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**Tuesday 18 March 2014**

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(Hansard)**

**Mardi 18 mars 2014**

**Standing Committee on  
Justice Policy**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
JUSTICE POLICY**

**COMITÉ PERMANENT  
DE LA JUSTICE**

Tuesday 18 March 2014

Mardi 18 mars 2014

*The committee met at 1500 in room 151.*

**MEMBERS' PRIVILEGES**

**The Chair (Mr. Shafiq Qaadri):** Thank you, colleagues. I call the meeting of the Standing Committee on Justice Policy officially to order.

MR. KEVIN COSTANTE

MR. DAVID NICHOLL

**The Chair (Mr. Shafiq Qaadri):** We have our first witness of the day, Mr. Kevin Costante, who will be affirmed, also accompanied by David Nicholl, who will be sworn in. Mr. Costante.

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

**Mr. Kevin Costante:** I affirm.

**The Chair (Mr. Shafiq Qaadri):** And Mr. Nicholl.

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

**Mr. David Nicholl:** I do.

**The Chair (Mr. Shafiq Qaadri):** Thank you, gentlemen. You know the drill: a five-minute opening address, followed by questions in rotation. Commencez, s'il vous plaît.

**Mr. Kevin Costante:** Thank you, Mr. Chair. My name is Kevin Costante and it's a pleasure to be here today. As this is my second appearance before the committee, I don't have long opening remarks. The committee may or may not be aware that I did retire from the OPS at the end of February and I am no longer the Deputy Minister of Government Services, although I was happy to don a suit again today to be here with you.

As with my previous appearance before the committee, I am joined by David Nicholl, who is the corporate chief information officer for MGS and the interim deputy minister of the Ministry of Government Services. With that, David and I are happy to take questions and help you however we can.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Costante. To the PC side: Ms. MacLeod.

**Ms. Lisa MacLeod:** Thank you very much, Chair. And thank you, Mr. Costante and Mr. Nicholl. I appreciate you coming in today.

As you probably can appreciate, there are many of us in the opposition who are trying to really piece this together and assess what really happened, why it really happened and who directed what happened. I know that particularly you, Mr. Costante, had a number of interactions, not only with this committee but in particular with the Information and Privacy Commissioner of Ontario.

Over the summer break, when MPPs were in their constituency offices, we were confronted with a letter and, I guess, a report, more than anything, from Ann Cavoukian. I'm going to read into the record—I think this is the first opportunity to be able to do that—what was in the Toronto Star on August 21, 2013, and just have your response on this. I know you apologized at the time, but I'd like a greater explanation from you.

Ms. Cavoukian wrote:

"In light of the information I now have, I would have arrived at a different conclusion regarding the ability of MGS (Ministry of Government Services) staff to retrieve the relevant emails from Mr. MacLennan's email account.

"However, the other findings in my report were not affected and remain accurate."

She further says, in her appendix—and this is a loose translation of her quote; it's not a direct quote—that MGS had claimed that you could not find anything from Mr. MacLennan's account—and this would be Craig MacLennan, who worked for both Brad Duguid and Chris Bentley, former energy ministers who would have been responsible for the gas plant cancellations. You could not retrieve them, but you later found 39,000 emails either sent or received by him on a backup computer drive.

She says: "I was baffled as to how MGS staff could have failed to provide relevant, accurate information about the IT systems under its control."

She further says: "I remain saddened at the failure of MGS staff to dedicate adequate resources to provide accurate and complete information to my office during the course of my initial investigation...."

"The provision of inaccurate and incomplete information in my initial investigation is unprecedented during my tenure as commissioner."

Then you, valiantly—on behalf of a government that was covering up this massive \$1.1-billion gas plant scandal, which we would later find out from the Auditor General just a few short months later—took responsibility for it and you apologized profusely and you acknowledged to her office that you provided her with inaccurate and incomplete information regarding the OPS enterprise email system and the existence of possible backup tapes from the relevant period.

I want your opinion on this, on what she has said, and then I want to ask you a few other follow-up questions.

**Mr. Kevin Costante:** Thank you for the question. I answered this in my first appearance here, and I'll go through the course of events again.

When the privacy commissioner was doing her report—I think it was in April and May of last year—she did ask to meet, and met with, ministry staff on two occasions. I believe they were about an hour each. These were staff both from our IT area and our archives and information area, as well as legal counsel. After those meetings, there was a series of questions that came to the ministry, very specific questions, which we answered.

I think in the course of those meetings, she was asking very specifically about the particular email account for Mr. MacLennan that you mentioned. I think our staff—again, as I previously testified—answered on the basis of policy. When she asked whether the email account still existed—normally when somebody leaves the OPS or the government, at the end of that, they're supposed to retain the documents that are necessary, and then the account is deleted. There was a record that his account was deleted.

The OPS email system has two components: a primary component, and then it has what's called the Enterprise Vault, which stores emails that are older than 30 days. Staff responded that the email was deleted. They did not go in and check, and it turns out that the primary account was deleted, and the secondary account had not been deleted.

**Ms. Lisa MacLeod:** Why wouldn't staff have checked? This is a pretty big issue. There are allegations that this has bought at least five seats in the middle of a general election in a province. I mean, that's serious. There was a motion of contempt for the former energy minister previous to that, or at least during that same time. This Legislature has been rocked by a series of allegations, not the least of which has been the auditor doing not only one but two investigations into these cancelled gas plants and the costs.

I'm just trying to understand why, then, a bureaucrat in your office would answer only by the policy and not do the verification.

**Mr. Kevin Costante:** I think that in fairness—

**Ms. Lisa MacLeod:** And that leads me to think that somebody had to have politically interfered here. I'm not convinced otherwise, by that response.

**Mr. Kevin Costante:** Okay. I think they did go back and check. They checked the log, and they found that there was a log there that said the email account had been deleted.

You're right, and that's why we've apologized to the privacy commissioner. They did not actually go into the system itself and look and see whether both parts of the account had been deleted. A mistake was made; an error was made. I talked to the staff who were involved in this afterwards. With neither I nor they was there any political interference in that transaction whatsoever.

**Ms. Lisa MacLeod:** But we're looking at what I think appears to be a cover-up. When you see—from our perspective, anyway—an OPP investigation ongoing, and the fact that the Auditor General has confirmed that the two gas plant cancellations are \$1.1 billion; when the Information and Privacy Commissioner, an officer of the Legislature, comes out and says that she has been obstructed in her work, and it was only because of this committee that she ended up retaining information; and then fast-forward to today, when we now have the OPP seizing hard drives from this government at a storage facility in Mississauga—I'm sorry, and I'm just going to put this out there, and then we can move on, but suggesting that there wasn't any political interference really doesn't hold a lot of water for us.

I'm going to have to ask you a couple more process-related questions, and then maybe my colleagues have a few; I'm not sure.

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**Mr. Kevin Costante:** Can I respond? I can only tell you what I know. I know there was no political interference. No one told us to not co-operate with the privacy commissioner. When we did find the emails at the end of June, I guess—immediately after we discovered there were responsive emails in the account, we notified the minister, the privacy commissioner and the OPP, so it's not as if we were trying to cover it up. As soon as we found it, we made people know.

**Ms. Lisa MacLeod:** Okay, but to her point, and I don't want to speak for Ms. Cavoukian, so I'll actually use some words that she provided to the Globe and Mail around that period of time last summer, she points out, "There are no less than five different places—including shared drives, backup tapes and the folders of some email accounts—where gas plant-related emails" were then discovered. It's not like it was just one email log; it was actually in several locations where there seemed to be a great deal of either incompetence or cover-up as a motive.

