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**Jeudi 20 mars 2008**

**Standing committee on  
public accounts**

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Ministry of Community Safety  
and Correctional Services

**Comité permanent des  
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Rapport annuel 2007,  
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Ministère de la Sécurité  
communautaire et des  
Services correctionnels

Chair: Norman W. Sterling  
Clerk: Katch Koch

Président : Norman W. Sterling  
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
PUBLIC ACCOUNTS**

**COMITÉ PERMANENT DES  
COMPTES PUBLICS**

Thursday 20 March 2008

Jeudi 20 mars 2008

*The committee met at 0940 in committee room 1, following a closed session.*

2007 ANNUAL REPORT,  
AUDITOR GENERAL  
MINISTRY OF COMMUNITY SAFETY  
AND CORRECTIONAL SERVICES

Consideration of section 3.11, Ontario Sex Offender Registry.

**The Chair (Mr. Norman W. Sterling):** Good morning. My name is Norman Sterling. I am the Chair of the public accounts committee. We have invited today people from the Ministry of Community Safety and Correctional Services. I also note that Julian Fantino, the Commissioner of the Ontario Provincial Police, is here with us as well.

Just to explain the process a little bit, prior to your coming into the room, we go over a report which has been prepared by our researcher with regard to the issue, and we have talked, of course, with the Auditor General, Mr. McCarter, who is sitting to my left, in order to just go over where the progress has come since he wrote the report. It's normal for us to give an opportunity to the deputy minister to have an opening statement.

I would say to the Deputy Minister: You may want to introduce some of your delegation as well. I now turn this over to you, Deputy Minister, to go forward.

**Ms. Deborah Newman:** Good morning, all. My name is Deborah Newman. I'm Deputy Minister, Community Safety and Correctional Services. On behalf of the ministry, I wish to thank the public accounts committee for this opportunity to address the 2007 annual report of the Auditor General regarding the Ontario sex offender registry.

Joining me today are OPP commissioner Julian Fantino and deputy commissioner Vince Hawkes. Behind us are chief administrative officer and assistant deputy minister Allan Gunn, assistant deputy minister Laurie LeBlanc, OPP bureau commander John Tod, OPP Detective Sergeant Scarlett Graham-Krajcir, and additional colleagues from the ministry and the OPP.

I'd like to begin by thanking the Auditor General for his constructive observations and recommendations. In particular, his recognition of the dedication and diligent efforts of those ministry staff who worked to create the registry was especially meaningful to us. In addition, he

noted that the team had worked cost-effectively over the last six years—rare recognition and high praise from the Auditor General.

Community safety is paramount to all of us: the police, the citizens of Ontario and the government. Six years ago we couldn't track convicted sexual predators because there was no registry. Now convicted offenders are being tracked. Six years ago we didn't have a compliance rate because there was no registry. Now we have a sex offender registry with 95% compliance—one of the highest rates of any sex offender registry in North America. We remain committed to reaching 100% compliance. Our ministry is proud of its commitment to enhance community safety. By giving law enforcement agencies a reliable and effective electronic tool in the Ontario sex offender registry and the support services to track sexual offenders in our communities, we improve the investigation of crimes of a sexual nature. As we work to advance this important investigative tool, I would like to assure the committee and the Auditor General that Minister Bartolucci, myself, OPP Commissioner Fantino and ministry staff are committed to implementing all of the report's recommendations. In fact, we've already made many changes, and I'll be pleased to talk about those shortly.

Before doing so, I'd like to provide some context for the critical role the registry plays in protecting children and adults in communities right across Ontario. The OSOR, Ontario sex offender registry, is accessible to all municipal police services in the province, First Nations police services and OPP detachments. On average, the registry is accessed 400 times per day. As of March 4, 2008—a snapshot—8,115 offenders were entered on the OSOR with their footprint information. Of these offenders, about 5% do not comply with the legislation, which means that they have not registered with local police or they haven't reported an address change; they're not compliant with the requirements of the registry. The police are making efforts to apprehend them through investigative efforts and in some cases through warrants.

As Toronto police chief Bill Blair has previously noted: "Police across Ontario have come to rely on the registry as an important tool in investigating sex crimes." Let me tell you about just one example of the value of the Ontario sex offender registry. York Regional Police were dealing with a report of a sexual assault on a store clerk. Police used the registry to do a search for a suspect with

a similar MO. They were able to isolate a previous offender who had a similar repeated pattern of behaviour to the one they were investigating. This led to further police investigation and directly to a photo lineup. The end result was, the offender identified through the registry was charged with sexual assault and subsequently convicted. The police would not even have known the offender was in their community without the OSOR. Many other police services tell of similar examples demonstrating the effectiveness of the registry.

Legislation recently introduced in December 2007 by Minister Bartolucci would make the Ontario sex offender registry even more effective. Bill 16 introduced amendments to Christopher's Law that, if passed, will allow police to track more sex offenders in the community and help keep Ontario safe.

#### 0950

The new legislation would, if passed:

(1) Require sex offenders serving an intermittent sentence to register within 15 days of sentencing.

Currently, they are not required to report until they have completed their intermittent sentence.

(2) Require that all those who are released on bail pending an appeal in relation to a sex offence register within 15 days of being released on bail.

Currently, such persons are not required to register pending the outcome of their appeal.

(3) Third, require police services to notify the registry immediately if they receive notification from a mental health facility that a person who is not criminally responsible for a sex offence on account of mental disorder is being released from the facility unsupervised; for example, on a day pass.

Currently, such persons are not required to register until they've completed their custodial sentence and been given an absolute or conditional discharge.

Additionally, Bill 16 would require provincial correctional facilities to notify the registry of all sex offenders who are released from a correctional facility on an unescorted temporary absence pass 24 hours prior to that pass. Currently, such persons are not required to register until after they've been released, having served the custodial portion of their sentence.

The Ontario sex offender registry came about as a result of the tragic abduction and murder of 11-year-old Christopher Stephenson in June 1988 at the hands of a convicted pedophile on federal statutory release. At the 1993 inquest into Christopher's death, the coroner's jury recommended creating a national registry for convicted sex offenders, requiring them to register with their local police service. With the encouragement and support of the Stephenson family, victims' groups and law enforcement organizations, Christopher's Law was proclaimed on April 23, 2001, making the Ontario sex offender registry a reality.

Ontario was the first, and remains the only, province in Canada to have its own registry. It requires sex offenders convicted of criteria sex offences to register with the police service in their area of residence. Christopher's

Law represents a vital step in fighting crime, protecting vulnerable children and adults, and safeguarding our communities.

The OSOR is a provincial registration system, administered by the Ontario Provincial Police. The registry has an annual budget of approximately \$4 million, of which \$1 million is dedicated to system developments, improvements and maintenance. Currently, it is staffed by 11 police officers and seven civilian personnel and continues to be supported by a ministry working group.

When Christopher's Law was proclaimed, it was a natural fit to be housed under the umbrella of the behavioural sciences section of the OPP. The section is well established, with the infrastructure and trained and experienced personnel to deal primarily with violent crime and deviant criminal behaviour.

During the OSOR registration process, police enter information on these individuals into the application, which is far more than just a database. The registry includes such information as name, date of birth, current address, current photograph, and particulars of the sex offence for which the offender is responsible. This pertinent information is critical when used as a tool to help recover abducted children, because research shows that any delay during the investigation of a child abduction for a sexual purpose is vital. Time is critical.

The work of the registry begins at the time an offender is charged with a criteria sex offence. The police then notify the offender, when charged or convicted, of their duty to register. The police are then responsible for ensuring the offender's tombstone data or footprint information is entered into the registry. However, this entry is done automatically if the offender is incarcerated or detained provincially. The offender is then responsible for registering 15 days after they are convicted or released from custody. Police then verify an address of the offender once they register.

