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Official Report of Debates (Hansard)

Wednesday 5 March 2014

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Mercredi 5 mars 2014

**Standing Committee on
Public Accounts**

Special report, Auditor General:
Ornge Air Ambulance and
Related Services

**Comité permanent des
comptes publics**

Rapport spécial, vérificateur
général : Services d'ambulance
aérienne et services connexes
d'Ornge

Chair: Norm Miller
Clerk: William Short

Président : Norm Miller
Greffier : William Short

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
PUBLIC ACCOUNTS

Wednesday 5 March 2014

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
COMPTE PUBLICS

Mercredi 5 mars 2014

The committee met at 0903 in room 151.

COMMITTEE BUSINESS

The Chair (Mr. Norm Miller): I'd like to call the meeting to order. The first item of business this morning is a motion that I believe will be moved by Ms. Elliott. Go ahead.

Mrs. Christine Elliott: Thank you, Chair. I move that the Auditor General conduct a review of all of the community care access centres in the province of Ontario, including the Ontario Association of Community Care Access Centres. The review should include, but not be limited to, a focus on the following issues:

- (1) A value-for-money audit;
- (2) Compensation of CCAC employees versus the compensation of the community care providers that the CCAC funds;
- (3) Executive compensation practices, including all executives and board members of the CCAC;
- (4) Expenses of all 14 regional CCACs and the Ontario Association of Community Care Access Centres;
- (5) A review of the CCACs' operating costs;
- (6) A review of the existing contracts between CCACs and their community care providers to determine if a conflict of interest exists;
- (7) A review into the long-term financial efficacy of existing protocols for providing care;
- (8) A comparison review into the efficacy and cost effectiveness of home care visits conducted by nurses directly employed by the CCAC and by those conducted by nurses employed by organizations funded by the CCACs.

Finally, this review should be completed and reported to the House no later than the end of the calendar year.

The Chair (Mr. Norm Miller): Very well. Any comments on this?

Mme France Gélinas: I will start by saying that I support the spirit of the motion. Before I make my comments, I have a few questions for the auditor.

The first one is that the auditor did a review of home care that was published in its 2011 report. You did a review of placement in long-term care, which was published in your 2012 report. In those two audits you looked at many parts of the working of the CCACs that are targeted by this motion. My first question is, how different is what's in this motion versus what you have already done in 2011 and 2012?

The Chair (Mr. Norm Miller): Auditor?

Ms. Bonnie Lysyk: You're correct. There were two audits that covered aspects of CCACs, the home care services, and then there was a long-term-care home placement process audit. There will be some overlap. There are some items mentioned in both reports that we would review again. There hasn't been a follow-up on these in the last couple of years, so it is possible that we'll follow up on some of the previous recommendations that pertain to this.

Some of the differences would be that during the course of those two audits, we did not look at the compensation aspect.

Mme France Gélinas: Yes, I realize that.

Ms. Bonnie Lysyk: Executive compensation—we did not look at that. We did not look specifically at the expenses for the CCACs other than identifying the allocation of those expenses to certain categories. We did not audit the expenses, as well as the operating costs. We were looking more from an operational perspective of how the CCACs and the ministry handled home care services and the long-term.

We did not compare provision of services by CCACs directly themselves to the provision by providers.

There is a lot in here that we did not cover originally in the two audits.

Mme France Gélinas: Okay. So then my next question becomes—because we had a similar conversation last week—that it comes no later than the end of the calendar year. My question to you: You have shared with us some constraints you have basically with being able to add anything else to your workload. How does that fit in with your workload?

Ms. Bonnie Lysyk: We have had a discussion of this in the office. We know, because of the extent of the review here, that by the end of the calendar year—although that seems like a lot of time when you're going to the depth that the motion is asking us to do, it takes a long time. So my suggestion for an amendment to this would be to indicate "as soon as is practical."

We would have a team that would be able to start within a couple of months, but our reporting likely would not be until early 2015. That's not to say they won't try, but practically speaking it would be early 2015. The main reason in that is because all of the teams are already on audits, and so we have to make the decision as to whether or not it's worthwhile pulling them off of something

they're already doing or that we've invested three months of time and starting a new audit.

Having said that, the requests from this committee are taken very seriously. Obviously if this motion is passed, we will make all efforts to start this as soon as possible. We will be going through a bit of a hiring process in order to meet the audits that we have on board along with this one, if it's passed.

M^{me} France Gélinas: I'll let my colleagues do comments before I continue.

The Chair (Mr. Norm Miller): And I missed allowing Ms. Elliott to talk about her own motion, so please go ahead.

Mrs. Christine Elliott: Certainly. I did make some comments when I introduced the motion last week, but I think they do bear repeating and indicate the reason why this request was made and why it is very different from the previous audits that have been conducted by the Auditor General.

This one really will focus on the operations of the CCAC in several specific areas. One is the issue, of course, of executive compensation. We've seen a dramatic increase in executive compensation in the last several years, to the point that some salaries have increased by well over 50% in the last three years. The average salary is now \$234,000. At the same time, salaries for front-line workers, personal support workers, haven't really increased beyond about \$20,000, so there's a concern there with appropriate compensation for people who are providing front-line services.

0910

The next area of concern, of course, is the administration costs of the CCACs, which can be upwards of 40%, depending on whether you include case managers or not in that equation. Many CCACs have indicated that case managers are front-line workers, but what we've heard from many providers is that in many cases they are not providing that front-line service and so should not be counted as part of that care group but, rather, part of administration. We believe that's a significant area of concern that taxpayers would want to know about.

The next issue is whether there is a potential conflict of interest in that the CCACs are the ones that are responsible for providing or awarding contracts for service to front-line service providers at the same time as they are directly employing principally nurses in the area of palliative care and mental health care. We believe that to be a conflict and something that needs to be investigated to see if there is a value, first of all, that's being provided as a result of that. There is some suggestion that the nurses who are being directly employed by the CCACs are receiving far higher rates of pay than those who are working for the contracted service providers, and in some cases, those nurses are being enticed away from the service providers to work directly for the CCACs. So the question is, is there value for taxpayers if it's being contracted directly versus going through those service providers? In some cases, it's putting some of the service providers at risk by losing a lot of their qualified workers.

So there are a number of areas to be examined in that respect.

Then, finally, there are some concerns about some protocols that have been initiated by some of the CCACs, principally around the area of wound care and enterostomal care, that may not be financially effective in the long run. There may be short-term benefits, but long-term benefits aren't significant as a result of complications. There is some suggestion that some patients have been put at risk and have had significant complications by virtue of the fact that nurses have been required to follow protocols rather than using their own best clinical judgment on a case-by-case basis.

So for all of these reasons, I would submit that this is a very different kind of audit that we are requesting, covering a number of areas that have not been specifically zeroed in on by the Auditor General in the past.

The Chair (Mr. Norm Miller): Thank you. Mr. Bisson?

Mr. Gilles Bisson: I just want to say that the member partly answered my questions in regard to what she was driving at with point number 2, which was examining the compensation of CCAC employees compared to the private sector contractors, and somewhat similar as far as question number 8. I guess it's part of the Conservative bent that everything that moves should be privatized. I can understand that that's what you're doing; I disagree.

I think for you to categorize the salaries that are paid to people who work directly for the CCACs versus what we pay contractors as efficiencies—that's not the way I would put it. I'm looking at what's happening on our highways in northern Ontario, where we have privatized the entire system. We pay more money and we get less. So this whole idea that privatization is the only way by which you can efficiently drive services in Ontario to efficiencies is a pretty bogus claim at best. I think all this is just more of an attempt on the part of the Conservatives to try to build a narrative that they need in order to try to convince people that the only way to deliver service is by way of privatization. I just want, for the record, to say: Man, are they wrong, because we've proven on almost every count now where we've privatized it costs us more money and we get less services.

The Chair (Mr. Norm Miller): Mr. Mauro.

Mr. Bill Mauro: Thank you, Mr. Chair.

I'll begin by saying that we are supportive in principle of the motion. It actually was interesting: It sounded like the NDP and the Liberals were in the same meeting this morning, because pretty much everything that Ms. Gélinas said in her opening remarks about the motion are remarks that, from our side, as the Liberal Party, we wanted to get on the record as well.

We are not opposed in principle to the motion, as I said, but we also had a chat this morning about the previous audit reviews that were done, the 2010 and then the 2012 follow-up, so there were two that were done already. I do believe that I heard the auditor say that there was some redundancy contained within the motion as presented.

I want to make the point as well, because it's the auditor herself who, last week—I was pressing on the motion from the Conservatives last week that came before us about a review of the public highway system and the snow-clearing in Ontario. It was my request that the scope of that audit go back to 1997 or so, when the Conservatives privatized the highway snow-clearing system in Ontario. It was at that point that the auditor made the point that there's a limit on the resources that we have and there's only so much that we can do. So I think it's relevant that we hear from you on that point, I think you've spoken to it already, in terms of what you're suggesting in terms of the timeline. You've mentioned the end of the calendar year—I think that's what the motion says. You've suggested that you would prefer to see that amended to "as soon as practical." We were here this morning with an amendment calling for March 2015 to give you a couple more months. I'm not sure where that's going to land, but we can have some more discussion about that as well.

I would be interested, Chair, in hearing—we're fine on the compensation pieces. You want to review that. That's new, but I think we're interested as well in hearing from the auditor in terms of what parts of the motion she sees as redundant relative to what's just been done as recently as 2012. It would perhaps help Mrs. Elliott meet the timeline that she's interested in meeting when it comes to getting this back to committee as soon as possible. So if the auditor could—

The Chair (Mr. Norm Miller): Auditor, if you want to respond, and I think you had some suggestions that might want to get picked up on for the motion as well.

Ms. Bonnie Lysyk: Sure. The motion right now has point number 1, which says, "A value-for-money audit." A suggested change on that would be to put, "I move that the Auditor General conduct an audit." The reason for that is, we would still look at this from a value-for-money perspective, but we would probably bring in some of the components that have been looked at previously and do a follow-up on our previous work.

Is it redundant? We've got a lot of working paper files already on how home care service operates and how the long-term-care-home placement process operates, so we can work with that information and just update our understanding of those two programs. So it's redundant from the sense that it covers similar topics, but it's not redundant from the point of view that it's a different time frame. Based on the follow-up work that was done on these previously, we know there's probably still more work they have to do, even at that point in time. So an update would give you more current information, as a committee, on home care services and long-term-care placement.

Those two aspects, given the scope of the previous two, are what is similarly redundant but, again, we'd update it, so it would be new information for a new time frame.

Mr. Bill Mauro: It seems a bit surprising, perhaps, that you would be supportive, it sounds, of an audit, a

review, on pieces that were just conducted two years ago. I guess my question would be—there were recommendations in the audit?

Ms. Bonnie Lysyk: Right.

Mr. Bill Mauro: So can you tell us or speak to the recommendations that already came forward in terms of what's contained in this motion? As I said, at the end of the day we're probably going to be fine with this. We're just trying to see if there's a way to scope it for your office and not leave anything out that's new, that hasn't been done before. As I said, we support this in principle, and we're happy to see it move forward, but it does seem like there's a body of evidence there already.

Ms. Bonnie Lysyk: Like I said before, I think I listed the ones that are new, that we haven't covered before—

Mr. Bill Mauro: Can you give me those again, the ones that are new?

Ms. Bonnie Lysyk: The ones that are new?

Mr. Bill Mauro: Yes.

Ms. Bonnie Lysyk: Compensation.

Mr. Bill Mauro: Number 2?

Ms. Bonnie Lysyk: Okay, number 2 was not covered before. Number 3 was not covered before. Number 4 was not covered before. Number 5 was not covered before. Number 6, from the perspective of conflict of interest, I guess, was not covered before. Number 7 was not covered before, because we did not specifically look at the two protocols that were identified today. Number 8 was not looked at before.

What was looked at before is number 1 from the perspective of home care and long-term care, so what we would do there—I guess I'm respecting that it's a request of us from the committee. Naturally, because of that, I would say that we would do whatever this committee requests us to do. What I'm suggesting is, because we have two more current files on this subject around the value-for-money aspect, we would take that information and update it to today and present more current information on the status of the recommendations that we made in those two previous reports.

0920

Mr. Bill Mauro: Thank you.