I'm just trying to bring this in for you to appreciate where we're coming from as legislators in an assembly that should be independent and as a legislative officer who should be independent and should have access to the information.

Perhaps at this time you could describe the process by which the data from the backup tapes at the government's facility are converted to searchable files which can be viewed in electronic or hard copy. Would you be able to provide us with that process?

**Mr. Kevin Costante:** Can you?

**Mr. David Nicholl:** Sure. So you're looking for the process of how you go from a backup tape to do a search?

**Ms. Lisa MacLeod:** Yes.

**Mr. David Nicholl:** Technically you'll grab the backup tape, you'll bring it in, you'll load it onto the tape drive, and you'll dump the data from that tape drive onto a disk drive in our data centre. You'll then put it into a certain format so that our tools can then search it based on the criteria that we used all through the summer; for instance, names, keywords, dates and that kind of stuff. That's the process that you go through, technically, and then it goes into a normal search.

**Ms. Lisa MacLeod:** Can I just ask you a quick question? Excuse my ignorance on this in terms of what the process is, Mr. Nicholl. Do you have access, or did you have access, to the drives that were recently seized by the OPP?

**Mr. David Nicholl:** No. They were—there's a word that the OPP used—under the interest of the OPP at that point, so we didn't touch those at all, no.

**Ms. Lisa MacLeod:** How long have they been under the interest of the OPP? Since the seizure, since the search warrant or previous to that?

**Mr. David Nicholl:** I think from the minute they came in on the investigation, which was June 5 or 6—somewhere in there—the 7th maybe, whenever the OPP were called. That's when they became under the interest of the OPP. Prior to that, they had been under the control of the Cabinet Office, which has been talked—

**Ms. Lisa MacLeod:** Who in the Cabinet Office would have been responsible for those hard drives?

**Mr. David Nicholl:** I don't know personally, but in previous testimony, I think it has been talked about exhaustively, the process during transition, that Cabinet Office took possession of hard drives and BlackBerrys, I think. Those were—

**Ms. Lisa MacLeod:** Okay, so Mr. Costante, can I ask you this question? You're taking grave responsibility for this; you're showing up at this committee under this oath, saying that there was no political interference. Yet the Cabinet Office had these documents. Who in the Cabinet Office would you have worked with when you were first indicating to the Information and Privacy Commissioner that no such documents existed? Who would you have worked with? In the Cabinet Office, presumably you're working with other bureaucrats, the cabinet secretary. Is there anybody else?

**Mr. Kevin Costante:** I think with most motions—sorry; I'm going to have to get you to repeat the question. I'm not sure I understand.

**Ms. Lisa MacLeod:** Okay. We have a number of hard drives that have recently been seized, so let's work backwards. We have a number of documents and hard drives recently seized by the OPP. I asked if you had access to those. Mr. Nicholl told me you did, but only up until the OPP viewed them as an interest. So I had asked, who had control of those before the OPP had interest in them, which would have been back, in your time frame, June? Mr. Nicholl replied that, well, the Cabinet Office did.

I'm just suggesting that you at that point in time would have been requested for these documents by the Informa-

tion and Privacy Commissioner. If you didn't have them, and they were actually accessible only to the Cabinet Office, who in the Cabinet Office would you have spoken with? The cabinet secretary?

**Mr. Kevin Costante:** Sorry. She requested whether his account still existed. I'm not aware that she asked us about hard drives and physical equipment.

**Ms. Lisa MacLeod:** She said, "There are no less than five different places—including shared drives, backup tapes and the folders of some email accounts—where gas plant-related emails have now been discovered."

"In two letters to Ms. Cavoukian, the top civil servant at the ministry took the blame for the problems" and apologized. He conceded that his staff had done more to find emails for the committee than it had for the commissioner.

**Mr. Kevin Costante:** But I think that's different than the hard drives and the physical equipment that the OPP and Cabinet Office had under their—that's not what we were searching.

**Ms. Lisa MacLeod:** That might be physical equipment, but it does have data on it.

**Mr. David Nicholl:** Yes, and so we had discussions with the IPC around things like backup tapes. We talked about the desktop that's got a hard drive in it. We talked specifically with the IPC around Mr. MacLennan's PC; I think it's in her report. There's no connection between the hard drives that were taken offline during transition and the discussions we had with the privacy commissioner around things like—

**Ms. Lisa MacLeod:** So what interest, then, would the OPP have, if there's no connection? Clearly, they think there's a link.

**Mr. David Nicholl:** Honestly, I don't want to comment at all on what the OPP may or may not be doing.

**Ms. Lisa MacLeod:** But you just did. Right? You're trying to deny it, but there's clearly an interest by the OPP commissioner.

Let's just move on, because I don't think I'm going to get the answer to my question. On July 9, this committee requested all documents and electronic correspondence related to the cancellation and relocation of the Oakville and Mississauga power plants from a number of senior government officials. On the 22nd of July, the Ministry of Government Services produced a memorandum to the Chair of the Standing Committee on Justice Policy, right here, outlining the number of backup tapes related to its investigation. At the time, the total number of backup tapes identified was 3,226, yet some searches were still ongoing. Can you tell me if that number has changed since the memorandum was first produced? If you can, would you provide us with a new, updated number?

**Mr. Kevin Costante:** I'm not aware that it changed. I was not informed of any change.

**Ms. Lisa MacLeod:** Are you still looking and searching?

**Mr. Kevin Costante:** Sorry. I ceased being deputy on the 28th of February, so I'll have to ask—

**Mr. David Nicholl:** So no, we're not searching anymore. I think 3,226 is probably still the right number.

**Ms. Lisa MacLeod:** So 3,226? Okay. That same July, in that same document from MGS, you stated that it would take between two and four hours to restore each backup tape. Given the number of backup tapes surrounding the Oakville and Mississauga gas plant cancellation, we may have to wait for quite a bit of time, obviously. How long do you think it will take to get that information, and how long to get the documents that are connected to the current Premier?

**Mr. Kevin Costante:** You want to know the time frame?

**Ms. Lisa MacLeod:** Yes. You had indicated that it takes two to four hours to restore each backup tape. You're telling me there are 3,226 backup tapes, so I'm wondering how long it's going to take to get the information and how long, precisely, before you expect to get those documents that are connected to the current Premier, Kathleen Wynne.

**Mr. David Nicholl:** We did not do an elapsed-time calculation on it. From a costing perspective, honestly, we just did it on an hourly basis. We never got requested to get the 3,226, so we left it to the discretion of the committee. I think in one of Kevin's letters back to you, he actually said that if you want to select some or a number, then we could come back with a better time as far as an elapsed time is concerned—because it's just straight-line math; it really is. It's a processing time. The piece to add on to it, then, of course, is just the search itself.

**Ms. Lisa MacLeod:** Would the OPP, with their resources, be able to process those backup tapes quicker than you?

**Mr. David Nicholl:** I wouldn't say they could, but maybe they've got the ability to go outside and get things done better than we can. I couldn't comment on whether they could do it quicker.

**Ms. Lisa MacLeod:** Okay. Let's say that they are the same amount of time. Could you prioritize getting the emails related to the Premier? Could you do that?

**Mr. David Nicholl:** If the committee comes back and asks us to do a certain person's tapes, yes.

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**Ms. Lisa MacLeod:** Okay. And what time frame do you think that would be for the Premier, given the amount of tapes she has been mentioned in?