As administrator of the OSOR, the ministry is responsible for operating the registry and for developing guidelines for its use to assist police. The police are responsible for registering the offender, and the offender is responsible for going to the police and providing the required information. It's important to know that the public does not have access to the OSOR, but the police can make a determination under the Police Services Act to disclose information in certain circumstances. The registry has been used many times to identify when sex offenders who have a risk to re-offend position themselves so that they are living with or have access to children. The police, during an address verification of a sex offender who has been identified to them in their community, can now make a determination of a child in need of protection.

It's difficult to measure the value of offences that may have been prevented. As a result of the success of the registry, the Ontario government and police agencies identified the need to establish a national sex offender registry. When the national sex offender registry was enacted on December 15, 2004, it quickly became apparent

to police services that the legislation was lacking when it came to being used as a proactive investigative tool. The benefits of Ontario's registry became even more apparent as the two registries began the process of aligning the information contained within their systems.

One of the most glaring examples of the federal agency's limitations is that in Ontario, when a person is convicted of a criteria sex offence, they are automatically included in the registry. Under the national registry, a judge at the time of conviction must order the offender onto the registry. Since the inception of the national registry in December 2004, there have been 3,679 people convicted in Ontario for a criteria sex offence, but of those, only 1,853 were ordered onto the national registry. That's only a 50% rate of potential offenders being added to the national registry. Ontario captured all of those offenders into the Ontario sex offender registry.

That's what makes our registry such a powerful investigative tool for police services. It lets police services across the province know who the sex offenders are in their community and in turn lets them determine who are most dangerous before a crime is committed.

As I noted at the start of my remarks, we have welcomed the Auditor General's recommendations and we're addressing the concerns that have been raised. Indeed, we have already implemented many of the auditor's recommendations.

Those offenders identified by the Auditor General as missing from the registry have now been investigated. Those who should have been registered are now on the registry.

We're working closely with other provinces and the federal government to improve the effectiveness of the registry.

As of March 2008, all offenders who can get mail will receive an annual letter to remind them to go and register.

The Auditor General recommended that to help improve the usefulness and accountability of the registry, the OPP should ensure that all funds approved for registry purposes are actually spent on registry activities. The ministry is confident that the money allocated to the maintenance and improvement of the registry is now being fully spent on the registry.

As mentioned in the report, the best practice of serving offenders with the notification of their obligations of duty to register if they are convicted of a criteria sex offence was not found in the original legislation. It was subsequently developed as a best practice to help ensure program success. The auditor echoed this, and we are now taking steps to improve upon the processes that are followed by looking at the feasibility of introducing legislative or other amendments to ensure that reasonable efforts are made to serve the notice of duty to register to all convicted sex offenders at the appropriate time. Offenders who enter into the federal correctional system or the mental health system are served the notice of duty to register by the officers in the sex offender registry.

In response to the Auditor General's recommendations for improving the registry's usefulness for quickly iden-

tifying potential suspects, the ministry is looking at better use of other data sources. This includes sources such as the Correctional Service of Canada for federal offenders and the Ministry of Health and Long-Term Care for offenders who are not criminally responsible.

#### **1000**

In addition, the OSOR application was enhanced in December 2007, making it possible to search and filter data by victim, gender, age, relationship to the offender and location of past offences. We're also developing a process with provincial corrections and provincial courts to ensure that all offender records are obtained. Initial meetings have been held with the registry and corrections, where both systems and processes were reviewed. The ministry has also been working with the Correctional Service of Canada to address concerns relating to data transfer regarding federal offenders. Specifically, the ministry has been working to develop an electronic interface between the Correctional Service of Canada and the OSOR. The initial phase of that was completed in December. We will continue to work with our federal counterparts to ensure that the necessary electronic interface is robust.

The ministry is also examining the feasibility of introducing legislative or other changes to track the movements of offenders moving into and out of the province. Currently, when a reminder letter is returned to the registry, the offender's record is updated to reflect this. When this is done, it automatically advises the police jurisdiction where the offender lives that this has occurred. The ministry's policing standards manual contains a guideline with respect to the sex offender registry. We're reviewing this guideline and we'll update it to incorporate the amendments in Bill 16, if passed, in consultation with police stakeholders. As part of the legislative process, the ministry will be assessing whether there are additional amendments that could be made if an opportunity arose at standing committee, which would provide police with additional tools to follow up on non-compliant offenders. The Police Services Act requires the ministry's quality assurance unit to provide advice to police services on the management and operation of police services, which is done routinely. In response to the auditor's report, the unit now regularly communicates with chiefs of municipal police services on their compliance rates and strategies to reduce non-compliance.

We're going beyond the recommendation of the Auditor General regarding the deletion of offender records by reviewing all prior deletion records to ensure that each and every deletion has supporting documentation. We've also had discussions with the federal parole board on developing a protocol for the provision of parole revocations to the OSOR.

The OSOR continues to consult with its police partners for ways to improve the investigative value of the program—for example, the unit partners—and consults with other existing programs, such as the child pornography section of the OPP, which leads the provincial strategy against the sexual exploitation and abuse of

children on the Internet and includes members of 18 other police agencies across Ontario.

We've also taken several steps towards improving the usefulness and accountability of the registry, as recommended in the report. We're providing dedicated training and support to local police services, which we continue to enhance. In addition, the registry is working with the ministry's technology partners to enhance the system's application.

In response to the recommendation regarding the effectiveness of the registry, the OSOR team is working to develop program outcome measures with support from our strategic planning and research branch. The performance measures will also give the registry a way to track how often the OSOR is used by police to help them investigate a crime and whether it contributes to the successful resolution of a sex offence.

Performance measures related to data integrity, support provided to services during investigations, training and database improvements are also under development. This information will support evidence-based decision-making, further enhancing the effectiveness of the registry.

In closing, I hope this information on the Ontario sex offender registry and the work that we're doing to address the recommendations in the Auditor General's report has been helpful to the committee. As I noted at the beginning, community safety is paramount to all of us. The Ontario sex offender registry today remains one of the most effective ways of tracking convicted sex offenders in our communities.

Thank you for the opportunity to speak. With the Chair's and the committee's indulgence, I would like to turn it over to Commissioner Fantino to make a few comments.

**Mr. Julian Fantino:** Thank you, as well, for the opportunity to appear before you.

I would be remiss if I didn't at this time introduce Mr. Jim Stephenson, who, along with Mrs. Stephenson, has been a constant stalwart in trying to improve safety for vulnerable people. They are very much the genesis, as you probably know, Chair, of all of this long trek to bring the sex offender registry to where it is today, and I want to thank them publicly for their constant and ongoing interest and support in very difficult circumstances.

I want to thank the Auditor General, as well, for the work that the audit team did throughout the audit of the Ontario sex offender registry program and for the very sage, wise and helpful recommendations that then followed. We believe that the audit was and is a very positive aspect of our improving what we do and the way we go about doing it. It will make us even stronger and better in our efforts to protect vulnerable people.

As was mentioned by Deputy Minister Newman, prior to April 23, 2001, there was very little assistance offered to front-line police officers who were faced with investigating a missing child or a sex offence, let alone finding out who in their community had offended sexually.

The Ontario sex offender registry was developed from scratch. That's something that I wish to underscore. This was not an off-the-shelf undertaking. This was developed by our people through a whole lot of due diligence and a whole lot of work. They, too, are to be commended for their efforts, which are ongoing, by the way, as we speak.

We obviously consulted far and wide. We networked with stakeholders. We built it from scratch, as I said. Much of the support that went into what we now have today has been, really, the encouragement from the Stephenson family, as we speak.

