Are there any mechanisms in place to compel them to comply, or any obligations that they have?

**0930**

**Mr. Chris Lewis:** In a criminal investigation, when we're conducting interviews of people, there's certainly a duty to co-operate within their rights—the right to not have to incriminate yourself and things of that nature that are protected rights under the Charter of Rights in legislation. There's no obligation on our part to go back and talk to anybody unless we see fit. For example, if, in fact, the examination of evidence shows something that would make our investigators want to either re-interview someone they've interviewed or conduct a new interview, that's all part of that investigative process.

**Ms. Lisa MacLeod:** And if somebody is uncooperative in your investigative process, what's the process then?

**Mr. Chris Lewis:** It's difficult to define uncooperation versus potentially someone lying and maybe steering the police in a false direction knowingly, which may ultimately result in an obstruct-police type of offence being committed. I'm not suggesting that here at all, but that's just a normal course of investigations. I'm not sure if I answered the question for you or not.

**Ms. Lisa MacLeod:** Yes. The logical next step, though, is: Has everybody that you have investigated, or your force has investigated, at this present moment, been co-operative with the OPP?

**Mr. Chris Lewis:** Once again, I don't know that every single person has been 100% co-operative; I can never say that. But I'm certainly not aware of any uncooperative individuals at this point. Once you examine evidence in a case, sometimes you find that people whom you believe to have co-operated weren't co-operative. But I'm not suggesting that here at all, either. That's part of the investigative process.

**Ms. Lisa MacLeod:** At what point of the investigative process do you look at the various reports filed by your investigators from their interviews with those who are being investigated, to compare notes to see who has been more or less truthful and who has been more or less evasive?

**Mr. Chris Lewis:** That happens on an ongoing basis. Every time a statement is taken, investigators, as soon as practical, would be looking at: What does this person say about other events or other witnesses, and then comparatively, does it all flow together? Just for example, in a criminal investigation you may have someone say, "Well, I wasn't there." And then you interview three others and they say, "She was there." Then you go back to the person and say, "Okay, so-and-so told us you were there." Sometimes they say, "Okay, you got me," and other times they don't. Like just in the course of any investigation, you run into those ebbs and flows, so to speak.

**Ms. Lisa MacLeod:** And then people remember where they were after they've been in the second or third time?

**Mr. Chris Lewis:** Sometimes yes and sometimes no.

**Ms. Lisa MacLeod:** Okay. We talked a little bit about breach of trust, a five-year sentence, and fraudulent concealments—two years. We, our caucus, through Vic

Fedeli and Rob Leone, had originally suggested those two penalties: breach of trust and fraudulent concealment. You had mentioned today that criminal mischief could be a possible charge as well. That comes with a maximum penalty of up to 14 years.

**Mr. Chris Lewis:** I don't know that.

**Ms. Lisa MacLeod:** I do. I just had the federal justice department send me a little note on that during our—

**Mr. Chris Lewis:** Well, once again, I believe you.

**Ms. Lisa MacLeod:** So there are some possibilities for very stiff penalties here if there is a criminal charge.

**Mr. Chris Lewis:** Yes. Once again, it's up to the courts, and the maximum penalties as what you've said.

**Ms. Lisa MacLeod:** I just have two further questions, and I'll leave it at that, because the reason I brought the penalties up and what those sentences could be is that I want to be very clear that for a search warrant to be executed, there needs to be clear evidence that a criminal act could have occurred. Is that true?

**Mr. Chris Lewis:** Yes, within reasonable, probable grounds that a criminal offence did occur.

**Ms. Lisa MacLeod:** So there are reasonable and probable grounds today in Ontario that a crime may have existed with respect to the deletion of emails on the ongoing investigation of the cancelled gas plants in Mississauga and Oakville.

**Mr. Chris Lewis:** I'd ask you to repeat that again. I'm not trying to be difficult. I don't want to agree to something that I'm not 100%—

**Ms. Lisa MacLeod:** Yes. Effectively, if a search warrant has been executed, there's a reasonable possibility that a crime has existed.

**Mr. Chris Lewis:** To get a search warrant, there would have to be a reasonable belief that something had occurred of a criminal nature.

**Ms. Lisa MacLeod:** Okay. And so interviewing over 20 people led to this search warrant?

**Mr. Chris Lewis:** That's correct.

**Ms. Lisa MacLeod:** Okay. Were those interviewers recorded, and can we have access to those records?

**Mr. Chris Lewis:** Well, they're evidence in a criminal proceeding, and so what the ability of the committee is to get access to that, I don't know. That would be for minds greater than mine to decide. They are always recorded in

investigations, either in writing or audio and/or video, sometimes all of the above. But that would be at the discretion of the investigator.

**Ms. Lisa MacLeod:** Okay. In the final question, I'm just going to do a summary and then ask the question. So we've now established that 20 people have been investigated—

**Mr. Chris Lewis:** Interviewed.

**Ms. Lisa MacLeod:** Interviewed. Those interviews led to a search warrant, which leads to a possibility that there has been a crime committed. That is probable. That led to the search warrant being executed because there was clear evidence that a crime could have been committed, and that could mean a breach of trust with a maximum sentence of five years, fraudulent concealment with a maximum penalty of two years, and mischief of up to 14 years. It's clear that the investigation is very much alive.

**Mr. Chris Lewis:** It is.

**Ms. Lisa MacLeod:** And it's ongoing.

**Mr. Chris Lewis:** It is.

**Ms. Lisa MacLeod:** And criminal charges could be laid?

**Mr. Chris Lewis:** That's correct.

**Ms. Lisa MacLeod:** Okay. Thank you very much.

**Mr. Chris Lewis:** The criminal charges are certainly a possibility; otherwise, they wouldn't have gotten a search warrant.

**Ms. Lisa MacLeod:** Thank you very much. It's been a pleasure. Happy retirement.

**Mr. Chris Lewis:** Thank you.

**Ms. Lisa MacLeod:** Maybe we'll call you back after you've left the OPP just for a reunion.

**Mr. Chris Lewis:** I'll be the guy with the beard and the earrings, yes. Thank you.

**The Chair (Mr. Shafiq Qadri):** Thank you, Ms. MacLeod. Once again, Commissioner Lewis, on behalf not only of members of the committee but on behalf of Parliament, the Premier and the people of Ontario, we thank you for your more than 35 years of service.

**Mr. Chris Lewis:** Thank you, sir.

**The Chair (Mr. Shafiq Qadri):** The committee is adjourned.

*The committee adjourned at 0937.*



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