**Mr. David Nicholl:** From an elapsed time, I honestly would not want to give an estimate. We've got a number of tapes with her name on it, some when she wasn't Premier, some when she was a minister in other ministries. That's why there are a number of tapes there. But we can certainly come back. If you ask us, we'll come back and put together as best an estimate as we possibly can for it, absolutely.

**Ms. Lisa MacLeod:** Okay. Well, then, I guess we'll have to put forward a motion with respect to that.

Let's go back to the OPP for a second. What, if any, contact have you had with the OPP since they began investigating?

**Mr. Kevin Costante:** I'll answer first. I have had no contact.

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

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

**Mr. Bob Delaney:** I don't think it's proper to ask current and retired members of the civil service about an ongoing police investigation. I don't think this is in order at all.

**The Chair (Mr. Shafiq Qadri):** Your point is well taken, Mr. Delaney, but I think the witnesses are well aware of the protocol and rules. I'll allow them to govern their answers.

Go ahead.

**Mr. Kevin Costante:** I'll answer first and turn it over to Mr. Nicholl. I've had no contact with the OPP on this subject.

**Ms. Lisa MacLeod:** But you've had it with other subjects.

**Mr. Kevin Costante:** MGS is also responsible for bargaining, so I deal with the OPP in terms of bargaining with the Ontario Provincial Police Association.

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

**Ms. Lisa MacLeod:** Okay.

**Mr. David Nicholl:** I have ongoing discussions with the OPP. I've had discussions on this topic. They're one of my clients, and therefore I do a lot of work with the OPP on an ongoing basis.

**Ms. Lisa MacLeod:** Okay, thanks. So they're not casual conversations; they are actually more formal conversations with the OPP—

**Mr. David Nicholl:** They're clients of mine, yes, absolutely.

**Ms. Lisa MacLeod:** They're clients. Okay. I guess I don't really have much more time. Just quickly: Have you been present for any conversations with senior officials when you discussed the government's response to the OPP investigation and the deleted hard drives? Either of you.

**Mr. David Nicholl:** Governing political? No, absolutely not.

**Ms. Lisa MacLeod:** Okay. What about anyone in the cabinet secretary's office?

**Mr. David Nicholl:** I have not.

**Mr. Kevin Costante:** No.

**Ms. Lisa MacLeod:** I don't have much more time. How much more time do I have?

**The Chair (Mr. Shafiq Qadri):** Nine seconds.

**Ms. Lisa MacLeod:** Okay.

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

**Mr. Peter Tabuns:** Mr. Costante, Mr. Nicholl, thank you very much for being here today. I have a few questions, but I just want to follow up on something that you had just said. The tapes, the backup tapes for emergency restoration of records: They are organized by computer, so you have a tape for the minister or Premier; you have a tape for different individuals. How do you structure that backup?

**Mr. David Nicholl:** They're not really structured at all. In fact, it's basically a dump from disk onto tape. That's why we have to run through tape and we have to pull from tape. It's not terribly intelligent. It's simply a dump of data from disk to tape drive and then back.

**Mr. Jagmeet Singh:** How often is it done? Is it done on a regular basis, this dumping, or is it done periodically, every month, week, year?

**Mr. David Nicholl:** The dumping to tape is very regular. We tape backups every day, for instance. The retrieval from tape is very, very infrequent. In fact, last year I think we retrieved probably 12 tapes.

It's for emergency purposes, basically. We just don't do it very often.

**Mr. Peter Tabuns:** Just so that I'm clear, when you're talking about a dump onto the tape, all that's being held on one disk at one time, with a variety of individuals who have generated email—they're just agglomerated together? Is that correct?

**Mr. David Nicholl:** Just dumped onto a tape.

**Mr. Peter Tabuns:** So the only thing that distinguishes one tape from another is the date upon which the dump took place? Is that correct?

**Mr. David Nicholl:** And we keep indexes, so it's like a card system in the library. I remember the last time we talked about that. There are indexes into it, so that's why we know what's there and how many there might be. That's about the extent of the intelligence around it.

**Mr. Jagmeet Singh:** Is there a database of the tapes, something that keeps track instead—

**Mr. David Nicholl:** Yes.

**Mr. Jagmeet Singh:** There is a database of the tapes.

**Mr. David Nicholl:** Yes.

**Mr. Jagmeet Singh:** And what does that database of the tapes contain and how is that organized?

**Mr. David Nicholl:** I actually can't answer it really, really accurately, but my assumption would be that there would be a thing like the volume number of the tape, probably where the tape would be and probably some dates attached to it. That would be my guess.

**Mr. Peter Tabuns:** Going on to the questions I had before, then, do you know what information or materials would have been stored at the Mississauga facility where the OPP executed their search warrant?

**Mr. David Nicholl:** The facility that the OPP visited is simply a secure storage site for us. There is no processing going on there at all—none. It literally is just a case with something in it sitting on the floor. That's all that's there. Nothing is processing there. Nothing is running there at all.

**Mr. Peter Tabuns:** Has the Ontario government had an ongoing contract with Recall data for storage of material?

**Mr. David Nicholl:** Yes. We have two contracts. We have a very, very large contract for paper storage, and we have a much, much smaller contract where we have some secure storage for IT assets.

**Mr. Peter Tabuns:** Are computers or hard drives ever stored offsite with information kept on them?

**Mr. David Nicholl:** I've never seen it. This is very different. This was a specific contract used by a very small part of the OPS, typically for disaster recovery and for secure storage of things that they didn't want stored anywhere else.

**Mr. Peter Tabuns:** So would these be the backup tapes that we have just been talking about?

**Mr. David Nicholl:** No. All the backup tapes that are stored at Iron Mountain—a totally separate contract.

**Mr. Peter Tabuns:** What part of the OPS uses this data centre, Recall?

**Mr. David Nicholl:** The secure storage?

**Mr. Peter Tabuns:** Yes.

**Mr. David Nicholl:** Our cyber security area are the only people who use it right now.

**Mr. Peter Tabuns:** All right. You named Iron Mountain. We have Recall data. Are there any other companies or facilities that store data or data-containing equipment for the Ontario public service?

**Mr. David Nicholl:** We have our own data centres, obviously: Guelph, Kingston, Oshawa, Peterborough, plus some of the smaller jurisdictions we have storage in. I'm just trying to think if we have any—we could have outsourced contracts, for instance, where a processor like an IBM or an HP may be processing on our behalf. But no, as regards the type of storage you're talking about, archival or secure storage, that would be it.

**Mr. Peter Tabuns:** Okay. Was the information commissioner made aware of these sites and the sorts of information or hardware that were stored?

**Mr. David Nicholl:** As far as Guelph and everything, absolutely yes. In fact, they came and visited Guelph.

**Mr. Peter Tabuns:** Okay. Were they aware of Recall data?

**Mr. David Nicholl:** Probably not, but at that point we weren't storing anything there, so it would have been unlikely that we would have discussed it, frankly.

**Mr. Peter Tabuns:** So material has been stored at Recall since the IPC did her report?

**Mr. David Nicholl:** Yes, absolutely—since, yes.

**Mr. Peter Tabuns:** What's the origin of the material that was stored?

**Mr. David Nicholl:** It was with us in the OPS, and then it was securely stored at this facility in Mississauga.

**Mr. Peter Tabuns:** Can you tell us exactly what this material was? Are we talking hard drives? Are we talking about specific computers for specific individuals?

**Mr. David Nicholl:** I just start getting nervous when I get into that area, because that's the OPP area, and I don't want to tread into it; I really don't. It's IT assets that could be lifted and stored in a secure facility.