Today there is accurate, current information that can be accessed not only in reaction to a crime, like we have with the national sex offender registry, with its limitations, but it's much more advanced in terms of its effectiveness for us. Although the information contained on the registry is not for public access, the police services can use the authority in the Police Services Act to release information about high-risk sex offenders to the public en masse or to an individual who isn't aware that the person they just met may pose a risk of harm to them or, as is often the case, their children.

Unlike the national sex offender registry, which can only be accessed after a crime has been committed, Christopher's Law allows the police to put in place offender management policies and access the information not only in their jurisdiction but in others, as well, regardless of what type of records management system they have in-house. Specifically, the preamble to Christopher's Law provides for all police forces in Ontario to have access to the information on the Ontario sex offender registry in order to assist them in the important work of maintaining community safety. In addition, police services have access to the information and investigative tools of the Ontario sex offender registry in order to prevent and solve crimes of a sexual nature. Police use the registry to make sure they know where the registered sex offenders live, work and volunteer in their police jurisdiction.

#### 1010

Christopher's Law gives officers direction to verify an offender's reported address as well. A police force can verify an offender's reported address as frequently as necessary, and can base their decision on their determination of the level of risk that the offender poses to re-offend. They have authority under the Police Services Act to disclose information on an individual to the public if they determine that the offender poses a risk to public safety.

Should a sex crime be reported to a police service, the investigator has direct and immediate access to the registry and can enter the offender's description. A suspect list is provided, enabling the investigator to commence their investigation immediately based on a list of known, convicted sex offenders. This is a reliable indicator of future violence, as it is with respect to past behaviour.

Just as a by-the-way, when we had the two very brutal murders of Cecilia Zhang and Holly Jones, we made extensive use of the registry, and it was an invaluable tool

for us. There are many other success stories that I can enumerate, as recently as yesterday.

It has been made available to all police officers in Ontario at their work locations. It is easy to use and a one-stop shop where they can register individuals for the Ontario sex offender registry as well as the national sex offender registry, so they don't have to do two separate registrations.

The audit has been very helpful and has caused us to look at other areas funded within the organization. Not only have we corrected the Ontario sex offender registry funding issue; we have gone beyond the auditor's recommendations and have put in place very stringent safeguards for all of our MB20 funding allocations. We have a process in place today to ensure that all approved funds are used exclusively for that approved initiative.

The OPP fed into the audit many of the issues that we have already identified as system upgrades. His acknowledgement that there were things which needed further focus is validating and important to us. The auditor will help us prioritize our enhancements to an already sound and useful investigative tool.

The national sex offender registry and the Ontario sex offender registry interface was disconnected arbitrarily at the national level. We have taken the lead with the Royal Canadian Mounted Police regarding the link being re-established to correct the data transfer issues. We're driving this fix and we're establishing a lead in the steering committee and working group with the RCMP to address the building of an interface between the two registries. This will provide for a direct and immediate link between the two registries that will make it possible for offenders who are on the Ontario sex offender registry and have been served a form 52, which is their notice, to automatically upload onto the national sex offender registry.

Without belabouring this point, the deputy is quite clear in stating that as far as we're concerned and in a relative comparative sense, the national sex offender registry is only about 50% as effective as our own provincial registry. This is an issue that has to be looked upon because of the transient nature of many of these offenders. The fact is that in this world today, there are no boundaries or jurisdictions, and we need to be better able to track the movement of these individuals.

I will be taking some recommendations to the Canadian Association of Chiefs of Police and hopefully forward to Minister Nicholson and Minister Day to see if we can get this issue sorted out with a much more robust, appropriate and effective national sex offender registry, which is really badly needed.

I won't go into a whole lot of what we're doing, other than the fact that we have put in place a number of people who are helping us reconnect with the national sex offender registry. The disconnect happened not because of mischief or ill will; it just happened because of the overwhelming information that the Ontario sex offender registry manages that was not in keeping with the capacity of the national sex offender registry to input

all that information. So there had to be a disconnect, and we're working on making that connection again so we can be much more effective right across the country.

There are a lot of other things that we do in our registry that are absolutely critical. When you talk about technology today, it's a great enhancement for us. We went to a lot of the geomatics—for instance, to look at scanning areas and looking at mapping and so forth. These are all areas within the Ontario Provincial Police that are not really part of the registry, but we draw on many different areas within the Ontario Provincial Police to actually support the work of the registry, and this is all good stuff.

There's also, if you recall, the excellent work that was done by Mr. Justice Campbell that resulted in the ViCLAS system and all of those kinds of issues. We need to be better able to coordinate some of those. I'm also an advocate that the Ontario sex offender registry should be made a mandatory requirement by all police services to absolutely make this a 100% compliance situation, such as we have with ViCLAS. There's work to be done, and we're moving towards all of that.

It begs to say as well that much of the technology and the automation capabilities of the Ontario sex offender registry and the enhancements that we're constantly improving on will enable us to realize significant savings in terms of dollars spent to manage and support the registry. So we're creating efficiencies as we speak.

The Ontario sex offender registry system was offered to the federal government to use as a basis for the national sex offender registry. With only minor modifications, it is capable of capturing any address in Canada and would be accessible to all police officers in Canada to respond to crimes of a sexual nature. This would truly be a national strategy which I strongly believe should be adopted.

As you know, there was extensive reporting on the national sex offender registry by the media, and all that can do is raise the awareness of how much more work we need to do to truly make the registry a national initiative intended to protect children and vulnerable people right across this land.

The national sex offender registry does not record an offender's next reporting date, nor does it provide an indication of whether the offender is compliant or non-compliant. The national system does not have a readily identifiable location to confirm that an offender's home address has been verified. The system does not capture all sex offenders convicted of a criteria offence, as was stated by Deputy Newman. In order to go on the national sex offender registry, there has to be a judge's order to do so. We don't have that issue. Currently in Ontario, as was stated, 100% in Ontario would qualify, but only 50% for the national registry.

The deputy mentioned numbers, so I won't repeat those, but nonetheless, it's real-time entry and tracking of compliance, and we need to have some upgrades with the national registry. The enhanced enforcement provided by the federal legislation respecting non-compliance offers

police a Criminal Code charge for those offenders on both the national sex offender registry and also the Ontario sex offender registry. The police can access the information immediately and there can be criminal charges laid where there is non-compliance.

Working towards a December 2008 implementation, we are confident that our work with the Royal Canadian Mounted Police will result in very positive outcomes.

As was stated, the Ontario sex offender registry compliance rate is over 95%. In actual fact, it's 100% at our end. We are satisfied that 100% of those people that need to be on the registry and should be on the registry are actually registered. The 5% anomaly are people that still have to be tracked down and, for one reason or another, have not kept up with the notification of changes of address or have moved on, or for whom there are now warrants because of their breaches of the provisions. That's another area where we will be working very closely with our partners in law enforcement right across this province to ensure that we absolutely arrive at a 100% compliance, not only on the registry issue but also on the issue of follow-up investigations at the local level.

**1020**

I could go on for a long time, but I just want to leave you with the bottom line: As I speak today before this committee, I can assure you and the public that all offenders who should be on the registry in Ontario are actually on the registry, and the only anomaly that I spoke of is that which needs a little bit of investigative work to follow up on those who are not 100% compliant. Thank you for the opportunity to share these thoughts with you.

**The Chair (Mr. Norman W. Sterling):** Thank you, Commissioner, and thank you, Deputy Minister. On behalf of the committee, I'd like to welcome the Stephenson family here, who of course have been very, very much involved in this issue for a long period of time.

There's one question that bothers me most; that is, when somebody leaves Ontario—and there are 50% of these people who are not on the national registry—what obligations are there on the police or the OPP to notify Manitoba, BC or Nova Scotia that they have a sex offender coming their way?

**Mr. Julian Fantino:** We do that as a matter of co-operation and working together. But clearly, with the national sex offender registry that exists today and the fact that other provinces do not have provincial sex offender registries, it's basically left to this co-operative working relationship that we have between us, where we would make the phone call, where we would give a heads-up, as they would with us. But there's nothing formal.