The Chair (Mr. Norm Miller): Christine, did you have a comment?

Mrs. Christine Elliott: Yes, I did. I appreciate Mr. Mauro's comments about the timing of it. Certainly, that's something that we're prepared to be flexible on, depending obviously on the Auditor General and her department's workload. So we obviously have to respect that, and we're willing to take your advice on that.

I would like to just respond to the comments made by Mr. Bisson and say with respect that this isn't about privatization; this is about getting best value for taxpayers—

Mr. Gilles Bisson: No, this is about privatization.

Mrs. Christine Elliott: It certainly is not, and I would point out to you, sir, that, in fact, many of the home care services that are being provided are provided by not-for-profit organizations. They're not all private organizations. So I believe that argument has no merit.

The Chair (Mr. Norm Miller): Okay. France?

M^{me} France Gélinas: I've always been very curious: When we talk about executive compensation, the biggest providers in Ontario are Bayshore and We Care. I know that they make a ton of money. Some of them trade on the stock exchange, and they do business.

We will know what the PSW makes because the unions will give us their contract, and we will see, but those people are supervised by shareholders, owners and all of that. So I guess I'm putting it on record that if we are going to support this, that says to look at compensation of the care providers—let's say it's Bayshore; I don't have anything against Bayshore, but they are an international company that does business. Sure, they pay PSWs. They also pay nurses. They also pay directors. They have regional directors. They have the Canadian director. They have their international branch. I know that taxpayers' money finds its way in all of this. Not only do we give a pittance to our PSWs, but we also pay the shareholders of Bayshore, their Canadian director, their regional directors, their supervisors of care, their nurses and all of this, and then we give a pittance to the PSW.

I want it on record that if we are going to look at executive compensation within our CCAC and home care system, I'm also interested in finding out how much taxpayers' money is being sent through this echelon, for lack of a better word, that is completely opaque because they are a for-profit company. They don't report on the sunshine list. We have no idea. But we know that there is a ton of money there by their behaviour and the way that they fight for contracts. It's because there's money to be made. Otherwise they wouldn't behave in the way they do.

Do I need to amend the motion, or is my little rant this morning enough to give you guidance as to, when you look at executive compensation, not only do you look at CCACs but you look at the care providers that they contract with?

The Chair (Mr. Norm Miller): Auditor?

Ms. Bonnie Lysyk: I think, based on the way this was put forward, we thought that would be an aspect of it. What we would do here is try to determine what information the ministry receives, the LHIN receives and the CCACs receive that gives more information on how those entities operate. So we did appreciate that that is an aspect of this.

Until we actually start the work on this, it's not quite clear yet, I guess, what information we would be able to receive and what we wouldn't be able to receive.

M^{me} France Gélinas: Okay. So my question then becomes: Do I need to amend the motion to make it clear that I want to see—I've spent a ton of time trying to find this out, so I'll be honest and put it on the record. I can see the money that leaves CCACs and that goes to Bayshore. I can see the pittance that the PSW gets, and there's always a big gap there. Between the money that went to the PSW and the money that left CCACs, there are millions of dollars, and I have no idea where it goes.

My little brain tells me that they go to profit, but we don't know; it goes into a black hole. It leaves CCACs, so I know that there is taxpayers' money that goes there. I can figure out through the union contracts how much money goes to the PSW, but the rest of it is unaccounted for.

You're very good at accounting, so I'm hopeful that you could help me figure out where this money goes. Is this included in what we have there, or do I need to amend?

Ms. Bonnie Lysyk: In my view, because it says "conduct an audit of the CCACs," I believe it's covered in here. I think this gives us the ability to go to that depth.

Having said that, one aspect of this is that, in the recommendations that were made previously—and I believe it was the home care report—we spoke to the fact that the funding to the entities that contract with the CCACs has been pretty much flatlined in the sense that it isn't based on the number of people they're serving. There wasn't a lot of data to support the exact amount of funding, so what we would look to see is whether or not there have been changes to any of those agreements and what information is being received from those entities to determine whether or not the services are being provided with value for money in mind by the providers.

M^{me} France Gélinas: Okay, but does that mean that I will find the salary of the CEOs of those entities?

Ms. Bonnie Lysyk: I can't answer that, France, right now.

M^{me} France Gélinas: But you will look?

Ms. Bonnie Lysyk: I think part of this is that we would look, yes.

M^{me} France Gélinas: Okay.

The Chair (Mr. Norm Miller): Mr. Colle?

Mr. Mike Colle: I haven't had time to discuss it with my colleagues, but it seems—I don't think my colleague MPP Elliott has a problem if we get this perspective. I would put it on the record; I would move a motion, because it's going to be difficult to get some private sector information. But I think that it's important background that we need, a perspective, because it's such a complex area of layers of who's delivering this service and who the PSW is really working for.

I know that we had the same trouble with the physiotherapy workers. We had those four companies that had a monopoly. They were listed on the New York Stock Exchange and the Toronto Stock Exchange, making hundreds of millions of dollars, and people were saying, "I thought the government was providing it." Well, actually, the government is providing it, but through this company that was doing quite well with government contracts. So let's work out a motion to ensure that this is looked at in a very specific way to give us the background, because it is very complex.

The Chair (Mr. Norm Miller): Mr. Bisson?

Mr. Gilles Bisson: I'm going to propose an amendment to 3, and we may have to amend a little bit further, but I just want to go back to the point that I started with originally. I'm not surprised, under number 2, that you

will find that the worker who was contracted with CUPE will make more money than a worker who has no union. I don't need a study to tell me that. That's the reason people sign collective agreements. I guess for the Tories, that's really what bugs them: the idea that there's a unionized worker who is actually getting a little bit more salary than a company would be able to put in their pockets as profit. They'd rather that workers work for less so that they can give more to their friends in the private sector. But I understand that's where the Conservatives come from.

Just further to the point where she says it's not true that privatization doesn't work: I'd just remind people what happened in our electricity system. We're paying a hell of a lot more now that we privatized it than we used to when it used to be a public entity: So privatization has been proven, on almost all accounts, not to save money and to give us worse services. But that's for another day.

What I'm going to suggest, by way of an amendment, is something on number 3 that would say something akin to—and I may need the Clerk and the auditor to help a bit here—"executive compensation practices and their expenses"—I mean the expense claims—"including all executive board members of the CCAC and those private sector entities contracted to the CCACs."

The reason I think it has to be in a motion: The auditor has certain powers, but this committee has powers that supersede the powers of the auditor. In other words, we can request this type of information as a motion from the committee, and they can't say no. The auditor has limited ability to delve into what's going on in those contracts once they get into the private sector, where this committee is able to do that. I'm suggesting "executive compensation practices and expenses, including all executive board members of the CCACs, and those private sector entities contracted to the CCACs." That way, we can really compare private sector versus public sector and what's more efficient when it comes to making profit, versus putting money directly into front-line services.

0930

The Chair (Mr. Norm Miller): Ms. Elliott?

Mrs. Christine Elliott: Well, Mr. Chair, I'm hearing a lot of rhetoric here. I think it's beside the point of this conversation. The point of this conversation is the conflict of interest that exists between the—

Mr. Gilles Bisson: Collective agreement.

Mrs. Christine Elliott: Not at all. What is—
Interjection.

The Chair (Mr. Norm Miller): Mr. Bisson, please let her speak.

Mrs. Christine Elliott: The point here is the fact that the CCACs were specifically set up to be the ones that grant the contracts to nursing care providers. Public, private, not-for-profit—it doesn't matter who they are. But that's what their responsibility is. Yet they are taking it upon themselves now to hire nurses directly. That is in conflict with what their stated mission is, and that's what I'm asking to have examined. It's not a question about private or public. It's a question asking if they are doing

what they're supposed to be doing and if a conflict of interest exists. If a conflict of interest does exist, is that causing harm to the taxpayer? That's the point of this discussion; not public, private and who gets paid what in a union. That is irrelevant to this discussion.

The Chair (Mr. Norm Miller): Ms. Wong?

Ms. Soo Wong: I too want to echo my colleague Mr. Mauro about the timeline on this audit, because I think it's really limiting.

I just want some clarification from Mrs. Elliott in terms of number 8 of your motion. We know CCAC nurses are not just visiting homes. They're in our schools. They are in various facilities. So through you, Mr. Chair, I want to get some clarification. In this audit, are we exclusively looking at nurses visiting only home-type settings, whether it is in retirement home residences? The CCAC does all kinds of care out in the community, so are we exclusively looking only at those in so-called residential types of setting?

Mrs. Christine Elliott: No, it would be more broadly defined. I only meant home care versus institutional care.

Ms. Soo Wong: Okay, so anything out in the community where the CCACs hire these nurses to provide care, regardless what type of setting we're talking about.

Mrs. Christine Elliott: Yes.

Ms. Soo Wong: I just wanted to make sure that's clear for this type of motion. Okay.

The Chair (Mr. Norm Miller): Mrs. Gélinas.

Mme France Gélinas: I have comments I was going to go through, but I'll jump to 8 directly. The Ministry of Health just funded CCACs to hire mental health nurses to go into our schools. CCACs had no choice but to hire those nurses for mental health services into our schools. I disagree with that decision completely. Some of the CCACs knew that they were not the best mental health providers. There are people who know mental health in and out, but the government funded them. Those nurses are employed by CCACs not by choice but by ministry design.

I know from the past that the auditor has never given advice as to government policy, and I am assuming you will do the same as your predecessor. If this is a government policy, then it is a policy, and you get value for money, and you don't usually get involved as to whether that was a good policy or not. So 8 could be a bit problematic.

But 7 is also a bit problematic: the review of the long-term financial efficacy of the two protocols for providing care. Here again, those are direct policies from the government that mandate CCACs to do what are called pathways, and they're basically standard care plans. So if you just had a stoma done, we expect those outcomes, and you're paid for the outcomes. I'm making those points because you will be faced with a government policy, which usually the auditor stays clear of.

Although I don't disagree with what Mrs. Elliott is trying to achieve, I'm putting it on the record now, to get your guidance as to how you will be handling this. I can speak for the north, where the North East CCAC has

decided to retain way more services than any other CCAC just because of recruitment and retention difficulties. In the north east, the therapist and the physiotherapist etc. are not contracted out; they are employees of the CCAC because it is so difficult to recruit for the different providers that it never worked.

I'm telling you this great big story to get your feedback as to what happens when a committee like us asks you to do something that looks at a government policy where the CCAC had no choice.

The Chair (Mr. Norm Miller): Auditor?

Ms. Bonnie Lysyk: In terms of what we would lay out in the report at the end of the day, on this one we would lay out what the situation is. We wouldn't comment on the previous decision. Similar to a lot of audits that have been done by the office where we use specialists, we may comment, "This is talking about protocol." We may comment on whether the protocol itself is current, in accordance with best research. We would basically lay out the facts, and the readers would ascertain whether they thought those facts warranted any kind of change or whether the situation as is was best practice under protocol.

M^{me} France Gélinas: Okay. So her question in 6, whether a conflict of interest exists: If it's ministry-mandated that they hire that staff, whether there's a conflict of interest or not, you wouldn't comment.

Ms. Bonnie Lysyk: I can only see that what we would do here is that we would lay out the facts. The term "conflict of interest," I guess is what your perspective is on the situation. We wouldn't comment on whether what we see there is a conflict of interest. A conflict of interest, to me, is something that, if there is a policy out there that says, "This constitutes a conflict of interest," we would comment on whether that policy has been adhered to. In this case, we would lay out the facts and let the reader determine if they viewed this as a conflict of interest or not.

The Chair (Mr. Norm Miller): Very well.

The auditor does have some suggestions for cleaning up the—making her job a little bit easier. Does the committee wish to hear those minor corrections—not corrections; improvements—that she is suggesting? Yes.

Go ahead.

Ms. Bonnie Lysyk: We would suggest crossing out item number 1, where it says "A value-for-money audit," and just at the beginning of the motion go, "I move that the Auditor General conduct an audit of," and we would cross out "all of." "All of" encompasses 14 of these centres, which is huge for us in terms of time, so we would make some judgment calls, like we do on all audits, in terms of the scope. So it would be "an audit of the," and it would go "community care access centres." The next sentence says "This review"; we would put "this audit."