**Mr. Peter Tabuns:** So ones that you considered sensitive and would be the subject of any investigation.

**Mr. David Nicholl:** Could be.

**Mr. Peter Tabuns:** Could be?

**Mr. David Nicholl:** But there's no processing; that's the important thing. It's disconnected, in a secure case, sitting in storage on a shelf somewhere. That's all it is; no processing.

**Mr. Peter Tabuns:** Are there any other places where information or information technology assets are stored in this fashion?

**Mr. David Nicholl:** Not that I know of. Lots of OPS locales, of course. There's 2,000 sites around the province that we've got stuff in. But as regards a different facility, I'm not aware of any other ones. Recall is our biggest contractor for all of our archival stuff.

**Mr. Peter Tabuns:** Okay. I'll turn it over to my colleague.

**The Chair (Mr. Shafiq Qaadri):** Mr. Singh.

**Mr. Jagmeet Singh:** Just on that area—you don't have to disclose; the committee has the authority to require you to, but I don't want you to. I want you to apply your discretion, without naming names of who, but just to get a better picture of how this data is stored.

I understand that the data storage isn't data storage in the sense where it's cloud storage, that data is backed up on a server at Recall; it's actually physical assets that are left there. Am I understanding that correctly?

**Mr. David Nicholl:** There are no elements of backup, right. There's no connection, in fact; there's no wire between anything we run and there. So it's physically lifted, trucked and put there.

**Mr. Jagmeet Singh:** So if I put it in laymen's terms, it's acting as more of a warehouse than actually data storage.

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**Mr. David Nicholl:** Absolutely right. It's not data storage at all. You could be putting your briefcase there; it's exactly the same thing.

**Mr. Jagmeet Singh:** Okay. Subsequent to the privacy commissioner's investigation and report, data assets, so hard drives and other storage devices—actually, let's get into that. Would it be the hard drive of a computer? Would it be other sorts of zip drives? What types of data would you store there?

**Mr. David Nicholl:** The only other time that I'm aware of where this contract was used was when our cyber security people would use it as secure storage for their disaster recovery. These guys typically do WDHP investigations; that's what their jobs really are. If they're doing a WDHP investigation and they have taken data, they will back that data up. They're using that contract as their disaster recovery storage site; that's what they're using it for. That's traditionally what that contract has been used for.

**Mr. Jagmeet Singh:** Besides that specific example, in general, is it data drives in the sense of hard drives that are stored there in briefcases? Are they zip drives? Are they USBs? What's the actual type of data?

**Mr. David Nicholl:** I actually can't tell you the storage media, but I would guess it's some kind of removable disk. That's typically what they would probably use. I don't think they're using tape. They might use tape, but I don't think so. I think it's probably some kind of removable disk that they would use.

**Mr. Jagmeet Singh:** Okay. You're aware that search warrants were obviously executed at the data storage facility?

**Mr. David Nicholl:** I did hear.

**Mr. Jagmeet Singh:** Were there any other investigations where the OPP had to physically obtain assets, data or other data storage devices from your ministry?

**Mr. David Nicholl:** We've done a number of—

**Mr. Jagmeet Singh:** In relation to the gas plants.

**Mr. David Nicholl:** Oh, in relation to the gas plants? No.

**Mr. Jagmeet Singh:** Okay. Are you aware of any other sources of data or data storage or other facilities where the OPP investigated?

**Mr. David Nicholl:** No.

**Mr. Jagmeet Singh:** When you were contacted, did you provide a complete list of all the sites where data was stored in terms of the Ministry of Government Services?

**Mr. David Nicholl:** We would have done that as regards the OPS, yes.

**Mr. Jagmeet Singh:** Okay. Specific to the OPS, were there any other facilities that you're aware of that the OPP obtained search warrants for and investigated or obtained data?

**Mr. David Nicholl:** Not that I'm aware of at all, no.

**Mr. Jagmeet Singh:** Okay. If an FOI request is made, how does MGS process that with respect to stored or archived data?

**Mr. David Nicholl:** Do you know if the FOI process—

**Mr. Kevin Costante:** FOI processes typically go to the ministry involved. We would only be involved in FOI processes for our ministry. Basically, staff will look at their paper files, the electronic files that are on their desktop and any other pieces of material that they have around. For FOI requests, it has been policy that we do not go to backup tapes so that—I think in the 12 times normally related to—

**Mr. David Nicholl:** No, it's FOI.

**Mr. Kevin Costante:** Yes, that would be other investigations, but not standard FOIs. That's our standard FOI process.

Then they're released and signed to the requester. Sometimes there's a charge for searching, and when the money is provided, the documents are released.

**Mr. Jagmeet Singh:** Thank you. In this circumstance, in relation to deleted emails, if an FOI request is made, the only potential source of deleted emails would be archived data. Would an FOI request allow you to access archived data to obtain specific information that's requested?

**Mr. David Nicholl:** I would say that if somebody came to us and said, "Could you reload a tape to get some data from it?" we would do that. Yes, we would.

**Mr. Jagmeet Singh:** Okay. Just back—

**Mr. Kevin Costante:** Sometimes FOI requests are around historic things that may only be in the archives; they're 20 or 30 years old—land claims, for example. Yes, then the archives would look at their material.

**Mr. Jagmeet Singh:** Okay. You've indicated this—again, just to be very clear: The OPP has not requested information or material from your ministry in relation to the gas plants?



**Mr. David Nicholl:** The OPP—sorry?

**Mr. Jagmeet Singh:** Has the OPP requested information or data from your office directly?

**Mr. David Nicholl:** They would not have asked for data from offices, but they've absolutely talked to us.

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

**Mr. David Nicholl:** Please don't have any illusions. They have talked to us.

**Mr. Jagmeet Singh:** Right. I understand they have.

**Mr. David Nicholl:** Okay.

**Mr. Jagmeet Singh:** Have they requested, if not actual data, any materials from your office for their investigation? Papers, documents, any other—

**Mr. David Nicholl:** I don't think so. I want to be really cautious. To the best of my knowledge, I don't think so, no.

**Mr. Jagmeet Singh:** Okay. And just one more time to be very clear, are there any other offsite data storage facilities that store data devices, any sort of locations that the OPP have requested material from or have investigated or searched?

**Mr. David Nicholl:** Again, to the best of my knowledge, they have not.

**Mr. Jagmeet Singh:** Okay.

**Mr. David Nicholl:** But there are lots and lots of places where we store data across the OPS. We have 2,000 offices across the Ontario government. There's data in all of those 2,000 offices, just to be really, really clear.

**Mr. Jagmeet Singh:** Right. Would you be aware if the Premier's office or anyone from the government on the political side has requested to look at archive data in relation to the gas plants?

**Mr. David Nicholl:** I'm not aware of any.

**Mr. Kevin Costante:** I'm not aware of anything.

**Mr. Jagmeet Singh:** To be clear, by saying you're not aware, you don't know if it has happened or has not happened?

**Mr. Kevin Costante:** I don't know if it has or has not happened.

**Mr. Jagmeet Singh:** Okay. In terms of the data tapes, roughly how many of the backup tapes in relation to deleted emails and deleted information remain unsearched at this point?