Your question is a really good one, because if we truly had a like model nationally, those issues would be a non-event. It would be transparent. The notification would be transparent; it would be done as a matter of routine.

**The Chair (Mr. Norman W. Sterling):** Mr. Ouellette.

**Mr. Jerry J. Ouellette:** Thank you for your presentation. To follow up on Chair Sterling's question, what

happens with cross-border? When a convicted offender leaves New York state and comes here—they have a registry there—is there any notification to Ontario?

**Mr. Julian Fantino:** In some cases there is, but there is a requirement on the sex offender to register. The onus is on the sex offender coming into the province to register.

**Mr. Jerry J. Ouellette:** How would they know they would have to register if they were convicted in New York state?

**Mr. Julian Fantino:** Well, it goes with one's being self-educated, I suppose. We do get a heads-up on people coming and going across borders and jurisdictions, but the onus is on a sex offender coming from elsewhere, and that's where Bill 16 is tying up loose ends. It puts the onus on the actual offender to make sure they register. If they were convicted of a sex offence overseas, for instance, they would be required to register. I suppose your question is a good one: How does that happen? It's being self-educated and aware.

We do get information between agencies—INTERPOL and so forth. For instance, we work on this whole trafficking of child pornography—the making, distribution and consumption of child pornography—and a lot of that work is done through INTERPOL. We have, surprisingly enough, sex tourists, who leave Canada to go overseas to different countries to abuse children and engage in sexual victimization of children. There's a lot more networking, but to your specific question, there's no specific method by which we can transfer that information between agencies, other than the co-operation that exists between us.

**Mr. Jerry J. Ouellette:** Would it not make more sense to have the registration of individuals automatically done by the courts once a conviction has taken place, as opposed to the individual doing the registration?

**Mr. Julian Fantino:** Well, the notifications are done by the court. We're talking about individuals who come into the province from, say, the United States or overseas. But the courts do make the notification. It goes through Corrections, and we get that notification formally from the court system in this country. In the case of a national registry, the notification is only made once a judge orders it, which I think is a big flaw.

**Mr. Jerry J. Ouellette:** Yes, I believe so.

We heard statistics by the deputy that said there's an average 95% compliance within the forces. What would the low end of that scale be, in order to achieve 95%? Obviously there are ones that provide 100% compliance, but there must be some forces that do not. How far on that scale are they?

**Mr. Julian Fantino:** As I recall, the numbers—I have them here—the lowest, I believe, is about 80%, but the explanation there is that they're tracking people down. They're chasing people down or they just don't know where they are—those kinds of things.

**Mr. Jerry J. Ouellette:** Okay. What happens when an individual doesn't re-register—they have to register on an annual basis?



**Mr. Julian Fantino:** They are in contravention of the act, and penalties are provided.

**Mr. Jerry J. Ouellette:** Are there actions taking place? Do we have any convictions of individuals who are not re-registering?

**Mr. Julian Fantino:** Yes. They're pursued, and charges are laid for non-compliance.

**Mr. Jerry J. Ouellette:** Some of the issues with vulnerable persons checks—I know you don't have to register until after you have been released. What is the onus to register for individuals who serve weekends under provincial offences, and how would that apply for vulnerable persons checks?

Also, other jurisdictions are doing vulnerable persons checks for agencies in Ontario. For example, one I know of in Nova Scotia is providing a service in Ontario. A company has contracted them out. What access to that information would the forces in Nova Scotia have to check to make sure that when they're providing a vulnerable persons check, they can look into the information?

**Mr. Julian Fantino:** Vince?

**Mr. Vince Hawkes:** The one advantage of the sex offender registry is that all police agencies will have access to it; so all of our partners across the country would be able to tap into our system. The police agency in Nova Scotia would be able to contact our sex offender registry folks and access that to verify the address, to ensure that that happens.

In a case where there's an issue about an individual's address, it's up to the local police department to attend at that residence and verify that the person is actually living at that address itself. Then, if there is any violation, that's when the investigative part continues and gets initiated in order to identify where the individual is. It's all tied in to that and to our partnership.

**Mr. Jerry J. Ouellette:** That answers my questions.

**Ms. Deborah Newman:** If I could just add, I think the first part of your question was in relation to offenders serving intermittent weekend sentences. Currently, they're required to register 15 days after the completion of their intermittent sentence. Bill 16, if passed, would require them to register within 15 days of beginning their intermittent sentence.

**Mr. Jerry J. Ouellette:** Would a vulnerable persons check identify that when they do that? It's a different system for a vulnerable persons check; it's for notification.

**Mr. Vince Hawkes:** Yes, that is a different system. If the individual is on the sex offender registry and is required to check, that's when we can—

**Mr. Jerry J. Ouellette:** Yes, but they don't have to register until 15 days after, according to the deputy. So when somebody is making application to participate in activities with kids, they wouldn't have to register until 15 days after, but would a vulnerable persons check—because they also don't just deal with convictions; they also deal with charges. Would that information be found on there?

**Mr. Vince Hawkes:** Once the individual is charged, then they get access. That information goes onto the registry. The gap is where you just mentioned and the deputy mentioned: If the individual is on an intermittent sentence, they're actually not compliant at that point. The intent of Bill 16 is to fill that gap to ensure that those who are out on intermittent sentences are actually on the registry so they can be accessed immediately.

**Mr. Jerry J. Ouellette:** Thank you.

**The Chair (Mr. Norman W. Sterling):** Am I correct in assuming that everybody who is on the federal registry and is presumably in Ontario, is on the provincial registry?

**Mr. Julian Fantino:** If they are in Ontario, yes.

1030

**The Chair (Mr. Norman W. Sterling):** So technically that would be the case. There might be some slippage in terms of—

**Mr. Julian Fantino:** Yes. In other words, all of the folks who are on the national registry and who have anything to do with Ontario would be on the Ontario registry.

**The Chair (Mr. Norman W. Sterling):** Mr Zimmer.

*Interjection.*

**Mr. David Zimmer:** Thank you. At page—

**Ms. Andrea Horwath:** Sorry, David. I thought it was a rotation.

**The Chair (Mr. Norman W. Sterling):** It depends who catches my eye first.

**Mr. David Zimmer:** I just get the sense that there's a lot of confusion between the provincial and the federal systems. I noted that page 258 of the auditor's report has some statistics down here. He says that under the Ontario sex registry plan, as of January 2007, there were 7,400 registrants. Now, Ontario's got a population of 12 million. I note that for that same figure for the national plan, there were 9,400 registrants. We know there are 31 million people in Canada, so there seems to be a disproportionate number of folks in the Ontario registry compared to the federal system.

Then I look at the requirements. In the Ontario system, all Ontario residents convicted of a designated sexual offence anywhere in Canada are registered, but the registration is left up to them. The convicted person has a duty to register. In the federal system, it says, "any Canadian resident convicted of a designated offence and"—this is the wrinkle, in addition to being convicted—"ordered by a court to register."

**Mr. Julian Fantino:** Yes, sir.

**Mr. David Zimmer:** So there must be a lot of cases in the federal system where there's a conviction and the judge has exercised the judge's discretion to order a registration or not.

I have two questions that flow from that. One, to the deputy or whoever can answer it: After there's a conviction in the federal system, what's your experience or what's your sense of why a judge would exercise a discretion not to order a registration? That may account for some of the numbers.

My second question is, in the Ontario system, or I guess in the federal system, why wouldn't we tell the judge—they have heard the evidence and registered a conviction, so we now have a guilty person, and in the court system a conviction is registered. There's a document that's filled out and stamped and now you've got a criminal record. Why couldn't they also automatically, for a sexual offence, register the person in the registry? It seems to me that would be very simple.