After number 1, they would all be renumbered 1 to 6. On the next one, which was formerly number 2, we would say, "Compensation of comparable employee positions in CCACs," because we would just lay out the

facts of that, versus "the compensation of the community care providers that the CCAC funds." Instead of "funds," it would be "contract with on a fee-for-service basis," versus funding. So at the end, instead of "funds," it would be "contract with on a fee-for-service basis."

The former number 4: We would go, "Expenses of the regional CCACs," instead of "all 14."

The very last one, the former number 8: Where it says "funded," we would say "contracted with by the CCACs."

Then, at the last sentence, "Finally, this" audit: We would prefer if it could say "should be complete and reported to the House as soon as is practical." We would do that as soon as we are able.

The Chair (Mr. Norm Miller): Mr. Bisson.

Mr. Gilles Bisson: I go back to the original point on 3: Are you suggesting that you have what you need in that newly worded language to not only look at the executive compensation of a CCAC that you would choose, but you would also choose somebody contracted with in order to take a look at what's happening, at least in a snapshot, of some of them?

Ms. Bonnie Lysyk: On that one, we would try, yes.

Mr. Gilles Bisson: No—you would try, or you would be able to?

Ms. Bonnie Lysyk: I like the suggestion that you made in terms of the revised wording and the committee having power that extends beyond the act to provide us access. I think that would facilitate it. We can follow the dollar. The difficulty becomes in the definition of how far you take that dollar. Right? But I think your suggested amendment would make it easier for us.

Mr. Gilles Bisson: Okay. I had a motion; it was worded—I'm going to get to that. So I was saying, "Executive compensation practices, including expenses of executives and board members of the CCAC and those"—and I guess you have to make it singular somehow, or that it not encompass every contractor in Ontario; right?—"private sector entities contracted to the CCAC." It seems to me, that allows you to get at what you can't get under the auditor's act.

Ms. Bonnie Lysyk: It would make it simpler. I think one could argue that you follow the dollar right to the point of—

Mr. Gilles Bisson: Yes, and then you have the authority of the committee to say, "I have the right to do this."

Ms. Bonnie Lysyk: Yes.

Mr. Gilles Bisson: Okay. So if the Clerk could maybe word it out.

I want to get back to the point that Madame Elliott raises, which is that there's a conflict of interest somehow because a nurse happens to be working for a CCAC—I remind people, it was the Conservatives who started the privatization of all services that were with CCACs, because originally CCACs delivered much in the way of work themselves, directly—everything from nursing care to you name it as far as personal support etc. It was the Conservatives who started the privatization.

To say it's a conflict of interest for the CCAC to deliver those services flies in the face of reality, and I think Madame Gélinas raises a point that is very important. In those areas where you have large geographic areas to cover with the CCACs, such as northeastern, northwestern Ontario, and you don't have—some contractors are not so much, how would you say, enticed to bid on them, because it's a more difficult thing to be able to do services. CCACs need to retain the ability to be able to do some of that work themselves. Otherwise, in some communities, the work is not going to be done. Again, this whole idea of the Tories' "privatization is better" is just a way of driving down the wages for workers so they're not unionized. That's what it's all about. So you can transfer the dollars from the pockets of the workers and put them in the pockets of those who run those companies. I know that's exciting for Conservatives, we understand that, but we as New Democrats don't like that.

The Chair (Mr. Norm Miller): Okay, so in the interests of hopefully getting this done in the time we have allotted before the police commissioner comes this afternoon, we have suggestions for an amendment from the auditor and, I believe, a suggestion—

M^{me} France Gélinas: We have an amendment to the motion.

The Chair (Mr. Norm Miller): —for an amendment from the NDP.

Mr. Bill Mauro: My suggestion, Chair, was going to be, if we could just recess for five or 10 minutes and get us a copy of what the NDP amendment is suggesting and what the auditor's recommendations are, then we can maybe come back and look at what's on paper—

The Chair (Mr. Norm Miller): Sure. We'll put it into one amendment. Is that fine with the committee?

Interjection: Sure.

The Chair (Mr. Norm Miller): Okay. We'll recess for five minutes and get that done.

The committee recessed from 0943 to 1000.

The Chair (Mr. Norm Miller): We'll go back into session, then. We have a motion that has been drafted up here—an amendment to the motion. France—

Interjection.

The Chair (Mr. Norm Miller): It's a full new motion.

M^{me} France Gélinas: I'll talk to the new motion. I would—

Interjection.

The Chair (Mr. Norm Miller): Hang on a sec. Sorry.

M^{me} France Gélinas: I cannot talk to the new motion?

The Clerk of the Committee (Mr. William Short): No. The new motion doesn't exist yet. We need to either withdraw the original at the agreement of the committee or just keep talking about the original motion.

Mr. Gilles Bisson: Just hang on one second. What we were trying to—Chair, am I recognized?

The Chair (Mr. Norm Miller): Ms. Gélinas had the floor.

M^{me} France Gélinas: Okay. So now I have to talk to the original motion?

Mr. Gilles Bisson: Point of order. Then I'll make a point of order.

The Chair (Mr. Norm Miller): Okay. Go ahead, Mr. Bisson.

Mr. Gilles Bisson: What we were doing is that, both by way of suggestions of various members of the committee and with the auditor and myself, we made some amendments to the original motion. There still needs to be some changes, and that's what we're speaking to, so that we can come to a final draft of what the amendment will look like. It's not speaking to the amendments; it's speaking to changes that still need to be made, just to be clear.

The Clerk of the Committee (Mr. William Short): Yes, that's fine.

Mr. Gilles Bisson: Okay. Good.

M^{me} France Gélinas: My question is to the auditor again. When I read number one, "Compensation of comparable employee positions in CCACs versus the compensation of the community care providers that the CCACs contract with on a fee-for-service basis," I want to make sure, and I'm not sure this captures it—let's say a nurse gets \$50 an hour plus 20% of benefits and that's what she gets. When we have a nurse through the contract on a fee-for-service, \$150 will leave the CCAC to go to the for-profit contractor, who will give the nurse \$30 and 10% of benefits. I want to make sure that it connects how much money leaves CCACs for that service versus what the nurse is being paid, because there's a huge difference between the two.

I find that the way it is worded now, you could say, "Well, here's the collective agreement of the nurse at the CCAC; here's the collective agreement of the nurse at Bayshore. The nurse at Bayshore makes \$32 an hour"—I can tell you—"and the nurse at the CCAC makes \$50 an hour. The nurse at the CCAC has close to 26% of benefits; the nurse at Bayshore has about 10% to 12% of benefits." So if we look at those, we say, "Hey, Bayshore is a"—I shouldn't pick on Bayshore—"Hey, this contract is a very good deal." But what really happens is that \$150 has left the CCAC to go to the for-profit providers, and then you get the final pay. I want the total amount of money to be captured, and I don't think that number 1 does that.

The Chair (Mr. Norm Miller): Auditor.

Ms. Bonnie Lysyk: So let me understand: You want to know what the breakdown is of the use of the money that the CCAC flows to the providers or to the contracted organizations.

Mr. Gilles Bisson: And to that point—

M^{me} France Gélinas: Yes, and I don't mind looking at the salaries of the two—you can say that the nurse make \$50 there; she makes \$32 there. But in order to pay her \$32, we had had to send \$155 to the for-profit and she gets her \$32.

Ms. Bonnie Lysyk: Okay. In number 3, we talk to the "expenses of the CCACs and the Ontario Association of

Community Care Access Centres.” If you wanted to understand what the breakdown of the expenses were in the entities that are providing services on a fee-for-service basis, I would suggest that that’s probably where it would be added, if that’s the intent. Right? So we’d look at the expenses of the—get an understanding of the breakdown of the expenses of the fee-for-service providers.

Mr. Gilles Bisson: And to that point, if I can be helpful.

The Chair (Mr. Norm Miller): Are you done, Ms. Gélinas?

Mr. Gilles Bisson: It was just on the same point. I don’t know how far she wants to go.

M^{me} France Gélinas: So what the auditor is telling me is that there still needs to be clarity to make sure that we capture what I want to be captured.

Ms. Bonnie Lysyk: Yes.

M^{me} France Gélinas: I already know the collective agreements at the CCACs. I already know the collective agreements if they’re unionized. I already know that one makes 50 bucks and the other one makes \$32. I don’t need you to tell me that. What I need you to tell me is how much the taxpayer has to pay to get her those \$32.

Ms. Bonnie Lysyk: Right. So we know that overall, we can look at the expenses of the CCACs and how much they give out. If you want any analysis of what that money is used for, then I guess I would suggest that we’d need something in here to enable us to go to that depth. So that would be to look at the expenses in the fee-for-service providers’ operations, likely from their financial statements, to indicate what they’ve spent in providing services more specifically, and what they have for overhead and executive compensation and whatnot.

The Chair (Mr. Norm Miller): Mr. Bisson.

Mr. Gilles Bisson: It seems to me that points 1 and 3 can be sort of pulled together, because what point 2 does, it talks about executive compensation of the boards and the managers, both within the CCACs and with the private contractors. I think what points 1 and 3 are trying to get at is comparing apples to apples: What does the nurse for the private contractor get in comparison to what the nurse for the CCAC gets? Those two things are sort of lumped together. You can move the expenses as part of that as well, if you wanted to. I know there are issues where some employees have come to me and said that they’re not properly compensated for expenses when they travel from point A to point B to take care of a patient, but that’s a different issue.

My point is, if we can put 1 and 3 together—and I’ll try to draft something—and it gets at the point that Madame Gélinas is, which is that once we look at the expenses of the CCAC when it comes to delivery of service, if they’re paying a nurse to do it within the CCAC versus a private contractor who gets paid—I would imagine the unionized person gets more than a non-union, but I know that bugs my Conservative friends, so I won’t bother them about that. But we need to look at what the contractor is getting, because that’s really where the money is going. The difference is in the pocket of the

contractor. So I need to work out some amendment to that point.

The Chair (Mr. Norm Miller): So Ms. Elliot—and for clarity, I think the committee would need to agree to withdraw the original motion and agree that we’re working on this motion that’s before us all. Do we have agreement of the committee? Agreed. Okay, so we’re—

Mrs. Christine Elliott: Yes, I’m certainly prepared to withdraw the previous motion. Shall I read the new motion into the record?

The Chair (Mr. Norm Miller): That is correct. If you can read the new motion into the record, please.

Mrs. Christine Elliott: I move that the Auditor General conduct an audit of the community care access centres in the province of Ontario, including the Ontario Association of Community Care Access Centres. This audit should include, but not be limited to, a focus on the following issues:

(1) Compensation of comparable employee positions in CCACs versus the compensation of the community care providers that the CCACs contract with on a fee-for-service basis;

(2) Executive compensation practices, including the expenses of executives and board members of the CCACs and those private sector entities contracted to the CCAC;

(3) Expenses of the regional CCACs and the Ontario Association of Community Care Access Centres;

(4) A review of the CCACs’ operating costs;

(5) A review of the existing contracts between CCACs and their community care providers;

(6) A review into the long-term financial efficacy of existing protocols for providing care;

(7) A comparison review into the efficacy and cost effectiveness of home care visits conducted by nurses directly employed by the CCAC, and those conducted by nurses employed by organizations contracted by the CCACs.

Finally, this audit should be completed and reported to the House as soon as is practical.

Chair, if I may just make a brief comment?

The Chair (Mr. Norm Miller): Yes, please.

Mrs. Christine Elliott: I would really prefer to see 1 and 3 remain as separate sections. However, I do understand what Mr. Bisson is saying. My only concern is the extent to which the Auditor General has the ability to review that. And, from what she has indicated, she may be able to take a look at their publicly posted financials to try and glean that information. I don’t have any objection to it, generally, but I would like to keep 1 and 3 separate. I think they are looking at two different things.

1010

The Chair (Mr. Norm Miller): Okay. Mr. Fraser?

Mr. John Fraser: I’d like clarification on number 2 and the second part from the Auditor General.

I know you have spoken to this earlier in terms of your looking into those entities that are contracted to the CCAC and their salary structures. Is this beyond your scope in the way that this is worded in the motion? I’ll

tell you why I'm saying this. My concern is that it is, and that perhaps the best way forward for the committee is to say, "We'll let you do your work, and if you come back to us and you have a challenge, then we can take it from there." That's my question to you.

The Chair (Mr. Norm Miller): Auditor.