**Mr. David Nicholl:** Can I just correct—

**Mr. Jagmeet Singh:** Yes, please, correct and clarify as much as you like.

**Mr. David Nicholl:** Okay. Deleted emails do not go to backup tapes, just to be really clear.

**Mr. Jagmeet Singh:** Right. The secondary storage.

**Mr. David Nicholl:** Deleted emails don't go to secondary storage even.

**Mr. Jagmeet Singh:** The secondary storage that gives you access to emails that you thought were deleted.

**Mr. David Nicholl:** No, absolutely not.

**Mr. Jagmeet Singh:** Okay.

**Mr. David Nicholl:** No, no, no. Again, it goes back to the structure of our email system. It's really, really important. We have Microsoft Exchange, which you all

use, which is our primary email system where you have a client piece, which is Outlook, that you're actually on your PC with, and Microsoft Exchange in the back end on a server. What we do is, after 30 days that it's on that system, it simply drops into what we call our secondary storage. The only reason it does this is that it's cheaper. It's just cheaper storage because people tend not to go back to that. So there's no archiving. It's not an archiving system in our language. It's simply a cheaper storage mechanism. That's all it is.

**Mr. Jagmeet Singh:** Sure. And this cheaper storage mechanism is what is now available for searching emails that were otherwise thought to be deleted?

**Mr. David Nicholl:** No. No, not at all. When people go in and search their emails, they're seeing both their primary and their secondary storage, because to an end user there is no difference. It looks exactly the same. It's got a little symbol beside it when it's been sent off to the secondary storage, but that's the only difference that there is.

**Mr. Jagmeet Singh:** There may be a disagreement in terms of our language, which is fine, but the Privacy Commissioner was very stark in her language in asserting that there are emails that were indicated to be deleted but then afterwards it turned out that those emails were available.

**Mr. David Nicholl:** Right.

**Mr. Jagmeet Singh:** I'm referring to those emails.

**Mr. David Nicholl:** Yes, I got it.

**Mr. Jagmeet Singh:** My question is, those emails are now available; they're accessible by means of data tapes. Is that correct?

**Mr. David Nicholl:** No.

**Mr. Jagmeet Singh:** That is what I understand is being said by the commissioner—

**Mr. David Nicholl:** Basically what happened is that Mr. MacLennan's emails were found in the secondary storage piece only, not on tapes—secondary storage. The reason it wasn't found when we went to look for it was that the primary—the Microsoft Exchange piece at the front end had been deleted.

In actual fact you had this secondary storage for his emails that there was no connection to. There was no way of getting there. When you went in to look for his email, his email was gone; it was not there. The only reason we found it was, when you guys asked us to go searching through an e-discovery method, because we actually don't own that, we found what is called an orphaned Enterprise Vault—that's where the word "orphan" comes from—because it actually wasn't connected to a primary email account. There was no primary email account left.

**Mr. Jagmeet Singh:** Fair enough.

**Mr. David Nicholl:** He would have thought it was gone, but in actual fact—and I'll be very honest: There was a bit of an operational snafu going on. We thought that when you deleted the primary email account, both went. We had a period of time where both didn't go, just the primary went. The secondary storage was left.

**Mr. Jagmeet Singh:** Fair enough. That's useful.

**Mr. David Nicholl:** That's why we found it.

**Mr. Jagmeet Singh:** Fair enough. With respect to the data tapes that are separate from the deleted emails, how many data tapes are still left to be searched?

**Mr. David Nicholl:** There are 3,226.

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**Mr. Jagmeet Singh:** Do you have any questions?

**Mr. Peter Tabuns:** Yes, I do have some questions, as a matter of fact. In your last presentation here, you were quoted as saying that political staffers are not generally trained on the government's email system unless a minister asks for it, including the archiving of records. Did ministers regularly ask that their staff be trained?

**Mr. Kevin Costante:** In my experience, no. Most staff are young and they know how to use email, and they go and do that. Material was always provided in transition binders around the proper way to keep material that's important, that needs to go to archives.

**Mr. Peter Tabuns:** So, in fact, every new staffer coming in would have gotten a transition binder with instructions on how to maintain and archive records under the ARA, the Archives and Recordkeeping Act. Is that correct?

**Mr. Kevin Costante:** The material was in the transition binders. Whether every single staff member got it, I can't—

**Mr. Peter Tabuns:** But if you were a staffer and you came on board, you got a transition binder?

**Mr. Kevin Costante:** You would think they would read the transition binder.

**Mr. Peter Tabuns:** Sometimes they do, sometimes they don't, but everyone was provided with that information. And how long have people been informed? How long have they been getting these transition binders with instructions on how to maintain their emails?

**Mr. Kevin Costante:** I can go back to 2003, at least.

**Mr. Peter Tabuns:** That's fine. When someone is leaving and they need to transfer material to the Archives of Ontario, do they come to you about the transfer of their material?

**Mr. Kevin Costante:** They can come to us for advice or they go to the archives for advice. Normally, there is a records retention schedule, and they are supposed to follow that. That sets out the length of time that things are supposed to be kept and what's supposed to be kept and in what series. There are Common Records Series that they do that in. Then it's provided to the archives, and then it's actually up to the archivist as to what is actually kept or not.

**Mr. Peter Tabuns:** And did people regularly come to you, asking for assistance in preparing this transfer of archive material?

**Mr. Kevin Costante:** I think the archives gets it. I don't think they come to the ministry all that much.

**Mr. David Nicholl:** It's not frequent. I know, for instance, we just did Premier Davis's—he came in for his last—he gave over quite a lot of stuff, actually, very, very recently—

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

**Mr. Bob Delaney:** Good afternoon, Mr. Costante. Thank you very much for coming back to appear with us a second time. Congratulations on your retirement.

**Mr. Kevin Costante:** Thank you.

**Mr. Bob Delaney:** You don't look a day older than you did last month.

I'd like to just continue down the line of questioning that has been going around the table here on the issue of backup tapes. The reason that the OPS retains backup tapes is for disaster recovery purposes. Correct?

**Mr. Kevin Costante:** That's correct.

**Mr. Bob Delaney:** So the tapes, then, are not a complete archive of the records created, sent or received by an individual?

**Mr. David Nicholl:** No.

**Mr. Bob Delaney:** Okay. Are the tapes considered a normal part of the record-keeping environment?

**Mr. David Nicholl:** No.

**Mr. Bob Delaney:** Do we normally include backup tapes in our legal document disclosure protocols?

**Mr. David Nicholl:** I don't think so.

**Mr. Bob Delaney:** Okay. So in light of the context of the committee's motion, does the existence of backup tapes necessarily mean that those tapes contain records that are responsive to the committee's motion?

**Mr. David Nicholl:** We wouldn't have any idea at this point.

**Mr. Bob Delaney:** In other words, you can't verify that, until the tapes are restored and have been searched.

**Mr. David Nicholl:** That's correct.

**Mr. Bob Delaney:** And indeed, it's possible that the tapes can be restored and the information searched and not yield any records that have not yet been disclosed and are responsive to the committee's motion.

**Mr. David Nicholl:** That is correct.

**Mr. Bob Delaney:** Roughly how many gigabytes are on a tape?

**Mr. David Nicholl:** I don't know.

**Mr. Bob Delaney:** Would it be stored in gigabytes or terabytes?

**Mr. David Nicholl:** It's gigabytes.

**Mr. Bob Delaney:** All right, let's see. The last time, Mr. Costante, that you appeared as a witness for the government, we asked you a lot of questions that, mercifully, I am not planning on revisiting, but what I would like to do is to begin by asking you a bit about the changes that you've witnessed within the government before your departure, which was only last month.

As you confirmed the last time you were here, through a number of correspondences with the committee as well as with the Integrity Commissioner herself, the Ministry of Government Services acknowledged that there were, in fact, circumstances that did not allow for the full recovery of some emails, not as a result of any type of interference but rather because of a technical oversight that was not known at the time, which I think you described earlier. Correct?