So two questions: one, why the discrepancy between the federal and provincial systems; second, why not have the judge register the conviction and then register the person in the sex registry?

**Mr. Julian Fantino:** I'll take a run at the first one, Mr. Zimmer. The "why not" is basically the authorities provided by the two registries. In Ontario we do it anyway, regardless of the judge ordering the person going on the registry. Very often, crowns make applications for that very thing to happen. So in Ontario they would go on the registry regardless of whether or not the judge made the order. But to get on the national registry, you then need a judge's specific order for that individual to go on the national registry.

**Mr. David Zimmer:** Hence, to anybody who can answer it: What, typically, do you think is going through the mind of a judge who says, "You're convicted and you must register," or, "You're convicted but you don't have to register"? What's the thought process there? What's going on?

**Ms. Deborah Newman:** I think Deputy Commissioner Hawkes has some insight.

**Mr. Vince Hawkes:** There are a couple of issues at play here. Number one is that they have to go through an application process where the crown applies to the judge to say we want them on to the system. That doesn't happen all the time. Then, on the ones that do go in front of the judge, the judge has the authority to say yes or no.

The concern we have is that, number one, it's not automatic like Ontario, and, number two, there's the potential for a deal to be made where the offender pleads guilty but "under the condition that my name doesn't go on the registry." Those deals can happen anywhere except in Ontario, where there are no deals allowed.

**Mr. David Zimmer:** But I still don't understand this. It seems to me that, by its nature, a sex offence is a serious thing. Why wouldn't the judge or the crown attorney have to make the application? Why wouldn't they, in the federal system, ask for the registration? Is the idea that there's a safeguard built into the system that—I can't imagine this. Is it that there are convictions for sex offences that aren't deemed appropriate, if I can use that word, for registration in the sex offender registry? Has anybody done any studies on that?

**Ms. Deborah Newman:** I don't think we can put ourselves in the minds of the judiciary. However, Mr. Zimmer, if it helps, the test in the federal Sex Offender Information Registration Act—I can tell you that the test for the court is that they're satisfied that if the order were made, the impact on the sex offender, including on their

privacy or liberty, would be grossly disproportionate to the public interest in protecting society. Their consideration is a balance between privacy and liberty and the public interest.

**Mr. David Zimmer:** Okay. So the federal system has a safeguard built into it.

**Mr. Julian Fantino:** I call it an obstruction.

**Mr. David Zimmer:** It has a discretion built into it. We can describe that as a safety feature or an obstruction, but it's a discretion that's built into the system.

My next question is: From reading the reports and the acts and so on, it appears that the condition precedent to ending up in the registry, either federally or provincially, is a conviction. Is that correct?

**Ms. Deborah Newman:** That's correct.

**Mr. David Zimmer:** Are there people in the system who get registered but don't have a conviction? Is there some other reason for getting them into the registry, or do they end up in the registry for reasons other than a conviction?

**Ms. Deborah Newman:** No, they have to have a conviction.

**Mr. David Zimmer:** So why wouldn't we sit down with the feds and our court system and say, "Judge, look, as soon as you register a conviction, also fill out a line saying 'You're registered in the registry'"? It seems to me that that would be a very simple way to get everybody in.

**Mr. Julian Fantino:** We have to negotiate a much more enhanced national registry. The Ontario model is really a great model, but for reasons that escape me, it wasn't adopted as a good framework for the national registry. So we have this anomaly. We talked about the 50% that would be on the registry—100% on the Ontario registry and 50% on the national registry. So there's this anomaly. Then, as well, you don't have a provincial registry in the other provinces. They rely totally on the national registry.

**Mr. David Zimmer:** My last question, just a short one: In your opinion—I've formed my own opinion on it—is there room for, or should there be in the Ontario system, some sort of a discretion that the judge would have, as he does in the federal system, to order registration? Are there circumstances where, in your opinion, someone ought not to be registered subsequent to the conviction? Is there room in the Ontario system for discretion as there is in the federal system?

**Ms. Deborah Newman:** I think my colleagues and I would say no. I think we're pleased that this is not discretionary and that any criteria sex offender is registered in Ontario.

**Mr. David Zimmer:** Thank you.

1040

**The Chair (Mr. Norman W. Sterling):** I'm going now to Andrea.

**Ms. Andrea Horwath:** I wanted to follow up first on a comment from the commissioner, if I can. You had indicated in your remarks that there's 100% compliance and the 5% are simply—100% of the people who need to

be on the registry are on the registry is what you said, but there are 5% just noncompliant. I guess I just want to get an understanding of whether or not that is actually a pretty big issue even though it's a small number. Because it's not a positive thing for people to want—what's the motivation for somebody to want to be noncompliant if they know that the noncompliance means that the police are going to come after them and there are going to be charges and all those kinds of things? Even though it's only a small number, does that number reflect a significant concern in terms of public safety?

**Mr. Julian Fantino:** Your question is a very valid one and it's one that we've been discussing, as to how we can bring everybody up to 100% compliance. This would be for all of the police agencies in the province. We're going to be working towards that, and we are very committed to bringing that up to 100%. I agree totally with you. We just can't afford to hope that one of those of the 5% or whatever will not offend or reoffend, so I agree totally with you. We have work to do, and we're going to do it—we're doing it now, as we speak.

One of the things that I intend to do, seeing that we are the keepers of the registry, if you will, is take a much more assertive leadership role in terms of being in direct contact with those leaders of police organizations where we have those anomalies. We're going to work at it.

**Ms. Andrea Horwath:** If I could just follow up, is there a profile? Who are the noncompliers? Is there a commonality, a profile of who these noncompliers are, or is it just random?

**Mr. Julian Fantino:** I think it's random, pretty well.

**Mr. Vince Hawkes:** It's pretty well random. Part of the noncompliant challenge we face is that if the offender moves from A to B and doesn't advise us that they move, then they become noncompliant. They could even be still in the same city but fail to go in and register that they actually moved. So some of those noncompliance issues are very minor, and when they get their annual check—we've sent out a reminder letter annually to all of the offenders, that they have to register annually—what we've found in the past is that the more letters we send out, the better our compliance rate is. At one time there was the option not to accept a letter. We believe that everyone should get the letter, and that's part of the process that we're going to continue with, to ensure that we get as many of them as possible to increase that compliance rate.

**Ms. Andrea Horwath:** I wanted to ask a little bit about the annual budget and allocation of resources. The report indicates that there have been in the past—and it's probably part of what I'm trying to get at—issues around where resources are spent as opposed to the registry unit itself. In the report, I think there's a \$4-million annual budget, is that right? Is that figure current?

**Mr. Julian Fantino:** Yes, yes.

**Ms. Andrea Horwath:** What portion of the \$4-million annual budget would be, for example, a fully staffed unit? What would that look like? How many positions?

**Mr. Julian Fantino:** Do you have the numbers?

**Mr. Vince Hawkes:** Yes, I believe it's a combination of uniformed positions and civilian positions. Out of that \$4 million, approximately \$1 million runs the technical part of the operation, so you're down to approximately \$3 million to run the day-to-day operation of the registry.

**Ms. Andrea Horwath:** How many people is that?

**Ms. Deborah Newman:** I have that in my notes if you'll just bare with me for a minute.

**Ms. Andrea Horwath:** Sure, absolutely.

**Mr. Vince Hawkes:** Eleven police officers and seven civilians.

**Ms. Andrea Horwath:** Eleven officers and seven civilians. So \$3 million, 18 staff? Something's not adding up—\$3 million, 18 staff, is that right?

**Mr. Vince Hawkes:** Yes, to run the registry itself.

**Ms. Andrea Horwath:** Would that be the ultimate full staff complement? Is that what the ministry funds for in terms of staff complement, 18 staff?