Ms. Bonnie Lysyk: Again, the scope is, I think, what's being discussed here, so it's really for you to determine what the intent is of this for us to do for you. I'm only pointing out that on number 1, that deals with compensation. Number 2, which you mentioned, does provide us the opportunity, if this is the intent, to see what the private sector entities are paying in terms of their board compensation and their executive salaries. If you wanted a fuller look at those entities that contract with the CCACs, then I think we would need something in here to indicate that we're reviewing the expenses of the private sector entities. Perhaps it's number 3 or number 4—a review of the private sector entities' and CCACs' operating costs. But, to me, you're determining the scope here as you discuss this, not me.

Mr. John Fraser: So I guess the question is, have you ever done that before?

Ms. Bonnie Lysyk: I have done similar work in other jurisdictions. I've been in Ontario since September, so I can't say I've done it here.

Mr. John Fraser: So just in terms of your moving forward with doing this audit in a fashion that's timely and, as you described, as soon as possible, to paraphrase, can you speak to your experience in other jurisdictions in regard to the effectiveness of that in terms of your team's time and your team's effort and the value?

Ms. Bonnie Lysyk: I can give you a life example. In Manitoba—and it's public record—we did an audit of the Lions Housing Centres of Manitoba. In order to do that audit, we had to determine what money was transferred from the province into Lions Housing Centres. Once we were in Lions Housing Centres, we had to determine how they used that money for board compensation, for—in that situation, they set up a for-profit entity that pulled money out from the government funding. So we spent a lot of time doing that work.

I've looked at private sector housing organizations in Manitoba and how they use the government's money in terms of board compensation, expenses, overhead. We found they were using—there were TVs being purchased. I'm talking some bad situations here. So I'm not saying this is a bad situation, but I have, from an audit perspective, looked at entities that were funded by the government and how they've used the money.

How you want to scope this for us—whatever motion you pass here, we will do our best to accomplish what the understanding of this committee is for your motion. But it is up to this committee to determine what you want us to do.

Mr. John Fraser: The entities you're talking about are generally public sector entities that have devolved themselves, just in those two descriptions. You gave one of the Lions Housing, where they set up a for-profit—

Ms. Bonnie Lysyk: They were organizations that were contracted with the government to provide services, so they were similar.

Mr. John Fraser: They were similar in the sense that—okay. I'm trying to determine, because we have seen circumstances where you have public sector organizations, and I think we saw that in the diluted chemo, where all of a sudden you've got a corporation that's set up that's arm's length from government or that becomes a private entity.

Ms. Bonnie Lysyk: These were entities that were contracted on a fee-for-service basis with the province.

Mr. John Fraser: Okay. Thank you.

The Chair (Mr. Norm Miller): We are running out of time fairly quickly. I point that out to the committee. We do have the OPP commissioner here this afternoon, so I would suggest we would try to move a little forward in this.

Mr. Bisson?

Mr. Gilles Bisson: Well, I think we need to make sure we get it right, as well.

The Chair (Mr. Norm Miller): I would agree.

Mr. Gilles Bisson: I just want to be clear on number 3. To the mover of the motion, when you're saying "expenses," you're not meaning travelling expenses. You mean total cost.

Mrs. Christine Elliott: Total expenses, yes.

Mr. Gilles Bisson: Okay, that's where 1—3 and 1 didn't work, but 4 and 1 and a merger of those two in some way, I think, would do what it is that we want.

Madame Gélinas was working on some language that kind of makes sense, which is something that would say: "A review of the CCACs' and the contracted entities' operating costs"—that would be number 4, right? I don't like number 1, but that's a whole other issue.

Mme France Gélinas: But I think—if I'm allowed, Mr. Speaker—if 4 becomes, "A review of the CCACs' and contracted entities' operating costs," and then including comparing compensation of comparable employee positions within the two, then I think we're catching what I'm trying to get at. Sure, one is \$50 and the other one is \$32, but to pay that \$32, the taxpayer spends an awful lot of money to get her that 32 bucks.

Is using the term "operating cost"—I'm guessing that's getting at what I'm trying to do, but I'm not sure.

The Chair (Mr. Norm Miller): Yes, Auditor, is that terminology fine?

Ms. Bonnie Lysyk: "Operating costs" would be fine.

Mr. Gilles Bisson: That would include employees and whatever other costs.

Ms. Bonnie Lysyk: I guess it would be—I'm going to give an accountant answer: It depends. A review of the private sector entities—I think "expenses" would have a broader basis than "operating costs." You could say "operating costs and expenses" just to ensure that it's broad enough.

Mr. Gilles Bisson: Okay. All right. So if we did something like, "A review of the CCACs' and the contracted entities' operating costs and expenses"—

Ms. Bonnie Lysyk: Other expenses, yes.

Mr. Gilles Bisson: —“and other expenses, including wages”—something like that; I don’t know. I don’t even know if you need to put it there, because “other expenses” would cover it, right?

Ms. Bonnie Lysyk: Yes.

Mr. Gilles Bisson: And that would allow us to collapse 1 and 4 into one point? We can live with that. That make sense. It allows you to get at what you want.

The Chair (Mr. Norm Miller): Okay. Ms. Wong.

Ms. Soo Wong: Mr. Chair, earlier I made my concerns about the lack of timelines in terms of reporting, because I know there’s lots of concern out there. I know Ms. Elliott raised this concern to us before. So in terms of the final statement here, Mr. Chair, through you to the auditor, what does it mean “as soon as practical”? Because Joe Public does not know what “as soon as practical” is. What are we looking at: five months, 10 months, 12 months? How do we look at that time frame?

The Chair (Mr. Norm Miller): Auditor?

Ms. Bonnie Lysyk: Okay. I think when we discussed this in the office, we were thinking spring—

Ms. Soo Wong: Spring of—

Ms. Bonnie Lysyk: Of 2015.

Ms. Soo Wong: Okay. Because I don’t know—unless we put a very specific timeline, the general public will be confused. “As soon as possible” could be next month. To be realistic, and because this is a public committee, it would be much better to have a very specific timeline that would not box yourself in, but also, it would be specifically March 2015. That way, it’s open, and that will allow your staff due diligence to do this report for the committee.

The Chair (Mr. Norm Miller): Okay. Mr. Mauro.

Mr. Bill Mauro: Thank you, Mr. Chair. I thought Mr. Fraser was trying to drill down to something, but I’m not sure that we got an answer from the auditor. I think she did, but I’m not sure it was maybe what he was trying to drill down to.

On the contracted piece with the CCAC, in terms of your capacity, your ability under the legislation to extract information from contracted companies, I’m just trying to understand that. Rolling around in the back of my head somewhere is that, years ago, when I was on public accounts and them came back on public accounts, on issues related to Ornge and the work that was ongoing there, it seems to me there were some pretty significant and serious concerns expressed about some of the work that the committee was asking the auditor’s office to conduct when it came to those entities. I’m just trying to get a sense of that concern. I don’t remember it well. As I said, it was a couple of years ago, and I thought I remembered the auditor expressing some concerns about what he, at the time, was being asked to do, and did it go beyond the scope.

1020

Ms. Bonnie Lysyk: Not having been here in those discussions, I can’t comment on that.

Mr. Bill Mauro: I’m not asking you to comment on that. I’m asking if the way this is worded or structured here today is sort of giving the committee authority or powers that go beyond what you’re allowed to do, I suppose is the question. That’s what I think Mr. Fraser was trying to ask, and I’m not sure that we got an answer. Are we going beyond the scope when it comes to the contracted companies, I mean. I don’t think anybody has a huge problem with it; I’m just trying to understand it.

Ms. Bonnie Lysyk: Under the act, the act for this office has a follow-the-dollar clause, where we can follow the use of public monies into entities that receive those monies, that are recipients of public funds. We also have subpoena power under the act that allows us to subpoena people if they’re not providing that information. I think my understanding of what was suggested as an amendment to the motion is to deal with the potential that there could be an interpretation around our act’s provisions that would take us maybe into longer discussions with the private operators, and that the amendment to the act would just ensure that if this is what the committee’s wish is, we’re able to do it.

Again, I go back: If this is important to you as a committee and you want us to do it, I believe the intent of the suggested change to the wording was to ensure that we have access and it’s very clear to those fee-for-service providers that we have the support of the committee to get access. With respect to the act, we have “follow the dollar,” but again, this probably provides more clarity.

Mr. Bill Mauro: Currently, the contracts that exist—I mean, that’s all going to be public, right? So a contract between the CCAC—the auditor will be able to get a contract between the CCAC and who they’ve contracted with. That’s available to us already. That quantum, that total for company A, is going to be something that’s easily available and readily available to us. We’re going beyond that, though, trying to find out what that quantum is used for and how it’s disbursed, I think is the point that Ms. Gélinas is trying to get to. I think that’s my question. Is that a level of detail that you’re able to, with your scope of authority, get back for us, or are we asking you to do something that you can’t do or that you don’t have access to?

Ms. Bonnie Lysyk: It’s not a simple answer that I can give you because I would have to look at the agreements and how the agreements are structured. I would have to understand what proportion of funds flows into these entities—and I don’t have that—and whether or not, I guess, these entities will feel that their information is being challenged. What that does is that then you have to, as the audit office, present your case to them as to why you think you have access to that. So there is a time commitment there.

I can’t give you a direct answer until I have some information more specific to some of the agreements. I can say that if this is what you want us to do and you want to ensure that we’re able to do this, then the suggestion of providing us with more strength behind our act to do this

is probably appreciated because we wouldn't have to go through hoops to try and get access if it was difficult.

Mr. Bill Mauro: I appreciate where Ms. Gélinas is trying to go with this. I have no problem with it. I'm just wondering, without you having to do what you've just described and wondering if there's challenges associated with it, if there's a way to get that information without you having to try and do that. For example, if we're comparing contracts and you're able to extrapolate some commonalities between a contract between the CCAC and a private contractor and the CCAC and a non-profit or public sector contractor, and you're able to do some apples-to-apples comparisons without having to go down and go beyond—

The Chair (Mr. Norm Miller): I'm afraid I'm going to have to interject now because we're running out of time. That clock is actually a little slow up on the wall there. What I'm going to ask is that the committee defer this until our next meeting, which would be—what's the date?

The Clerk of the Committee (Mr. William Short): Wednesday, March 19.

The Chair (Mr. Norm Miller): Wednesday, March 19, in the morning, as we have a full agenda this afternoon with the OPP commissioner coming in. Is that fine with the committee?

M^{me} France Gélinas: Far away from me to argue with the Chair, but after the commissioner this afternoon, don't we have—

The Chair (Mr. Norm Miller): The mover of the motion is not subbed in this afternoon.

M^{me} France Gélinas: Oh.

The Chair (Mr. Norm Miller): And that can't be changed at this point.

M^{me} France Gélinas: Okay. Sorry.

The Chair (Mr. Norm Miller): So I have the agreement of the committee on that? Agreed. We're deferred till the 19th.

The committee recessed from 1025 to 1235.

SPECIAL REPORT, AUDITOR GENERAL:

ORNGE AIR AMBULANCE AND RELATED SERVICES

ONTARIO PROVINCIAL POLICE

The Chair (Mr. Norm Miller): I'd like to call the committee to order and welcome Ontario Provincial Police Commissioner Chris Lewis back to the committee.

Mr. Chris Lewis: Good afternoon.

The Chair (Mr. Norm Miller): Good afternoon. You swore an oath last time you were here, so that stays in place for today—no need to swear another one. Welcome, and you have 10 minutes to make an opening statement—up to 10 minutes—and then we'll go to questioning from the caucuses.

Mr. Chris Lewis: Great. Thank you. I was a little worried, when no one was showing up, that you and I could just sit and talk over a coffee. But it's a pleasure to

be here and my pleasure to update you, Mr. Chairperson and committee members, on the progress of the OPP's ongoing criminal investigation into the Ornge air ambulance service.

As you may have heard since last time I was here, I have since made the decision to retire from the OPP after almost 36 years of service, effective March 28, and my successor has been named. The commissioner-designate is OPP Deputy Commissioner Vince Hawkes, currently provincial commander of field operations, which is my previous position. That said, my pending retirement and Vince's appointment will in no way affect the ongoing investigation that we're here to discuss today.