**Mr. Kevin Costante:** That's correct.

**Mr. Bob Delaney:** Okay.

**Mr. David Nicholl:** I wouldn't say it was not known at the time. I think we made an oversight.

**Mr. Bob Delaney:** Okay. I'll accept that. What we know is that, as soon as the issue was identified, MGS worked very hard to remedy the situation and ultimately turned over all responsive documents that had been archived into what was referred to as the Enterprise Vault. Is that right?

**Mr. David Nicholl:** That's correct.

**Mr. Kevin Costante:** That's correct.

**Mr. Bob Delaney:** Okay. At your last committee appearance, you said, and I'll use your words, "There was no intention to mislead or not inform the privacy commissioner. I met with the staff who provided information and asked them that very question. I was assured by all of them that there was no intention to mislead her."

"Having said that, we have taken responsibility for the mistakes."

Then, in response to how the staff had responded based on the policies and procedures that were in place at that time, you said, "There were records, and when we looked into the system, as a result of the motion from this committee, we found them. Obviously, that was a mistake on our part. We should have verified, not just responded on the basis of what our policy was. That's, again, why we've apologized to the privacy commissioner. We should have done more."

So I was hoping, with all of this behind us—can you confirm to the committee again today that, during the ongoing investigation by the Information and Privacy Commissioner, your office had never intentionally left out any information relevant to the work of the commissioner on this particular issue?

**Mr. Kevin Costante:** Yes, I can confirm there was no intention to mislead on my part or on the part of the staff that met with the IPC during the course of her investigation.

**Mr. Bob Delaney:** As a former deputy minister at the Ministry of Government Services, then, I think it would be fair to say that you've seen quite a significant number of changes, certainly on your watch and certainly over the past 12 months, on how the government handles the processes and practices of document management and retention going forward. Would that be a fair statement?

**Mr. Kevin Costante:** Yes, there has been. There was a number of recommendations in the IPC report which the ministry, in conjunction with the Premier's office, followed up on. There were also some recommendations around legislative changes; I understand, post my retirement, the government announced its intention to table an accountability act which would address some or all of those recommendations for legislative change.

**Mr. Bob Delaney:** Since your last appearance, a number of current government staff members have been called to testify before the committee, and we've been consistent in asking them whether or not they have been trained on all of the new initiatives under the new gov-

ernment. In fact, we've received some very positive feedback from the Information and Privacy Commissioner. Among the things that she's been quoted as having said is, "This government, with respect to my investigation and the work that we have done with the government, has been very forthcoming." She also said, "Any co-operation we needed was there." She also said, "We've had very good feedback from the government."

After all this is said and done, the changes that the government implemented will certainly affect the future to ensure that no government finds itself again in this same situation. Could you confirm that, to your knowledge, all staff have been trained on the new methods?

**Mr. Kevin Costante:** I think that in response to the privacy commissioner's report, training was developed for political staff, and as I understand it, all political staff were trained on this. Within the OPS, we've had long-standing training regarding records management, and I think in the last couple of years there's actually an online version that staff can access at any time.

Certainly, given the issues around the gas plants, there's a heightened awareness about the need for proper records management, and there has been lots of talk at all levels within the OPS about the importance of this.

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**Mr. Bob Delaney:** It's also fair to say that on the watch of the current government, the technology itself has progressed in leaps and bounds since the day the government first took office.

**Ms. Lisa MacLeod:** Point of order, Speaker.

**The Chair (Mr. Shafiq Qadri):** "Chair," thank you. Ms. MacLeod, point of order.

**Ms. Lisa MacLeod:** The member seems to be making a statement rather than a question.

**The Chair (Mr. Shafiq Qadri):** I'm sorry, Ms. MacLeod, you find that objectionable. Do continue, Mr. Delaney.

**Mr. Bob Delaney:** Mr. Costante?

**Mr. Kevin Costante:** Sorry. Could you repeat the question?

**Mr. Bob Delaney:** Is it fair and reasonable to say that during the years that the government has been in office, the technology with which we manage and store information has changed in leaps and bounds?

**Mr. Kevin Costante:** Yes, it has changed immeasurably since I started in the public service 35 years ago, which was primarily paper, to now primarily electronic.

**Mr. Bob Delaney:** Okay. So would you be able to reflect with the committee today on some of the changes that you're aware of and what your thoughts are on the new approach to the Open Government mandate that has been established?

**Mr. Kevin Costante:** Well, the Open Government mandate was announced by the government a number of months ago in order to provide more transparency. There are three components to it; I'll see if I can remember all three. One of them is around open data, making our datasets available and usable by the public. The second one, I think, is around open information, so just making

the things that we produce as the civil service and a government available to the general public so that they know what's going on within government. Then, a third one is more openness around involving the public in the policy-making and the public realm so that they have a greater say and greater involvement in public affairs.

That's the initiative that has been undertaken, and there has been a series of activities that have gone on related to that.

**Mr. David Nicholl:** Do you want just a quick word on the technology side?

**Mr. Bob Delaney:** Yes. I was just actually going to ask you, Mr. Nicholl, as the acting deputy minister, what you'd like to add.

**Mr. David Nicholl:** Obviously, there's been a huge change from a technological perspective over the last 10 or 15 years where you all have gone far more mobile than you were 15 years ago or 10 years ago. You would probably have been sitting at your desks; you would have been on a PC, but you wouldn't have been lugging it around with you. Today, you're all on BlackBerrys. You're all on mobile devices. You're carrying laptops. Clearly, from a perspective of the use of technology, wherever you happen to be is where you're using your technology now. It has been a dramatic change as regards how people use it. So I think that's very fair to say, and it has been changing over the last 30 years as well. We have gone from paper to where we are today.

**Mr. Bob Delaney:** Some of us are old enough to remember that there was civilization as we knew it before the age of computers.

A few weeks ago, both the Premier and the Minister of Government Services announced that they would be introducing legislation that, if passed, would strengthen political accountability, increase oversight and increase transparency across government and across the broader public sector. That proposed legislation would build on the province's Open Government Initiative and continue to demonstrate that the new government is looking forward when it comes to accountability toward Ontarians.

I understand that this legislation has been in the works for some time. As I finish my time here, I'd like to ask you just a little bit more about these initiatives because they bear on what the committee is actually trying to accomplish.

The government has undertaken, as both of you have noted, to open up government and become among the most open governments in Canada. From your experience, and I'm speaking broadly because the legislation hasn't yet formally been introduced, I'd like to get a sense of how you see the impact of this level of openness and transparency on government—

**Mr. John Yakabuski:** You mean when you appointed Sandra Pupatello over the holiday?

**Mr. Bob Delaney:** I believe, Chair, I have the floor at the moment. Thank you.

Perhaps you might give us a sense of how you see the impact of this level of openness and transparency in the government?

**Mr. David Nicholl:** I can do it from data, if you want.

**Mr. Kevin Costante:** Okay.

**Mr. David Nicholl:** I can certainly talk to the open data side because we've been at this for quite a long time, actually, where today or in the past, we've very much owned how information and data are actually distributed outside of government. The open data movement and where we've gone to is very much now turning it around to where we want to actually put data out to people, where they can use it in its raw form. I mean, that's effectively what open data is. What it allows people to do is, rather than waiting for government to deliver reports—yes, typically some kind of report format—governments will actually be putting raw data sets out there where people can take that, manipulate it and produce their own reports.