**Mr. Vince Hawkes:** Yes.

**Ms. Andrea Horwath:** Okay. So there's \$3 million—I don't have my calculator—18 staff; what's the average salary of the staff?

**Mr. Julian Fantino:** With supporting benefits and all of that, I think it runs about \$125,000 per officer.

**Ms. Andrea Horwath:** So then civilians?

**Mr. Julian Fantino:** Civilians would be somewhat less. I guess what we need to also talk about here, if I may, is that there's a huge training component here. We've undertaken the training for all of the other police services to ensure that they are also able to sustain the registry. There's an extensive amount of work in trying to connect ourselves back to the national registry as well. So it isn't just people dollars; it's a whole lot of other things that we're doing to—

**Ms. Andrea Horwath:** Yes—sorry, Commissioner—and I think the report indicated that only about 25% of the dollars allocated for training has actually been used for training.

**Mr. Julian Fantino:** It's been ramped up now.

**Ms. Andrea Horwath:** It is in the process of being ramped up?

**Mr. Julian Fantino:** Yes.

**Ms. Andrea Horwath:** When I look at some of the auditor's comments around that specific issue, around moving of resources from the unit to shore up other parts of necessary operations for the Ontario Provincial Police—I'm wondering if you could give a bit of an explanation of how that happens. Even though the ministry is funding the registry to do this work, where's the decision point that says, "We, as the OPP, are going to not use the money for that purpose because we think this other issue requires the resources more importantly or it's a higher priority"? How does that happen? How does that occur?

**Mr. Julian Fantino:** That decision would have been made at the commissioner's council, which would have involved the commissioner and the deputies of the day.

What I want to stress as well is that although those allocations were dedicated to the sex offender registry and they should have been expended in that regard, whatever was used elsewhere was pretty legitimate, must-do kinds of things that were not being resourced otherwise. Nobody went home with any nickels. It was all monies diverted to other pressing issues within the Ontario Provincial Police.

The other thing I wanted to address to your question directly, and it's a good question that you ask, is that some of the monies that were, in a technical sense, diverted from the actual sex offender registry went to entities within the Ontario Provincial Police that actually supported the sex offender registry, to make it more efficient, more effective. But there were funds allocated to things like national security—that at the time was a significant pressure that had to be funded somehow—and the decision was made—right, wrong or indifferent, at the time, but I believe with honesty and integrity—that that's how things would be done.

**Ms. Andrea Horwath:** Okay. Can I just ask, when you say “deputies” at the commissioner's council, deputies of the day, are we talking ministry deputies or we're talking—

**Mr. Julian Fantino:** No, we're talking about OPP deputies, deputy commissioners.

**Ms. Andrea Horwath:** Then is there a notification process that the OPP has or that the commissioner's council has that then informs the ministry that the dollars that they are expecting to be used for these purposes are not and in fact they're being spent elsewhere? Is there an accountability process?

**Mr. Julian Fantino:** That was not done. It is done now. All of the funding now that's allocated to different initiatives—all of that now is fenced. There's no transfer of funds out. We've taken all of those corrective measures, not only with the sex offender registry but all other like-funded initiatives within the OPP. Clearly, in that time there wasn't that accountability back.

**Ms. Andrea Horwath:** All right. But that's in place now?

**Mr. Julian Fantino:** Yes, it is. Absolutely, yes.

**Ms. Andrea Horwath:** Because I know that the minister, when bringing the bill forward, in his remarks said very specifically that all monies to be allocated to the registry will be used for the registry. That's what I was trying to get at. What's different now or what's being put in place now to ensure that that actually is the case?

1050

**Mr. Julian Fantino:** Those are now untouchable funds, but for the specifics of the mandated funding allocation. If there's any movement of those funds, I have undertaken, obviously, and put processes in place that that will be documented and accountabilities given and approvals sought before any monies are moved.

**Ms. Andrea Horwath:** All right. So, then, you can pretty much guarantee at this point in time that—I guess I should ask and not assume. Would it be safe to say, or is

it the case currently, at this moment in time, at this snapshot moment, that all dollars currently allocated for operation of the sex offender registry unit are being used for that purpose?

**Mr. Julian Fantino:** You have my absolute word on that. Yes.

**Ms. Andrea Horwath:** That's good to know, because that's one of the issues that I thought was quite concerning. So if the case were to come, if something were to happen that would trigger, perhaps, an interest or a desire to move funds, you're saying there are walls in place now—I think you said fences—that don't allow that to flow at all? Do they require a ministerial approval or something of that nature? I'd like to know what the mechanisms are. What are the mechanisms?

**Mr. Julian Fantino:** Well, in-house we have put in place very stringent criteria with regard to doing any of that to begin with. If any such initiative is to be undertaken, and it could be, we would obviously require that to be documented. It would come to me and I would obviously look at the merits of all of that and then I would come to the deputy to get a sign-off—or counsel, or advice, or whatever. In actual fact, the audit has been a great help to us in many other areas—

**Ms. Andrea Horwath:** It usually is.

**Mr. Julian Fantino:** —because we took lessons learned here and looked at how other areas might be vulnerable. So, in actual fact, as a result of that, we've been able to do this, put in place very stringent criteria about fence funding and coming back with accountabilities and getting the permission if we're going to move any funding. So I'm satisfied that the safeguards are in place now.

**Ms. Andrea Horwath:** Thank you very much, Commissioner.

Can I then ask Deputy Newman: From the ministry's perspective, are you satisfied that the ministry now has a level of confidence in the resources being allocated the way they're supposed to be allocated?

**Ms. Deborah Newman:** Yes, very much so. As the commissioner has indicated, he's giving clear instruction within the OPP that any money that is allocated for a specific purpose will be spent on that; that, as he says, he's put fences around those and the ministry is receiving monthly reports on those specifically allocated funds that we receive through Treasury Board for specific purposes. So my chief administrative officer is reviewing, on a regular monthly basis, all of those allocations. So we now have a much higher degree of accountability with respect to those specifically allocated funds.

**Ms. Andrea Horwath:** It seems to me that the commissioner indicated that if there was a desire to—he explained his internal process, if someone came forward and said “Look, there's a fire over here and we have to put it out and we need the funds,” that that would then trigger a request for reallocation coming to your desk? Is that—

**Ms. Deborah Newman:** That's correct.

**Ms. Andrea Horwath:** All right. Then, does the minister need to approve that as well, or does that end at your desk? Is that where—

**Ms. Deborah Newman:** No. I would bring that to the minister and we would actually go back to Treasury Board and ask for a reallocation.

**Ms. Andrea Horwath:** All right. That's very helpful. Those were my questions, Mr. Chair.

**Mr. Jerry J. Ouellette:** Are you tracking the data that you maintain for any other purposes?

**Mr. Julian Fantino:** I'm sorry, sir, the which?

**Mr. Jerry J. Ouellette:** The data on the registry for any other purposes—is there any other information now?

I'll take you where I'm leading on this, Commissioner Fantino. You mentioned the fact that there are trips that go on, these sex trips, outside of the country. I know that individuals who are charged with these offences look to specific legal representation to defend them because those individuals happen to have a communication network that knows these are the people who should be dealing with that.

When you find that there's some community that has only an 80% compliance, are we seeing a higher or disproportionate number of individuals within that community for any purpose? And what data could be or should be tracked to identify something taking place along those lines?

**Mr. Julian Fantino:** That 80% could only be a couple of people, so it isn't huge numbers, and that sometimes skews the figures.

The sex offender registry is an investigative tool and it has many purposes. It is used for legitimate law enforcement work. The information we share is based on our need to know and our need to exchange information, always driving towards a greater public safety outcome. So I can't say specifically where we would or wouldn't share information but it certainly would be with accredited police services.