OPP investigators assigned to the Ornge investigation use and practise the major case management protocols and make decisions based on evidence that is lawfully collected and that can be used for the purpose of prosecution. A change in the senior leadership of the OPP does not affect our policy or our practice and procedures for investigations. Those skills are based on years of experience and knowledge gained through educational opportunities, training and court decisions.

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. I should also point out that, as commissioner, I know in broad terms about the progress of the investigation, but I am not updated on the details or the findings. That detailed information will rightly rest with the investigators until due process has run its proper course.

There is a significant public interest in preserving the integrity of a criminal investigation and ensuring that any persons who 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 of Rights of every person, including the right not to be subjected to unreasonable search and seizure, the right to legal counsel and the right to remain silent.

As well, it is critical that evidence heard publicly in this forum does not in any way taint potential interviews with subjects or the levels of their co-operation in what remains an ongoing and incomplete investigation.

I am aware that this investigation is important to the members of this committee, the Legislature and the executives in government. It is also important to me. However, I must also express that decisions made by the OPP senior leaders in the deployment of resources and related expenses are prioritized based on the need to respond to urgent and/or emergent issues concerning public safety and then other incidents that are not urgent or emergent in nature.

Let me start by bringing you up to date on the OPP's ongoing investigation into the Ornge air ambulance service.

On February 6, 2012, the Ministry of Health and Long-Term Care requested an investigation based on reports by

company insiders of financial improprieties by management of the Ornge conglomerate. If government representatives have reason to believe that a criminal offence has occurred, they file a complaint and the OPP may initiate an investigation. The OPP did commence an investigation, under the direction of a detective inspector from our criminal investigation branch. This major case manager is heading up a team of investigators from the OPP's anti-rackets branch corruption unit, which includes a forensic chartered accountant. Additional investigators from the anti-rackets branch have been supplementing this team as necessary.

Support staff members from our evidence management unit have managed and processed documents seized for review. Investigators have followed up on tips and information received from current and former employees of the Ornge investigation, and that work continues to this day.

I can advise you that investigators have travelled throughout Ontario and outside of Canada to the United States to do interviews and collect documentary and electronic evidence. The investigative team has been in communication with members of United States law enforcement agencies, the RCMP and others and have been assisted by these officials.

To date, our investigators have conducted more than 60 interviews, including current and former employees of Ornge, other government of Ontario employees and persons within the aircraft industry. They have gathered and are currently examining over 30,000 pages of documents and more than 500,000 email communications, all in search of items of evidentiary value.

As you know, an enormous amount of data can be stored on a variety of devices, and it's not unusual for the OPP to seize thousands of gigabytes of information in some investigations. The analysis of data is a lengthy and complex process, but a thorough review of these exhibits is essential for a proper and complete investigation. The documentation, especially that involving financial records, once reviewed, leads to more initial and/or follow-up interviews with involved persons.

1240

My update to the committee is this: Investigation into activities at Ornge continues. I mentioned here last year that within a year, we'd know whether or not there will be criminal charges laid. We're certainly closer to that determination now, but the investigation is still not complete, and I cannot speculate on the eventual outcome.

Every investigation is unique, but my experience is that it is not unusual for such complex investigations to take multiple years to complete. As this and any OPP investigation unfolds, information situations arise that may add to the time required to determine whether charges will be laid, and that remains the case today. We're not there yet.

During the past year, OPP investigators worked closely with the federal department of justice in lawfully and respectfully making applications through the mutual legal assistance treaty, or MLAT, process to gain access to

information and to compel witnesses from other sources outside of Canada. The process is not timely and requires that a proper process and protocol be obeyed. The federal department of justice is assisting us to the best of their ability. Although a properly completed criminal investigation may seem lengthy to some, it is absolutely necessary to invest the time to thoroughly analyze the information gathered if the actions of the involved individuals are to be revealed.

I can tell you that our investigators will take the time they need to follow the evidence to its logical conclusion and then take appropriate action, if required. Many of the specialized sections in our anti-rackets branch and our technological crime unit are currently stretched for resources, and each new case creates a bigger workload and greater backlog. Some investigations that involve imminent public safety concerns are obviously given priority.

I'd be pleased to answer any questions you may have in regard to my comments and the progress of this investigation. However, it is noted at the outset that the disclosure of the specifics of any evidence gathered or findings to date will potentially compromise the integrity of the investigation and prejudice the prosecution of any offences arising therefrom.

Thank you, sir.

The Chair (Mr. Norm Miller): Thank you, Commissioner, for the opening statement. We'll move to the opposition first. Mr. Klees, you have a total of 25 minutes. You can either use it all at once or save some for a second round, if you'd like, and you can indicate to me what you want to do.

Mr. Frank Klees: Thank you, Chair. Commissioner, welcome back, and congratulations on your retirement.

Mr. Chris Lewis: Thank you, sir.

Mr. Frank Klees: We wish you well.

Mr. Chris Lewis: Thank you.

Mr. Frank Klees: You were here almost a year ago; it was March 20 when you gave testimony. At that time, you told us that "OPP investigators"—and I'm reading from your testimony—"have conducted interviews with more than 50 people during the course of this investigation." As of about a year ago, some 50 people had been interviewed, and you've just told us that as of today, some 60 people have been interviewed, so an additional 10 people over the course of the year.

Mr. Chris Lewis: That's correct.

Mr. Frank Klees: It seems to me that—I have to tell you, we're obviously concerned. We read about Finmeccanica, AgustaWestland's parent company, seeing criminal charges laid in other jurisdictions. We see Mr. Orsi, a senior executive of AgustaWestland, of Finmeccanica, being arrested. We read about those files, and they are uncannily similar to the kind of transaction that has gone on here, in terms of what I have no hesitation in this room referring to as an apparent kickback. We had testimony here from people who worked with Ornge and who were on the front lines of negotiating that deal

who told us that that transaction was highly, highly questionable.

The first question that comes certainly to my mind is, if investigations can be completed in other jurisdictions on a similar file, why are we still so far away here, given all of the testimony that we've had and what appears to be apparent? Why is it taking so long?

Mr. Chris Lewis: Well, there are a couple of issues, Mr. Klees. Number one is that no two investigations are the same. I investigated homicides where the person who was accused of committing the homicide was under arrest in 24 hours; we have cases that are 40 years old we haven't solved yet. We have to follow the evidence. We have to abide by the procedures and processes that the courts have dictated we proceed by. And we have hundreds of thousands of emails and we have thousands of documents to examine. Unless you want us to shut down a division of the OPP and work on this full-time, then it's going to have to run its course and that's all there is to it.

Dealing with foreign countries and MLAT treaties takes months and months and months to do. You just don't snap your fingers and fly to another country and start seizing documents and interviewing people. It's just not that simple. You have to rely on us as the OPP, a world-class organization that is widely respected for our investigative expertise—and our anti-rackets branch, which has been doing this sort of work since 1960 and leads many complex fraud investigations that often take years to investigate—and just know that we're doing our best.

One of the issues that doesn't help, to be quite candid, is that we're in the middle of a criminal investigation at the same time there's evidence being heard from people who are witnesses in a criminal investigation. At least one witness—I don't even know the name, so please don't ask—who appeared indicated he was going to be fairly co-operative with us, and after appearing in this committee declined to speak to us. So that doesn't help.

I respect the role of the committee, but we are asked to investigate this. We are, and to get pushed to do it quicker than we can in the middle of this process while we're trying to do our best is not easy for us.

Mr. Frank Klees: So, in that case, this is a criminal investigation—

Mr. Chris Lewis: It is.

Mr. Frank Klees: —you have a witness who obviously is key, given that he was here and you had identified that witness as someone who would be pertinent to the investigation. He declines to meet with you. Do you compel, or did you compel that witness?

Mr. Chris Lewis: We have no ability to compel. We can't force anybody to talk to us, an accused person or a witness, or even a victim, for that matter.

Mr. Frank Klees: And at what point—let's assume that that individual has critical information. At what point would that person be compelled?

Mr. Chris Lewis: Only under a subpoena by a competent court to have that person testify.

Mr. Frank Klees: And why would you not apply to the court for a subpoena?

Mr. Chris Lewis: That's something you might see on television in the United States. That doesn't happen in Canada under our judicial system. If there's a charge laid, we could subpoena an individual to testify, but there's no court process ongoing right now by which we could subpoena somebody to give evidence.

Mr. Frank Klees: So, if we have someone who has knowledge of the file and their knowledge could potentially lead to charges being laid, what you're telling us is that you're powerless to compel that person to provide the evidence that could potentially lead to a criminal charge. Is that correct?

Mr. Chris Lewis: That's correct. Nobody can be forced to talk to the police. You could catch someone in the act of committing a heinous crime, and they're under no obligation to talk to us. They have that right, and of course, in cases like this, they're surrounded by teams of lawyers. They know their rights, and that's fine. We have to respect that, as we do this process, as we do the court process in Canada.

Mr. Frank Klees: So if in fact charges are laid, you can in that case compel that witness to come forward, or the court can.

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

Mr. Frank Klees: And then, in the course of a trial, that person's evidence would be brought forward.

Mr. Chris Lewis: That's correct, but we won't know that person's evidence. We may know bits and pieces of what we believe that person's evidence should be or involvement or knowledge of certain things. I know none of those details, obviously; I'm just speaking very hypothetically. When the individual takes the stand, they could say something totally different, and now we have to run out and then investigate what the individual said. I know it's frustrating for investigators. When we're investigating a homicide, for example, and we know that an individual may have seen or heard something or touched a piece of evidence, and that individual says, "I'm not talking to you. Here's my lawyer's name"—refuses to co-operate, refuses to talk—there's nothing we can do. Absolutely.

Mr. Frank Klees: But it may at least motivate you to be more persistent in another direction, knowing that there's something questionable—

Mr. Chris Lewis: Oh, our people are quite persistent at what they do. At the same time as I was here last week in a different committee—the night before, we had four people shot, two fatally, around Napanee. That same day, the highway was blocked off with 100 vehicles in a pileup on the 400, and all over Ontario the same things were occurring, and on and on. So as a result of all that, our leaders in our organization have to make very difficult decisions around where to deploy resources. Do we deploy resources to assist in a fresh homicide, or do we follow up a bad cheque investigation somewhere? They're difficult decisions, and we don't want anybody

to be victimized, but unless we have thousands and thousands of people with nothing to do, we have to deploy to the best of our ability. We want to get this thing wrapped up as much as anybody does.

Mr. Frank Klees: I think the assurance that we're hoping to get from you is that while we recognize there are resource challenges and that this isn't the only file that you're dealing with, it's not a matter of not being persistent. It may well simply be that it will take longer than expected to come to a conclusion here.

Mr. Chris Lewis: That's exactly correct, sir. When I answered the question last year, it was a best guess at that time based on how the investigators felt things were going that year. It's going to be longer than a year, but I can't hazard a guess of how long. There's nothing our investigators would want more—if they can prove a criminal offence occurred and prove who did it and lay charges, that's what they do, and that's what they want to do.

Mr. Frank Klees: You indicated that you'd been in touch with other enforcement agencies in the US.

Mr. Chris Lewis: That's correct.

Mr. Frank Klees: I believe, last time, you did mention that contact had been made with Italy as well.

Mr. Chris Lewis: That's correct.

Mr. Frank Klees: Can you tell us, are there any other international jurisdictions that investigators have interviewed or have had contact with?

Mr. Chris Lewis: I'm not aware of any, other than those two. I know our investigators have been to the United States, and I know they plan to go to Italy, but that's part of that whole discussion around the mutual legal assistance treaty, MLAT, and the federal department of justice to arrange all that to be properly done. We've already approved the travel, and we're just waiting for things to come together so our officers can travel to Italy.

Mr. Frank Klees: Given the fact that Agusta-Westland's headquarters are in Pennsylvania, the US headquarters, and that that's where the deal between AgustaWestland and Ornge was negotiated, it's now an international file. Is the RCMP involved in this investigation in any way?

Mr. Chris Lewis: Once again, I don't know the finite details, but I do know that our investigators have been working with the RCMP on this file. What their involvement or their role is, I don't know. But as soon as we start getting involved in international investigations, our protocol is that we deal with the RCMP, because they have contacts in various countries around the world, including within the United States of America, and those contacts will help pave the way with local law enforcement and other enforcement agencies, rather than us knocking on the door, making a call out of the blue. The RCMP have the established linkages. So we take full advantage of that.