I would say Ontario is probably a little bit behind the eight ball when it comes to the aggressiveness of putting data out there. We have about 180 data sets out that we put out at the end of October 2012, when we launched the open data catalogue. We have another up to 1,000 data sets that, in fact, will be voted on at some point by Ontarians as to where they feel they would most like to get their data, which data sets are of most interest, which ones they can actually take benefit of.

If you look around the world, there has been a tremendous response to entrepreneurs and small businesses, actually, taking advantage of this and making businesses out of it. Whether it's something as simple as, "How long is my bus going to be before it comes?" or whether it's something like, "Which is the best hospital to go to for a broken leg?" there are lots and lots of people doing some really cool, interesting things with data right now.

On the open data side, it's very exciting. There are great strides going on around the world, and Ontario is going to be right in the thick of it.

**Mr. Bob Delaney:** I am actually going to resist my temptation to get into the minutiae and the bits and the bytes with you on—

**Ms. Lisa MacLeod:** Please do.

**Mr. Bob Delaney:** Although my colleagues would very much like for me to bore them to tears—

**The Chair (Mr. Shafiq Qadri):** Mr. Delaney, if there is an official question—

*Interjections.*

**Mr. Bob Delaney:** I noted, Chair, that even with nine seconds to go, the Conservatives resisted asking a question on wind energy, so I can only return the favour.

Thank you very much, Mr. Costante and Mr. Nicholl, for your time today. We appreciate you joining us.

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

**Ms. Lisa MacLeod:** I will try to resist asking off-topic questions—

**The Chair (Mr. Shafiq Qadri):** Resistance is futile, Ms. MacLeod.

**Ms. Lisa MacLeod:** —but I would ask that the honourable member resist as well the temptation for a point of order during my last 10 minutes.

Just two quick questions, actually, if you don't mind, and then I'll cease. The question that I have now is, has the removal of hard drives from the government's backup facility meant that the government's response to demands by the justice committee would be somehow delayed?

**Mr. David Nicholl:** No.

**Ms. Lisa MacLeod:** Okay. So say, in theory, the tapes are gone from the government's archive facilities. Are there copies that can be accessed by government?

**Mr. David Nicholl:** We have our backup tapes.

**Ms. Lisa MacLeod:** Oh, so you do have the backup tapes. So our request for data from backup tapes made by this committee in the manner described on July 22 in that memorandum is still possible?

**Mr. David Nicholl:** If you ask us for specific backup tapes, we'll go look for them, absolutely.

**Ms. Lisa MacLeod:** Fantastic. Are the Kathleen Wynne backup tapes still available for creating documents that can be presented to this committee?

**Mr. David Nicholl:** To the very best of my knowledge, yes, they are.

**Ms. Lisa MacLeod:** Okay. And to your knowledge, is it possible that there are emails from the current Premier on the backup tapes obtained by the OPP or on the hard drives?

**Mr. David Nicholl:** To the best of my knowledge, the OPP have no backup tapes.

**Ms. Lisa MacLeod:** So just on their hard drives, they would. And on those hard drives, would there be any emails?

**Mr. David Nicholl:** I honestly and truly really don't know what could be on those hard drives. I really don't know.

**Ms. Lisa MacLeod:** All right. I appreciate both of you coming in today. Thank you very much. Good luck in your new position and certainly good luck in your retirement.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Ms. MacLeod. To Mr. Singh.

**Mr. Jagmeet Singh:** Thank you very much, Mr. Chair. We have no further questions.

**The Chair (Mr. Shafiq Qaadri):** Thank you, colleagues. Therefore, back to the government side. Mr. Delaney, one more opportunity for the minutiae.

**Mr. Bob Delaney:** Thank you, Chair. I believe we're done.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Delaney. Thanks to you, Mr. Costante, and to you, Mr. Nicholl, for your presence. You are officially dismissed.

We do have a motion before the committee and I would invite Ms. MacLeod to present it.

**Ms. Lisa MacLeod:** Under my name, I move that the Standing Committee on Justice Policy request from the Ministry of Government Services all documents and electronic correspondence related to the cancellation and relocation of the Oakville and Mississauga gas plants, sent or received by Kathleen Wynne, including all correspondence from the aforementioned individual stored on the ministry's RAID servers; that the search terms include any and all proxy names including but not limited

to the following: Project Vapour, Vapour, Project Vapour Lock, Vapour Lock, TransCanada, TCE, Greenfield, Greenfield South, Project Fruit Salad, Project Banana, Project Apple, Oakville gas plant, Mississauga gas plant, EIG; that the documents and electronic correspondence be provided in an electronic, searchable PDF.

I look forward to the support of all of my wonderful colleagues.

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**Mr. John Yakabuski:** Good motion.

**Ms. Lisa MacLeod:** I have support from John Yakabuski.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Just before: Colleagues, you are officially dismissed. Thank you.

**Ms. Lisa MacLeod:** I know you're really excited to see this debated.

**The Chair (Mr. Shafiq Qaadri):** Any questions? Debate?

**Mr. Bob Delaney:** I gather, in listening to the testimony given by the two witnesses, Mr. Nicholl has already said there is no archive system for the Premier's office. I then wonder, what is it that you're asking for? I have no trouble giving you something that exists, but all I would like to clarify is, are you asking for something that doesn't exist?

**Ms. Lisa MacLeod:** No. They said that they had tapes both for the Premier while she has been in office and for the Premier before she took office. There are 1,233 backup tapes, dating as far back as 2010 and as recently as 2013.

**Mr. Bob Delaney:** Okay.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Delaney. Any further questions before we move to the vote?

**Mr. Peter Tabuns:** Give me a few minutes just to read this.

**The Chair (Mr. Shafiq Qaadri):** I will let you catch up, Mr. Tabuns.

**Mr. Jagmeet Singh:** I have a question that will buy some time for my friend.

**The Chair (Mr. Shafiq Qaadri):** Please proceed with your purchase.

**Mr. Jagmeet Singh:** I was going to do that anyway, even if you didn't ask for the time.

Just in relation to the way that the motion is worded—I appreciate the search terms that we're looking for. I guess this is specific maybe to—maybe the Clerk can provide some guidance. Will this search provide documents that come up with a positive hit for these terms only, or will this also require additional information on top of that?

**The Chair (Mr. Shafiq Qaadri):** An answer is not forthcoming. The ministry will deal with it.

**Mr. Jagmeet Singh:** Which is fine, because the way it's worded, I think it will provide everything, but I would like it to be separated in the sense that the terms that show positive be provided in a way that's identifiable so that we can actually get to the heart of the matter. There may be other information that's useful as well, but—

**The Chair (Mr. Shafiq Qaadri):** There is a phrase in the motion, “including but not limited to the following,” just for your information.

Ms. MacLeod, you had something?

**Ms. Lisa MacLeod:** I’m just curious. Are you suggesting that we separate—so we ask for any and all proxy names and then “including but not limited to the following,” but you want those separated so that we can search under—for example, if Kathleen Wynne was named under Project Fruit Salad or Project Banana?

**Mr. Jagmeet Singh:** Right. I know you just love saying those names.

**Ms. Lisa MacLeod:** Very creative. I think the Liberals are bananas, so it was aptly put.

**Mr. Jagmeet Singh:** The reason is, if we have data—if it’s all electronic, this might be all moot, because if it’s searchable electronically, I don’t think it makes that much of a difference. If we’re given gigabytes of data and we have the data that shows Kathleen Wynne plus any of these terms, that might be the information that we’re more interested in than the other information. But I’m not overly concerned. It will all be electronic.