The other thing of course is that on the odd occasion when we feel that the information needs to be shared with the public, we also make that approach. There are other circumstances where we may actually go to a potentially vulnerable person in a particular threat situation associated with a particular individual who's on the registry. Again, it's a judgement call. But all of this of course is predicated on our need to share information, and there are many variables to that. We could go out publicly; we could go to, say, the mother of children where a sex offender may be attempting to ingratiate themselves; and then of course a wide exchange of information among law enforcement agencies.

**Mr. Jerry J. Ouellette:** Once an offender is released, is there any notification to the victims who are in those situations that that offender is released and in those areas? Does that take place automatically or is that at the discretion of the force?

**Mr. Julian Fantino:** It's on discretion. This is where the behavioural science portion of support to the registry is really important. There is a threat assessment done, and

on the basis of that investigative piece, we then make a determination as to what we need to do. It may be that we have to take a very aggressive stance. It has happened in the past where we are concerned about a certain potential victimization and then we would act accordingly.

**Ms. Deborah Newman:** If I could just add to that, on the correctional services side of our ministry we have what's called a victim notification system for any high-profile offenders, including sex offenders, who are convicted. Corrections gets in touch with the victim and advises them that if they would like to register with the victim notification system, corrections will advise them when the offender is being released from custody.

**Mr. Jerry J. Ouellette:** Even if it's a young offender?

**Ms. Deborah Newman:** This is for adult offenders. Young offenders are resident in another ministry, children and youth services.

**Mr. Jerry J. Ouellette:** Okay. Thank you.

**The Chair (Mr. Norman W. Sterling):** Could I just ask if you have any statistics? I'm interested in the federal system versus the Ontario system. Given what the John Howard Society said to the Auditor General, their feeling was that perhaps too many people were on the provincial offender list and that there should be more concentration on the serious sexual offenders as opposed to perhaps some who are less. I don't know that much about it. I don't know what is serious and what is non-serious. I guess my bias would be that they're all serious, but notwithstanding that, have there been any statistics done with regard to how many sexual offenders were on your list but not on the federal list and have been convicted in Ontario over the last number of years?

**Mr. Vince Hawkes:** No, I don't believe we have that. But you bring up a very valid point about the difference. What our research has shown, definitely on the child exploitation side, is that those individuals who initiate with images first are more likely to continue and progress to more violent activities with children. There's a progression there. So even what may seem a minor sexual offence that they're registered for in Ontario becomes a huge investigative tool for us to track down where those individuals are, because there's a potential for them to progress to violent levels.

**1100**

**Mrs. Liz Sandals:** It's not what I was going to comment on, but interestingly, you get similar data on bullying, that kids who escalate in their bullying behaviours in school continue to escalate into criminally violent behaviours in adult life. So you get that same sort of pattern there.

I think this actually, in some ways, follows along from Mr. Sterling's question. I'd like to go back and think some more about those people who are federally incarcerated, because the ones who have sentences of two years or greater are presumably the more serious offenders, and those are the ones who end up with Correctional Service Canada. I'd like to ask a few questions. Under Christopher's Law, the people who are convicted—the

Ontario courts will notify us if it's one of the crimes on the list. Is that correct?

**Mr. Vince Hawkes:** Yes.

**Mrs. Liz Sandals:** So regardless of whether they're going to a provincial incarceration or a federal incarceration, we know about them; we know they've been convicted. So we're creating a footprint or tombstone record, as the deputy referred to it, on conviction. Is that correct?

**Mr. Vince Hawkes:** Yes.

**Mrs. Liz Sandals:** And then that person, if it's very serious and they've been given a longer sentence, goes off to Correctional Service Canada, and that's where it starts to fall apart, because we don't get the information back, necessarily, when they're released.

I get the impression that at some points Correctional Service Canada has been reluctant to share their release and parole information. Is that a problem? Are they willing to share?

**Mr. Vince Hawkes:** Yes, they are. That has developed over the years with a lot of relationship-building with our sex offender registry. The ultimate goal is to have an automatic downlink, to get that information automatically. Right now we've worked together to develop at least to get a data dump of all of that information, so that we can manually verify all of that. That's in the process now. But in the future we want to work towards an automatic link so that that information gets populated into the system automatically.

**Mrs. Liz Sandals:** But if I'm hearing you correctly, then, we've at least resolved the issue that the federal corrections system is willing to share. So we've gotten over that hurdle; it's now, how do we do it expeditiously and electronically, instead of getting a pile of paper once a month and then having to process it manually.

**Mr. Vince Hawkes:** Exactly.

**Mrs. Liz Sandals:** So if we at least have agreement that we can access the data, then there's light at the end of the tunnel.

**Mr. Vince Hawkes:** Yes.

**Mrs. Liz Sandals:** It's just a technically difficult tunnel. Is that where we are now?

**Mr. Vince Hawkes:** Yes.

**Mr. Julian Fantino:** We should be up to speed by the end of the year, where the interface should be in place. But we're still not very pleased that the criteria are so restrictive with the national registry.

**Mrs. Liz Sandals:** Yes, and that's why I wanted to zero in on Correctional Service Canada, because it isn't so much the national registry link at the moment that will give us the useful information, it's the direct link to Correctional Service Canada, because if we know who is convicted and when they're released, then we can feed it properly into the Ontario registry and ignore the fact to some degree that the national registry is deficient.

**Mr. Vince Hawkes:** Yes, the challenge is not in Ontario; the challenge is if the conviction happens elsewhere and the individual gets released into Ontario. We want to make sure we have that information so that if

they're released into Ontario then we can access them on ours. It has to do with everyone else in the other provinces making sure that that data is exchanged.

**Mrs. Liz Sandals:** Because if they're convicted in Manitoba or Quebec, you won't have the notification of conviction, so you don't have any knowledge that you need to be chasing them.

**Mr. Vince Hawkes:** There's no requirement for them to register in Ontario until they come into Ontario.

**Mrs. Liz Sandals:** But if they've been incarcerated in Ontario, they may well be released in Ontario.

**Mr. Vince Hawkes:** That's correct.

**Mrs. Liz Sandals:** Okay. So getting that electronic link with the federal corrections system is really important.

**Mr. Vince Hawkes:** Yes.

**Mrs. Liz Sandals:** I wish you well on that.

The other thing I was going to comment on, actually, is that I was fortunate enough once, when touring up in Orillia, to see a demonstration of this in action, where a location was put into the system and it pulled up all the people in that area. So I was able to see a demonstration, and it was really impressive.

The Auditor General has noted that it would be useful to be able to expand the search criteria beyond simply location of crime and who on the registry is in the area, but to zero in on other specific things like the profile of the victim and some other information that might be useful in zeroing in. I wonder if whoever is appropriate here could talk about what progress you've made in terms of expanding the search criteria so there is a more sophisticated search capacity.

**Mr. Vince Hawkes:** There have been some successes in that field, where the recommendation was to add search capabilities for things like age, gender and stuff like that, and that has been achieved since December of last year. We're now looking at further advancements of those criteria and seeing what other information would be of value as an investigative tool in order to make it more searchable. So we've made significant progress and identified, and actually completed, what was recommended by the Auditor General, and we're moving ahead on other criteria as suggested.

**Mrs. Liz Sandals:** Great, and that will make it much more useful.

Mr. Sterling, I'm going to share my time with MPP Albanese.

**The Chair (Mr. Norman W. Sterling):** Mr. McNeely was next on the list.

**Mrs. Liz Sandals:** Sorry. I'm going to share with Mr. McNeely.

**Mr. Phil McNeely:** Thank you very much for being here today; this is certainly enlightening for me. I'd like to follow up on something Mr. Zimmer and Mrs. Sandals have already asked about. You've probably given this information, but are you allowed to include on the sex offenders list here in Ontario someone who has been convicted in the federal system but does not get on the federal list?