Mr. Frank Klees: I'm assuming, then, that the FBI would be involved in the file as well.

Mr. Chris Lewis: I'd only be assuming. I don't know the answer to that.

Mr. Frank Klees: Okay. You mentioned in your last testimony that you have a major case manager, someone who is very competent and highly experienced. Can you tell us, is the same case manager still on this case? Is it the same unit of people who are carrying this investigation through?

Mr. Chris Lewis: It is, sir. It's the same. The detective inspector's name is Chris Avery—male Chris. He still is the officer in charge, and he still has the same core group, to my knowledge, supported by others if and when the need arises. Then we have our technological crime section involved as well, who support Chris, who is the overall officer in charge.

Mr. Frank Klees: It's a complex case, as you indicated in your testimony, and you indicated that there are legal experts as well as forensic accountants involved in the investigation. Given that, do you have any idea at this point how much this investigation has cost, so far?

Mr. Chris Lewis: I do not, sir. We do track those things; I just don't know the answer to that question.

Mr. Frank Klees: Is that something that you'd be willing to share with the committee if you—

Mr. Chris Lewis: It's something I'd be willing to discuss with our own counsel and the Clerk. Certainly if that's feasible and appropriate, then I will, but I'm not quite sure where all that stands right now. At any major event, whether it be the response to a tornado or a homicide, we start tracking that event immediately, to keep track of the costs for a variety of reasons. So it shouldn't be difficult, but I can get back to the Clerk on that.

Mr. Frank Klees: So can you, then, confirm that—and I realize that we can't be specific about this. But you indicate now that there are some 60 witnesses that have been interviewed. Would any of those witnesses have been employees of the government?

Mr. Chris Lewis: I don't know the answer to that, sir.

Mr. Frank Klees: Okay.

Mr. Chris Lewis: I'm assuming so, but once again, I'm only assuming. I know we received co-operation from Ornge and the Ministry of Health, so it goes without saying that in all likelihood some of those folks have actually been some of the 60 interviewed—and 60 people interviewed, some maybe several times, depending on the course of the investigation.

Mr. Frank Klees: Chair, I'll yield.

The Chair (Mr. Norm Miller): Okay, very well. We'll move to the NDP. Ms. Gélinas.

M^{me} France Gélinas: I'll go with the easy questions first.

Mr. Chris Lewis: Oh, thanks.

M^{me} France Gélinas: Last time you were here, you guesstimated when this would be wrapped up.

Mr. Chris Lewis: Correct.

M^{me} France Gélinas: I would ask you to do a guesstimate again. Give us a time frame; give us your best guess. You know this business way more than I will ever do. I'm trusting your guesstimate judgment.

Mr. Chris Lewis: You know what? It would be such a shot in the dark for me. I can do that if you want, but I don't know. I have not asked the investigators how much longer, because I did last time and they told me a year, and here we are. I didn't want to put them in that position again, so I deliberately did not ask the question. So if I said "six months, five months from now," everybody would be waiting with bated breath and it might take another six months. It is complex, and we don't know from one interview to another, or examination of documents, where that might lead and how much time it will take. I'm always so reluctant to even give a best guess. It's going to be months, I'm sure, but other than that, ma'am, it's very difficult for me to hazard a guess.

M^{me} France Gélinas: So I—

Mr. Chris Lewis: Because we haven't even been to Italy yet. What is that going to show us, and where is that going to lead?

M^{me} France Gélinas: I'm really disappointed that it is not like on TV, that in 60 minutes it's all solved. I like the TV version of reality way better.

Mr. Chris Lewis: Oh, we all do.

M^{me} France Gélinas: But this being said, your officers want to lay charges, and there are millions of people in Ontario that have followed this and feel that they know enough about what happened at Ornge to know that it was wrong, to know that somebody has to be punished for what happened. You are one of this group representing the province, that is trying to do your job, that is trying to lay charges. Let's say that things don't go like on TV and you cannot lay charges. Then how does this wrap up?

Mr. Chris Lewis: Well, if I could just correct something in what you said, ma'am, in that we want to lay charges. If, in fact, we identify a criminal offence has occurred, and we can identify who committed a criminal offence, as a general rule in investigations, then we want to lay charges, put it before the courts and let the courts make their decision. I can't even say that, without a doubt, a criminal offence occurred here, and I can't say, if it did, who did it, let alone what the evidentiary chain is to prove it in a court.

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Unlike TV, where they just arrest people and an hour later they're in court, it takes months and years, sometimes, to prepare for that. So you really want to have all your ducks in a row before you put somebody before the courts, and have all your evidence together and ready to go.

How will it wrap up if no charges are laid? I believe I was asked that last time. Generally speaking, we don't subsequently release reports on investigations publicly, unless we're directed to by some competent jurisdiction. Sometimes investigations end up in public inquiries or coroners' inquests or whatever process by which we will release details and facts. Other than that, as a rule, it's often a freedom-of-information request.

We've gathered a lot of personal information here about people who are witnesses who may have done

absolutely nothing wrong, and about people who may have done something wrong and we can't prove it and can't lay a charge.

So there are a lot of issues around disclosing that publicly and releasing that, and it will take greater legal minds than mine to make the decision as to what would be released publicly and what wouldn't. We'd certainly put out a statement to some effect, but it would be fairly benign. Really, that's the only answer I can give you.

We wouldn't normally put out a report to say—now, I could be subpoenaed to a committee such as this and be compelled to provide some sort of documentation, and that's something that we'll discuss if, in fact, that's the case down the road.

I'm not trying to be unco-operative in the slightest.

M^{me} France Gélinas: No, no; I understand. But at some point you—

Mr. Chris Lewis: It's just that legal processes are what they are.

M^{me} France Gélinas: But at some point, you would know that you are done.

Mr. Chris Lewis: We would know we're done to a certain point and that we don't have enough evidence to lay a charge. That's not to say that that wouldn't result in somebody coming forward a week later and saying, "Okay, I want to talk now, and I want to tell you something." We never say "never."

In homicide cases, we have cases that are 40 or 50 years old and we don't have any evidence to follow up, but if someone calls us tomorrow, we're on it, and we'll continue the investigation, because we really want to do what's right for victims and for the communities we serve.

M^{me} France Gélinas: You have told us of one example where the work that we do was not too helpful to you. Can you tell us if there is work that we can do that would be helpful to you?

Mr. Chris Lewis: No, off the top of my head. Once again, I'm not trying to be unco-operative or critical, but it is extremely difficult for me to come here and answer questions, so I deliberately know very little so that I can't accidentally ruin an investigation or potentially prejudice a court process.

If there's a lesson to be learned in all of this for me, it's that I would rather not see these committees occur in the middle of ongoing investigations. But it is what it is, and I have to respect the process and the decisions and abide by them. But it would be a lot easier if we didn't have this weighting us, and then have our people feel, potentially, by some of the media coverage, that members of provincial Parliament are upset that we're not done yet. That doesn't help our people at all. But they'll still do what they have to do, and they'll do it to the best of their ability, because they're professionals.

M^{me} France Gélinas: I'm fully aware of the human factor in all work that people do. Am I going too far in interpreting what you just told us as you can't wait until we wrap up?

Mr. Chris Lewis: I can't wait until we wrap up, and if I don't have to testify about this again, I'll be quite happy. Whatever else your committee does that doesn't involve me, I don't care if it ever wraps up. It's just the OPP piece of it that concerns me.

M^{me} France Gélinas: Okay.

Mr. Jagmeet Singh: I just want to ask you some general questions about the investigations, in terms of the process or the progress. Have you, to date, applied for any search warrants?

Mr. Chris Lewis: I know we have executed none. I can't say we haven't applied for any; I don't believe so. But I know we have executed no warrants. We've had full co-operation from Ornge.

Mr. Jagmeet Singh: Okay. Is there any intention to obtain information that would require a search warrant?

Mr. Chris Lewis: I don't know that either. Once again, we haven't visited Italy, and so how all that will work is an issue for the investigators to sort out with proper legal counsel.

Mr. Jagmeet Singh: Sure. Now, just to put something into context—and you know this quite well, but I think this would help, just putting this on the record—there is a stark difference between someone doing something wrong, and in the case of Ornge, doing something wrong that the taxpayers, in terms of political accountability, government accountability or this committee's pursuit of what went on and the lack of accountability, or whatever steps went on—there's something starkly different between that and then the laying of a criminal charge. The onus and the definition of a criminal offence and the burden that you need to meet to achieve that, versus showing that there was mismanagement or there were some inappropriate activities or there was a lack of or negligent behaviour—that and what you're doing are two quite different exercises.

Mr. Chris Lewis: Totally different, sir. If I could just give an example of that, I know people in this country who have committed murders and I would love nothing more than to charge them and bring them before the courts, but we don't have the evidence to do it.

Mr. Jagmeet Singh: So what you're trying to do is obtain not only evidence of inappropriate activities, but specifically inappropriate activities that are actually unlawful activities, activities that would form the basis of evidence that could actually satisfy a criminal offence within the definition of the Criminal Code.

Mr. Chris Lewis: That's correct, and this is a criminal investigation, so that is our focus: whether someone did anything criminal or not.

Mr. Jagmeet Singh: And you could find all sorts of evidence and all sorts of data or documents; you could have your fraud team, which has a great level of expertise in this area, your technology folks, who could look into all sorts of different sources of evidence, but come up with nothing that actually meets the burden of a criminal offence.

Mr. Chris Lewis: Or the proof of a criminal offence. Sometimes we have evidence of a criminal offence, but

not enough to lay the charge or convict. That's something that the prosecutors have to consider: What's the probability of a conviction? If it's, "Okay, you know what? It looks like he or she probably did," and there's some evidence, but no jury or justice is ever going to convict based on that, sometimes it's not worth the public interest to proceed, depending on the case and what's involved.

Mr. Jagmeet Singh: Right, and I'm sure you've heard this terminology: "But we have no reasonable prospect of conviction." That terminology is often used by crown attorneys: that perhaps there's some evidence here, but there's certainly not enough to rise to the level of obtaining a conviction.

Mr. Chris Lewis: That's correct.

Mr. Jagmeet Singh: In terms of the next steps forward—we understand that there have been 10 people in terms of interviews. In this case, though, for it to find the evidence that you need, you don't necessarily need witnesses to actually make the foundation of a case; you could perhaps, if you find the right evidence in terms of documents, in terms of data, in terms of correspondences, form your case, potentially, with the right information without witnesses; that's not the only way to lay charges.

Mr. Chris Lewis: As a general rule of thumb, that's correct. I can't say that specifically in this case.

Mr. Jagmeet Singh: Okay.

Mr. Chris Lewis: But generally, in some cases, you have one witness—

Mr. Jagmeet Singh: That's right, or sometimes you have no witnesses.

Mr. Chris Lewis: —and then supporting physical evidence of some sort.

Mr. Jagmeet Singh: Right. So now, moving forward, next steps, there are certain barriers that you face, and you've said those and you've been quite forthright. You have different treaties that you have to work through when dealing with international jurisdictions. That's one issue, right?

Mr. Chris Lewis: Right.

Mr. Jagmeet Singh: You have people, whether it's for their own reasons or based on advice from lawyers, who are not providing statements, which is within their right.

Mr. Chris Lewis: That's right.

Mr. Jagmeet Singh: And you also have—one of the other hurdles or obstacles in these types of investigations is, you have complex agreements and documents and transactions; just to decipher them, let alone get evidence out of them, is often a great obstacle.

Mr. Chris Lewis: It is, correct—especially in this type of case.

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Mr. Jagmeet Singh: Right. In your opinion, given the fact that throughout all the transactions, everything that occurred in Ornge, there has been legal advice given to all parties, so while your investigators are looking to find evidence, your investigators are well aware, and I'm sure you're well aware, that every step of the way, the folks involved in this activity sought legal counsel before they

made decisions, and I'm sure that has insulated their activities from potential legal charges.

Mr. Chris Lewis: That is often the case. I can't say that it's the case with every single person involved in this, but that is generally the rule. It's well publicized. Everybody knows it's coming. Everybody knows we're going to knock on the door at some point. If they were involved, they're seeking legal counsel, as a rule.