**Ms. Lisa MacLeod:** My staff tell me that we’ll be able to search it, because it will be searchable through the PDF.

**Mr. Bob Delaney:** Chair?

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

**Mr. Bob Delaney:** It’s the privilege of members to ask for anything that exists. What I would like to emphasize again is that my understanding, based on the testimony that has been given, is that some of the assumptions behind here include archives that don’t exist such as whatever it is that does exist. You’re welcome to have it, but, frankly, this seems to be stuff you’ve already got.

**Ms. Lisa MacLeod:** No, we don’t have it. This is information that we have requested—so there are backup tapes. Throughout my questioning, I had requested what the time frame would be for the Ministry of Government Services to get through the tapes. They said anywhere between two to four hours per tape. I asked them if it was possible for them to prioritize, if this committee did so, and they said yes. What I’m simply asking them for, based on the respondents 1 through 13 from Mr. Craig MacLennan, Ms. Kathleen Wynne, Mr. Chris Bentley and Mr. Brad Duguid, Mr. Dalton McGuinty, Mr. David Livingston, Mr. Chris Morley, Mr. Jamison Steeve, Mr. Sean Mullin, Mr. John Brodhead, Mr. Dave Gene, Ms. Laura Miller and Mr. John Fraser, which accumulated to a total of 3,226 backup tapes—if we could prioritize them and for them to start with Ms. Kathleen Wynne, who has been mentioned on 1,233 backup tapes. They said if we asked them as a committee to produce those documents, that’s what they would start with, and they would provide it to us under the time frame. So I wish you were listening to my questioning because that’s what I got.

I took it upon myself, then, to speak with my staff and asked them to provide me with a draft motion that I did bring to the Clerk, who then retyped that out. So we’d

like this to stand, and I’d like to put it to a vote because I think it’s an important piece of the puzzle for us. That’s a substantial number of documents—

**Mr. John Yakabuski:** We’ve got it in the order we want them.

**Ms. Lisa MacLeod:** Yes, and we’d like to prioritize that.

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

**Mr. Bob Delaney:** Chair.

**The Chair (Mr. Shafiq Qaadri):** Mr. Delaney, but just before you begin—with regard to your comment, obviously the request can be made on a broad basis. That which exists will be turned over; that which does not exist will not be turned over. That’s obviously the path that the ministry itself will follow.

Go ahead, Mr. Delaney.

**Mr. Bob Delaney:** Chair, throughout these proceedings, the government has done its best to comply with these requests and overwhelmingly has voted—

**Mr. John Yakabuski:** Well, they’ll comply with this one.

**Mr. Bob Delaney:** —in favour of document disclosure. Based upon the testimony of the individuals involved, if Ms. MacLeod’s numbers are accurate, and to use, for example, Kathleen Wynne, who has been mentioned on 1,223 tapes—just to do the math—one is looking at between 2,446 hours’ and 4,892 hours’ worth of work to copy the tapes on which just that one name has appeared on to a disk and to convert it into a searchable format.

So accepting that between 2,446 and 4,892 hours of work is non-trivial, I would actually ask whether or not my colleagues would permit us, before we go to a vote, a recess because I’d actually like to do a little consultation on this, or would you be willing to stand this down for a session?

I’m trying to be helpful here. If you want to have a vote, you can have a vote. We’ll call a recess anyway, but I’m actually trying to find a way to help you in doing something that, at the extreme, is going to take, for one person, nearly 5,000 hours of work.

**Ms. Lisa MacLeod:** I will call the vote, and I will say this before the government takes a recess: I do have the letter that arrived to this committee on July 22, 2013, to you, to Dr. Shafiq Qaadri, and it does indicate what those initiatives are. I do deem it a priority. The Premier could have told the truth, and we wouldn’t be going through this. But throughout the entire period, we were told that the cancellation would be \$40 million. Lo and behold, it’s \$1.1 billion.

As much as I appreciate my colleague—and he has been helpful; I will say that—we have now made a decision to prioritize this. I’ll ask the Clerk to make copies just in case Mr. Delaney didn’t get the copy at the time of this, and I’d like to put it to a vote, if that’s possible.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Ms. MacLeod. Are there any further comments or questions?

Mr. Tabuns.

**Mr. Peter Tabuns:** Just to be clear what we’re voting on, Mr. Chair?

**The Chair (Mr. Shafiq Qaadri):** The motion before the floor, Mr. Tabuns.

**Mr. Peter Tabuns:** This one?

**The Chair (Mr. Shafiq Qaadri):** I'm sure you've absorbed it by now.

**Mr. Peter Tabuns:** Well, I've absorbed this, but I was also hearing the discussion about priorities. This is the motion that's before us?

**The Chair (Mr. Shafiq Qaadri):** Yes, yes, yes.

**Mr. Peter Tabuns:** Fine.

**The Chair (Mr. Shafiq Qaadri):** All right. Any further comments before we move to the vote?

**Mr. Bob Delaney:** A 20-minute recess, please, Chair.

**The Chair (Mr. Shafiq Qaadri):** Which is your prerogative. Therefore, we'll be in a 20-minute recess. The vote has been called, and we'll resume in 20 minutes, at 4:30-ish.

*The committee recessed from 1610 to 1631.*

**The Chair (Mr. Shafiq Qaadri):** Thank you, colleagues. We are now back in session. I understand that the originally presented motion will be withdrawn. Ms. MacLeod, that's correct?

**Ms. Lisa MacLeod:** Don't get too excited, Liberals. I'm just joking, Speaker.

**The Chair (Mr. Shafiq Qaadri):** We'll try to contain it. Thank you, Ms. MacLeod. I need you to officially withdraw it.

**Ms. Lisa MacLeod:** Sure. I officially withdraw the first motion in order to put forward a second motion to ensure that there is no duplication of documents.

Instead, I move that the Standing Committee on Justice Policy request from the Ministry of Government Services all documents and electronic correspondence related to the cancellation and relocation of the Oakville and Mississauga gas plants, sent or received by Kathleen Wynne, stored on the ministry's backup tapes as referenced in Deputy Minister Costante's correspondence to the committee;

That the search terms include any and all proxy names, including but not limited to the following: Project Vapour, Vapour, Project Vapour-lock, Vapour-lock, TransCanada, TCE, Greenfield, Greenfield South, Project Fruit Salad, Project Banana, Project Apple, Oakville gas plant, Mississauga gas plant, EIG;

That the documents and electronic correspondence be provided in an electronic, searchable PDF.

**The Chair (Mr. Shafiq Qaadri):** Thank you. Are there comments? Comments, discussion, questions?

**Mr. Bob Delaney:** Chair, may you get all of her comments about the vapour from her tea kettle, her banana bread recipes, anything to do with apple pie and anything else your heart is content with receiving. We're fine with this.

**The Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Delaney. Any comments from the NDP side before we proceed to the vote?

**Mr. Peter Tabuns:** No.

**Mr. Jagmeet Singh:** No comments.

**The Chair (Mr. Shafiq Qaadri):** All right. Thank you. Those in favour of this motion? Those opposed? The motion is carried.

If there's no further business before this committee—

**Mr. Bob Delaney:** Just to mention, Chair, based upon the estimates given by the two witnesses who spoke to us today, it should be worth noting that just to do the data extraction will probably take the bulk of this calendar year. I just want to make sure that that's on the record. They're looking at somewhere between 60 and 120 weeks of work.

**The Chair (Mr. Shafiq Qaadri):** I trust the government will return to resume the committee hearings for that. Thank you very much, Mr. Delaney.

The committee is adjourned.

*The committee adjourned at 1633.*

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