Mr. Jagmeet Singh: More than that, prior to any thought of an OPP investigation, along the way from what you know of this investigation, you know that there was legal counsel obtained by folks at Ornge and Agusta-Westland. All the parties involved had legal counsel that advised them along the way.

Mr. Chris Lewis: Nobody has told me that specifically, but it's an assumption.

Mr. Jagmeet Singh: Okay. Besides Italy, is there anywhere else that you need to go to take this investigation to the next step?

Mr. Chris Lewis: We may need to be back in the United States on maybe several occasions; I don't know. I know we have been; I don't even know how many times. But certainly Italy is a next stop.

Mr. Jagmeet Singh: Have you exhausted all of the—either data, correspondences, documents that you need here in Ontario and specifically as it's related to Ornge in Ontario?

Mr. Chris Lewis: I don't know that for sure.

Mr. Jagmeet Singh: But you haven't had any problems obtaining anything you needed, so you haven't needed to execute a search warrant?

Mr. Chris Lewis: I've been told that within Ornge we've received full co-operation. That's one of the reasons that was cited to me why we haven't executed search warrants: because it was given to us by Ornge.

Mr. Jagmeet Singh: Okay. Has there been any concern about the deletion of documents or the destruction of documents that might have been necessary? Are you aware of that as a concern or has it been raised as a concern?

Mr. Chris Lewis: That hasn't been raised as a concern with me.

Mr. Jagmeet Singh: It has not.

Mr. Chris Lewis: No, it has not.

Mr. Jagmeet Singh: Beyond documents and beyond electronic evidence, is there any other sort of evidence that you require that you're pursuing in terms of perhaps video surveillance or other sorts of—

Mr. Chris Lewis: I'm not aware of any of that, no. That falls into those questions I just don't ask the investigators.

Mr. Jagmeet Singh: Sure.

Mr. Chris Lewis: My fear is not so much disrupting the investigation, because I'll always be very careful that I don't, in some way, prejudice it with something I say, but I could inadvertently say something—maybe inaccurate, and hurt a potential witness or maybe bring discredit to somebody wrongly or somehow jeopardize the investigation and some witness coming forward, etc. So I

deliberately don't know; then I can't mess that up for our investigators who are trying to do the best they can.

Mr. Jagmeet Singh: Fair enough. I think maybe my colleague might have some more questions. But just in terms of—if I could make a distinction between this type of investigation and other investigations—and I'm going to give you a scenario, and you let me know if you agree or disagree with it.

Mr. Chris Lewis: Okay.

Mr. Jagmeet Singh: I submit or I suggest that in other investigations that involve perhaps members of organized crime or characters of a less-than-reputable nature who in those types of investigations, perhaps where there are confidential informants, there's a high level of security concern with respect to people coming forward and that any sort of leak of information could result in potential harm to another person. In those circumstances, in those types of investigations, there's a much higher level of alert, and in this investigation it has more of a fraud nature to it perhaps, or there's that racketeering angle to it that the specialized team of investigators are drawn from. There is less of a concern in this investigation with that type of security or threat to potential witnesses than in those other types of investigations that I've laid out. There are certainly two different types.

Mr. Chris Lewis: There are several different types. Certainly, if we're investigating an organized crime group for something, the fear of danger and the fear of threat to public safety and officer safety is very great. Normally in this type of investigation, as a very general rule we don't see that. I can't say for sure that we don't see that in this case, because once again I don't know. Nothing has been brought to my attention of that nature.

Mr. Jagmeet Singh: Sure. Fair enough.

Mr. Chris Lewis: Sometimes people don't want to talk to the police out of physical fear or danger or because of civil liability. Some people just don't want to talk to the police, whether they know something or not. Not wanting to talk to the police isn't always because of the fear of physical harm.

Mr. Jagmeet Singh: Right.

Mr. Chris Lewis: Sometimes it's a fear of the lawsuits or whatever, the notoriety, in some cases, that will follow.

Mr. Jagmeet Singh: Fair enough.

Mr. Chris Lewis: But once again, I can't say that that's what's occurring here at all. I'm being very general, hypothetical—

Mr. Jagmeet Singh: Right, right; you're just saying—and I presented a general, hypothetical situation.

Mr. Chris Lewis: Yes.

Mr. Jagmeet Singh: That's fair. I have no further questions at this point. Perhaps, in the rotation—

M^{me} France Gélinas: I'm going to let it go around.

The Chair (Mr. Norm Miller): Okay. We'll move to the government side. Mr. Mauro.

Mr. Bill Mauro: Thank you, Mr. Chair. Commissioner Lewis, welcome. Good to see you.

Mr. Chris Lewis: Thank you, sir.

Mr. Bill Mauro: I was not here the last time that you were here on this committee. Quite frankly, I'm not completely certain why you're here, but maybe we'll get into that in a little bit. I don't know what was asked last time that you were here, but I'm just interested if you can describe for me the process that led to the involvement of the OPP in this particular situation.

Mr. Chris Lewis: I received a call from the then Deputy Minister of Health and Long-Term Care directly to my office. I knew the individual personally. He was once our deputy minister in community safety and correctional services. Words to the effect, to me at that time, and it was followed up with correspondence, were that, through some auditing process of some sort, things had come to light; potential financial irregularities and potentially a criminal act had occurred within Ornge. I don't recall if he said what that was at the time; I don't believe he did. It was more general, and that they felt it should be properly investigated by the police to determine if, in fact, a criminal act occurred, and if so, by who. I'm reasonably sure there wasn't even a name mentioned; it was just within Ornge, so potentially government employees committing some criminal act in relation to financial issues.

Mr. Bill Mauro: Okay. So the beginning of the OPP investigation was in fact information that came to the OPP from the Ministry of Health and Long-Term Care?

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

Mr. Bill Mauro: So that's how this started; that's how the OPP came to be part of this?

Mr. Chris Lewis: That's correct. The investigation was requested, and we assigned people accordingly to conduct that investigation.

Mr. Bill Mauro: Once an investigation begins—I think most of us around the table have been involved politically, provincially and/or municipally, maybe some federally, I don't know, for a period of time, enough to understand that, at least speaking for myself, none of us want to be perceived at all as attempting or looking like we're trying to influence the investigation of the police force. It's a foundational principle of our democracy, so I'm wondering if you can speak to that just a little bit.

Once the OPP had received the information from the Ministry of Health and your investigation actually began, what is it that should happen or should not happen when it comes to the government or any of the other members of the Legislative Assembly, who are publicly elected people, in terms of what they should or should not be doing with the OPP, with an ongoing investigation?

Mr. Chris Lewis: That's a fairly big question, sir. I'll try my best. The bottom line is, we all have obligations, in particular as elected officials or appointed officials like myself, to respect legal processes and not do anything that's going to in any way taint an investigation or potentially a criminal court process. I think, as public officials, we have a duty to co-operate with investigations and due process and not do anything to hamper any of that, really, is gist of it, I suppose.

Mr. Bill Mauro: There's complete independence, of course, is the point of my question.

Mr. Chris Lewis: Oh, totally.

Mr. Bill Mauro: Yes.

Mr. Chris Lewis: In my career as an executive, I've reported to ministers representing all three of the main political parties in this province. So I have to be very apolitical, as do the officers in the OPP. That's never a concern. I have to be very aware of governments trying to steer us in a certain way. That's never been a concern. Every party has accused another party of doing that at some point when they're in government, and it's never been an issue for me. I wouldn't tolerate it. I'd report it immediately to the deputy minister, who's a government official, not an elected official, who'd report it to the secretary of cabinet and action would be taken. Never happened. Not happening here. It hasn't happened in any investigation involving any government in my career, to my knowledge.

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Mr. Bill Mauro: So, understanding that, that the ministry referred information to you that led to the beginning of the investigation and that there's complete independence and separation between the elected branch and the investigative branch, what is it of consequence that today, being here for the second time in less than a year—this isn't a criticism of you or the OPP. I'm simply curious as a new person here with you for the first time as to what it is you can provide this committee. In fact, you've provided us a letter here that maybe I'll get to in a little bit, but what is it of consequence that you think you can provide to the committee?

Mr. Chris Lewis: In my mind, my goal is to provide all the parties here—that we've taken this seriously, that we're doing it to the best of our ability. It's complex, and it may take longer than we would all like, but you have to have confidence in us as the OPP that we'll do the right thing, and if charges can be laid against an individual, they will be. That's what we do.

Mr. Bill Mauro: You've spoken in response to previous questions—I'm not sure from which party it was—that you'd prefer not to be here and that it provides an opportunity for you, representing the OPP, to compromise an ongoing investigation. If I'm being unfair in my characterization of your response, I apologize, but there are risks inherent with your being here today. I mean, you're a seasoned veteran, and we all know that nothing is going to happen, but the opportunity is there for you to compromise an investigation by being here today, and in fact you referenced it when you spoke to a witness, I think. You said that there was somebody who made representation here at committee who subsequently was no longer interested in speaking with the OPP.

So perhaps, if you could, please expand on that a little bit, going back to my earlier request about what it is of consequence you can provide to this committee that couldn't have been done in a letter as opposed to whatever inherent risks there may be in terms of you compromising the investigation.

Mr. Chris Lewis: In a nutshell, as I said earlier, I deliberately don't know details that I could inadvertently release.

Just, for example, hypothetically, let's say tomorrow we're executing a search warrant at 123 Main Street. If that somehow or other slipped out in this room and I said that, there wouldn't be much to find at 123 Main Street tomorrow, in all likelihood. Or if we're interviewing John Doe next Thursday and I mentioned that here in some way, John Doe might be missing, or John Doe might get his facts in order in a different way, whatever. So I'm very, very aware of that and very concerned about that, and certainly no member of this committee from any party has pushed me to give information that I can't give or to find information that I don't know the answer to, and I respect that and thank all for that, because that would really put me in a terrible spot. But it hasn't happened, and even if I was forced at gunpoint right now to tell you details, I don't know them, and that's the reality.

Mr. Bill Mauro: We're all interested in seeing this conclude in the public interest, and I go back to the point, saying it was the Ministry of Health in fact that directed this to the OPP. It has resulted in a criminal investigation. But just to underscore, before I move on, there is, even albeit a very small risk, a risk to an ongoing investigation. I guess it's fair to say it's a bit unusual for you to be giving public testimony during an ongoing investigation. I don't know if it's rare or just something you would prefer not to have to do.

Mr. Chris Lewis: It's both.

Mr. Bill Mauro: Okay. It's rare and it's something—

Mr. Chris Lewis: It's the third time I've done it in 36 years, and it's the third time I've done it in 12 months.

Mr. Bill Mauro: Yes, understood; point made.

There have been a few questions from the opposition around the timelines associated with your investigation. In your opening remarks, you referenced 500,000 emails, I think was the number that you used. When you use a number like that, that that's what you have in your possession, are all of those emails being gone through individually? I'm just trying to understand what that means.

Mr. Chris Lewis: They will have to be—I don't know what state they're at—and they have to be cross-referenced, because, at some point in an email, they may refer to John Smith and 5,000 emails back his name comes up, and so you have to see what the relationships are, and it's a huge task.

Mr. Bill Mauro: So it's a big volume of work. Okay. My last question—and then I'll save my time, Mr. Chair—would be as well in terms of the question from the opposition around the timelines associated with the ongoing investigation. Your letter references—I guess the acronym is MLAT—the mutual legal assistance treaty. This refers to memorandums of understanding, or whatever the language is, between different sovereign jurisdictions that allow for the sharing of information.

Even though your letter indicates that the information will be shared, your letter that you sent to the Chair, Mr. Miller, clearly indicates that it's really not normally time-

ly or simple when you're dealing with other international jurisdictions. I wonder if you could just expand—it's new to me—a little bit on this mutual legal assistance treaty piece and how it feeds into the length of time necessary to complete your investigation.

Mr. Chris Lewis: We're really at the mercy of the department of justice and the people they deal with in other countries and other judicial jurisdictions in terms of what their priority is.

The department of justice is wonderful. We deal with them on a regular basis. When we call, a prosecutor or a lawyer from the department of justice is assigned. There's a specific unit, and there's only a handful of those folks. They start a process to understand what it is we're looking for. There are certain documents that have to be filled out, and certain communications start.

In the middle of that, if a child gets grabbed and is taken to a foreign country, then maybe all our stuff gets pushed to the side while they try and save a life, and we all get that.

But even if we had someone there working full-time, 24 hours a day, it's a very complex process. I don't know what documents they have to prepare in terms of affidavits and applications. It's just not as easy as our department of justice lawyer calling a lawyer in Italy and saying, "We've got some guys coming over. Could you get them everything they need?" It's much more complex than that, and I don't know all the workings of that.

But there's only a handful of those department of justice lawyers for an entire country of 35 million people. There are a lot of countries that there's a lot of business being done with, in terms of drug investigations, human traffic investigations and other things that—a financial crime, as important as it is to us and to the taxpayers of Ontario, may not be as high on their list as some of those other issues.

Mr. Bill Mauro: Then I could conclude, from what you've just said, that in terms of a timeline associated with an investigation where these mutual assistance treaties are involved, to some degree, and perhaps in this case, to a significant degree, the timeliness or the timelines associated with completion of this investigation are not completely within your control.

Mr. Chris Lewis: No, they're not. Our people will have to supply certain documentation to the department of justice to help them justify any legal action in terms of obtaining evidence in another country. That may involve that they have to look at all 500,000 emails first. I don't know, because I don't know all the ins and outs of it. It's a chicken-or-an-egg thing here, in terms of how they proceed.

We have a very experienced investigator—and a former fraud investigator himself—Chris Avery, leading this, so I have to rely on him knowing the best way to proceed. If there are any challenges with the department of justice—and I'm not suggesting there ever would be—then I might get involved at a higher level, to try and deal with those challenges. That's not the case at this point.

It's just time and work, and human resources to do the work.

Mr. Bill Mauro: Thank you, Mr. Chair, I'll reserve—

The Chair (Mr. Norm Miller): Very well. We'll move to the opposition: Mr. Klees.

Mr. Frank Klees: Thank you. Commissioner, I'll just take—

The Chair (Mr. Norm Miller): Sorry, you have 10 minutes left—up to 10 minutes.

Mr. Frank Klees: Okay. I'll just take a minute and explain to Mr. Mauro why we think it's important that you're here.

The taxpayers of this province and citizens haven't forgotten that millions of precious health care dollars were siphoned from what should have been an organization that was providing health care, into a web of private companies intended to benefit a small group of people. We haven't forgotten that lives were put at risk as a result of that diversion of public health care dollars.

As these committee hearings went on, we heard that there were very intentional decisions made by a very small group of people who broke the public trust and that a great deal of the public's trust was broken as a result of that.

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It was important to some of us in this committee that we hear from you, not with any intention of compromising—I think you will admit that no questions were ever asked of you that would have put anything at risk, but we feel that we owe it to the people of this province, as they were watching these proceedings and were reading about what had gone on, to be assured that you, the OPP, were taking this very seriously, that this is not something that's going to be put under the rug; it's not going to be something that is going to be taken lightly.

You've given us that assurance. Yes, you were here a year ago, but I can tell you that I hear from people, and there are questions in the media as well: "What's happening? Has this case been forgotten?" So we thought it appropriate to have you back to provide us with that reassurance, which you've done. You've given us that assurance by telling us that you're reaching out into these other jurisdictions. It's encouraging to hear from you that you have yet to speak with the Italian authorities, that there are plans to go to Italy and do some further investigation there. All of that is important to us. It's in the public interest that we know that you're doing your job, that the people behind you are doing their job. We want, through you, to thank them for doing that, because I can tell you that the people in this province want to know that what went wrong is being taken seriously so that there's a strong message to people down the road that it won't be condoned and that it will be taken seriously.

Mr. Mauro smiles. He thinks that this is something that is a partisan exercise. I can tell you and the people who are watching this and the people who have been following these hearings don't look it as that at all. This is an important issue that is critical. We've been assured by you, Commissioner, that you're taking this seriously,

that every step is being taken to ensure that people who have done wrong will be brought to justice. The very fact that they are being investigated is sending a strong signal. I want to thank you for the work that you've done.

Mr. Chris Lewis: Thank you, sir. Let me further assure all members of the committee that if in fact people have done what is suggested and we can find out who those people are, we will lay charges. That's what we do, and we will continue to do that to the best of our ability.

Mr. Frank Klees: Thank you, sir.

The Chair (Mr. Norm Miller): Very well. We'll move to the NDP: Ms. Gélinas.

Mme France Gélinas: My closing comments will be similar. Our air ambulance system is something that the people I represent depend on. I represent a riding in northern Ontario. Most of the 33 communities that I represent do not have an ambulance service. Those people, like many others in Ontario—we depend on Ornge being there, being strong and helping us in our times of need.

What has happened at Ornge has been so devastating to the agency that I have described it as having to be reborn from their ashes. For many weeks and months, it wasn't obvious that it was going to be reborn. So much damage was allowed to be done to that agency, and, from all that I have seen, it was for greed. It was for some people to get rich at the expense of our air ambulance service.

This has had a horrific effect on the trust that the people that depend on Ornge have with that agency. Then, weeks go by, months go by and now years go by, and we don't hear of any consequences for what has happened. We know the end result. The end result is, that agency was brought to its knees and almost destroyed, and it's taking us a lot of time, effort and energy to rebuild it. The people who depend on that agency have lost trust in this agency—also hard to rebuild—but have lost trust in the system as a whole.

How can we allow a bunch of people to completely destroy it for the sole motive of getting rich and no punishment will come of it, no consequences will come of it?

Then, all eyes turn to you, because the Minister of Health says that after she got the thing, she phoned the OPP. You were the saviour on the white horse who was going to build back that trust, who was going to show justice for a lot of people who want justice.

But then, when you come and explain—I agree with what Mr. Klees has said. I trust that you're doing the best job you can and that you're being thorough and thoughtful and will try really hard. But you've also left me with the impression that the bar to go from "You know that wrongdoing has happened," to reaching the bar where "and consequences can come of it"—those are so far apart that I have kind of lost hope there. You've convinced me that the bar is really high for a very good reason and that the chances of meeting that are pretty tiny. I'll leave it at that.

Mr. Chris Lewis: Yes, and the bar is high to reach and difficult to reach. That's the system, and that's to prevent people from being convicted who shouldn't have

been. But it just requires hard work and patience, following the evidence, doing things properly. The odds of someone who's truly done something wrong being brought to justice are not tiny, in my view. It's just that it takes longer than we would all like, but we've got to do it right to eliminate the tiny piece and have that piece be something that is acceptable by the public we serve.

The Chair (Mr. Norm Miller): Very well. Mr. Singh?

Mr. Jagmeet Singh: Thank you. I don't have any comments, but thank you for being here, and I appreciate your testimony today. You were very forthright.

I just have some questions in closing. Have you consulted with the investigating officer with regard to this, or have they reported back about the potential charge that the evidence is pointing towards, or any number of potential charges?

Mr. Chris Lewis: I know what the potential charges are in an investigation of this type, as a general rule. Not to suggest that these are charges that will be laid against anyone, but, generally speaking, it's fraud, breach of trust, fraud against government—which is a separate offence in the Criminal Code—theft, secret commissions and breach of—I can never say this word properly—

Mr. Jagmeet Singh: Fiduciary.

Mr. Chris Lewis: —fiduciary duty. Those are the offences that generally our people who work in our corruption unit look at, whether it involves municipal, federal, provincial or the attempt to corrupt some official in some way by an outsider.

Mr. Jagmeet Singh: I appreciate your evidence. I think it deserves repetition that those are the general sorts of charges that one would look for or potentially seek evidence to meet, but you're not suggesting in any way that any one of those charges—or any of those charges in specific—are the ones that are being laid in this specific investigation, but just generally speaking—

Mr. Chris Lewis: Generally speaking in investigations of this type, yes.

Mr. Jagmeet Singh: For an investigation of this type, those are the types of charges that you would look at.

Mr. Chris Lewis: Our goal is to find out if any of those laws or others were breached, and, if so, by who, and gathering the evidence to successfully prosecute the individual.

Mr. Jagmeet Singh: Now, have you, at this stage—or in the future, do you plan to present your evidence to a prosecutor for the purpose of assessing whether it's strong enough to then proceed with?

Mr. Chris Lewis: Without a doubt.

Mr. Jagmeet Singh: Okay. And that's not normally something you would do. Normally, you would be able to proceed with—for example, if it was a charge of manslaughter or a charge of murder, you would gather the evidence; you wouldn't necessarily need to consult with a prosecutor to proceed.

Mr. Chris Lewis: We don't necessarily, but some things are so complex, we really want the legal minds to have a hard look at it.

Mr. Jagmeet Singh: Right, and that's where I was headed. In this case, I would suggest that that's probably where you'd be going and that's what you anticipate.

Mr. Chris Lewis: It's very complex, so we will likely discuss with a prosecutor.

Mr. Jagmeet Singh: Okay.

The Chair (Mr. Norm Miller): Mr. Singh, you're out of time. We'll move to the government side: Mr. Mauro.

Mr. Bill Mauro: I'll start by saying it's fortunate for me that I'm here today to have Mr. Klees explain the process to me. Good on me, I guess, that I had the good fortune of being here today to have Mr. Klees explain how this is working for all of us.

I guess I would say, Commissioner Lewis, good on you as well for not conveying any offence at perhaps the implication that you and the OPP were not taking this seriously and that we needed you here today again to have your reassurance that the OPP is taking this seriously. I suppose I would suggest that when the Ministry of Health and the deputy minister first conveyed this to the OPP some time ago, it was from that point immediately that the OPP began to take this seriously, and I thank you for the very professional way in which you responded to Mr. Klees.

I would also say that Mr. Klees raised the issue of a partisan exercise. Certainly not anybody on our side of the table here has ever suggested that. I remind people again that it was the Ministry of Health that conveyed this to you. The point I was making quite simply—and you've made it for me in your remarks as well—was that in your 32 years, three times you have had to give testimony during the course of an ongoing investigation, and all three times, I think—or two of the times for sure, of three, have been here.

That's simply the point that I'm trying to make: We take this seriously. In fact, it's the Ministry of Health that started this process. We were simply comparing and contrasting any risk that might occur to an ongoing investigation, be it as small as it would be with you and your experience here relative to what can be gained by your testimony. Anything that you've told us could have been supplied in a letter; any reassurances that were necessary by the other members could have simply been provided in a letter.

I still have some time if necessary, I suppose, Mr. Chair, but I'll stop there.

The Chair (Mr. Norm Miller): Very well. Thank you.

Thank you, Commissioner Lewis, for coming before the committee again, and enjoy your retirement.

Mr. Chris Lewis: Thank you very much, and thanks to all members of the committee.

The Chair (Mr. Norm Miller): We have a couple of housekeeping motions to deal with before we go in camera to do report writing. I believe everyone has the motions

before them, and I need someone to move the motions. Who would like to do that? Mr. Singh? Ms. Gélinas?

M^{me} France Gélinas: Am I moving this?

The Chair (Mr. Norm Miller): Yes, there are two motions before you.

M^{me} France Gélinas: Ready?

The Chair (Mr. Norm Miller): Yes.

M^{me} France Gélinas: I move that the Standing Committee on Public Accounts request the Ministry of Health and Long-Term Care to provide the document entitled “Audit of Ornge” dated 2014 in a searchable PDF document and/or in the original electronic format by no later than Friday, March 7, 2012—

The Clerk of the Committee (Mr. William Short): 2014.

M^{me} France Gélinas: That would be better—2014—

The Clerk of the Committee (Mr. William Short): At 12.

M^{me} France Gélinas: —at 12 p.m. I put them all together.

The Chair (Mr. Norm Miller): Very well. Any discussion on that motion? It was agreed to. All in favour? Agreed? Okay.

The next motion?

M^{me} France Gélinas: Ready? I move that the Standing Committee on Public Accounts request the Ministry of Health and Long-Term Care to provide all documents surrounding the bidding process/biography details regarding Margriet Kiel and the audit report entitled “Meyers Norris Penny; Review of Air Ambulance and Related Services; September 10, 2010 Final Report” in a searchable PDF document and/or in the original electronic format by no later than Friday, March 7, 2014, at 12 p.m.

The Chair (Mr. Norm Miller): Any discussion? All in favour? Carried.

Mr. Clerk, anything else before we go in camera? Okay. We'll go into closed session.

The committee continued in closed session at 1343.

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