**Mr. Julian Fantino:** Yes, if they're convicted in Ontario.

**Mr. Phil McNeely:** Just if they're convicted in Ontario?

**Mr. Julian Fantino:** Yes.

**Mr. Phil McNeely:** Not elsewhere in the country?

**Mr. Julian Fantino:** That's correct—or if they come into Ontario.

**Mr. Phil McNeely:** But that makes it difficult for the list. I would suggest there's a high acceptance of what we do in Ontario in the judicial system and for Ontario's mandatory registration of committed sex offenders. Is that true?

**Mr. Julian Fantino:** Yes.

**Mr. Phil McNeely:** I was very unhappy to hear that about 50% of those who are convicted under the federal system are not put on the federal list, and often it's part of the plea bargaining process, which seems completely wrong. If I wanted to re-offend, I suppose, I wouldn't want to be on the list. I'd just like some comment on that. That's the end of my questions or suggestions.

**Mr. Vince Hawkes:** The frustration that I sense you have is exactly the same as what we in law enforcement have. Any time there is the ability to plea bargain from the initial charges, it presents a problem. When it comes to the reasons why individuals are not put on the national sex offender registry, it is very frustrating for law enforcement. It's something that goes beyond our control. When we're dealing with the crown attorneys and judges, their decisions are made based on whatever reasons they make those decisions. Unfortunately, it's out of our hands, and that's why we're big supporters of the way the system is done in Ontario, where it's mandatory. They have no option; it goes onto the system, and we feel that's more effective. It allows us to have the investigative tools that we need to protect the public in Ontario. We think that should be across the whole country.

**Mr. Julian Fantino:** If I may, not every one of those situations is a plea bargain. There are also cases where witnesses, victims and so forth are just not able to go through with a trial and so on. Sometimes, in the greater good, there have to be alternatives taken. If you lose that conviction, you may end up with an alternate outcome, but you lose that record, if you will.

1110

**The Chair (Mr. Norman W. Sterling):** Maybe the present federal government will change the law.

Now I'm going to go to Andrea.

**Ms. Andrea Horwath:** I have a brief question. In the remarks that the commissioner made around responses to Mr. Ouellette's questions, particularly on the resources—I think you had indicated that resources from the budget for the sex offender registry are paying for staffing in the behavioural sciences unit—is that right?—or is that over and above? There are the 17, plus there are people in behavioural sciences who are also supporting the work of the unit but being paid through a different budget. Is that right?

**Mr. Julian Fantino:** Pretty well. As I indicated earlier, this was not an off-the-shelf project. As the sex offender registry was being built to what it is today, there were considerations given that it needed to have support from areas like behavioural sciences and so forth. So there were some changes made that fall within the criteria of the sex offender registry that are funded in support of the registry.

The registry receives all kinds of support from elsewhere in the OPP that is not funded through the sex offender registry funding.

**Ms. Andrea Horwath:** Okay. So I just wanted to be clear: There are the 17, plus there are people in behavioural sciences, plus, plus; or there's a number of staff, one of the 17, who was seconded from behavioural sciences and is part of the 17? I guess I'm just trying to figure out—it's all about the budget and the allocation of resources and the staffing. The reason why I ask these questions is because, in the criticisms that come up and the issues that were raised in the auditor's report around the ability of the unit to function at its best capacity, getting the communities to connect with individual police forces and doing the feedback piece and the training and all of that are reliant upon the resources being there. So I'm just trying to figure out, clearly, in my own mind: Is it a secondment of somebody from behavioural sciences who then is part of the 17, or is there some other kind of way that you deal with it?

**Mr. Julian Fantino:** These are dedicated staff within the sex offender registry—I guess it's 18?

**Mr. Vincent Hawkes:** Eighteen, yes.

**Mr. Julian Fantino:** There are 18 dedicated sex offender registry staff. But the point I was making is that beyond that, there are also other resources within the OPP that support the registry, but the funding from the registry is not sucked off to fund those areas. We just do it as a matter of—

**Ms. Andrea Horwath:** It's an integrated system.

**Mr. Julian Fantino:** Absolutely. You can't section off the work of the registry and just keep it in a compartment. It has so many other variables. It all depends on what kinds of cases are flying as well, what kinds of cases we're doing. When we do threat assessments, for instance, we may have to—and often do—seek the services of a psychologist or a psychiatrist; those kinds of things. There is a lot of work that goes on in support of the registry within the OPP as well.

**Ms. Andrea Horwath:** Thanks. I appreciate that. There was one other thing. I can't remember who raised the issue of child pornography. If someone is convicted of child pornography-related crimes, that doesn't put them on the sex offender registry, does it?

**Mr. Julian Fantino:** Yes, it does.

**Ms. Andrea Horwath:** Oh, it does? Okay. Good.

**Mr. Vincent Hawkes:** Child pornography offences are part of the criteria offences for the sex offender registry.

**The Chair (Mr. Norman W. Sterling):** Okay. Ms. Albanese.

**Mrs. Laura Albanese:** Thank you for being here today. I was interested in the follow-ups on offenders for non-compliance. I understand that at times the police can issue warrants for that. How is that determined? How far do the police go and how is that weighed?

**Mr. Julian Fantino:** The initial trigger would be the individual either not registering or changing their address and not notifying us, and so forth. Once that is identified, the expectation is that an investigation be done at the local level, where the person is believed to be, by that police agency. If information has surfaced that leads us to believe that the individual is either absolutely non-compliant or is evading or is otherwise in contravention, then there could be a warrant taken out. Then, of course, there could be an arrest, and the person would be brought to court.

**Mrs. Laura Albanese:** I also know that at times the police, when the public is at risk, will decide to release the identity and advise the public, the media. Would that help with the non-compliance, if it was used more?

**Mr. Julian Fantino:** There's a very significant threshold. We don't want these people to go underground as well, and the more public exposure they get—there's been a lot of debate about whether or not the public should have access to the registry. We believe not, because it could create more non-compliance, if you will, where people don't want to be exposed and all of that.

We are very careful about public announcements, keeping in mind that most of those decisions are made at the local level by the local police agency. We help them, of course. It's not something we take very lightly. It's a serious issue, because then, as you know, a whole lot of other things happen. There's a threat assessment done, there's a lot of consideration, weighing and balancing the greater public good and the individual's rights and entitlements. It's a tough call to make. I've made it many times.

The same would apply when, for instance, in the federal system, you have a federal parolee at the end of their sentence. In other words, there are no more restrictions or control, and you have an individual who is believed by federal corrections to be very dangerous and likely to re-offend coming to a neighbourhood near you. What do you do about it? That's a very difficult decision, and the same applies here. But we make them trying to balance things out and believing that—preferably, I like to think of the victimization issue and the greater public good issue on a 55-45 value system.

**Mrs. Laura Albanese:** This threat evaluation—is it done by the OPP in conjunction with the local division, or at times could it be done locally?

**Mr. Julian Fantino:** Good question. We are the police service of jurisdiction in 313 municipalities in the province. In those municipalities, if there was such an issue, we would be the agency to make that determination. But in places like Toronto, York, Durham and elsewhere, that would be a decision made by the local police chief on their local issue. We would help them, but it would be their decision to make.

**Mrs. Laura Albanese:** Maybe that should be unified.

**Mr. Julian Fantino:** The problem is, we have jurisdictional authorities and all those kinds of things. We would not be in a position to override that.

**Mrs. Laura Albanese:** Thank you very much. I'm going to share the rest of my time with my colleague Mrs. Van Bommel.

**The Chair (Mr. Norman W. Sterling):** Actually, there's no time. But Mrs. Van Bommel, you can go ahead now.

**Mrs. Maria Van Bommel:** Actually, most of my questions have been answered. But I do just want to go back to the whole issue of escalating behaviours, deviant behaviours, and in particular those related to the child pornography issue. Certainly I would assume that the creation and distribution of child pornography would be considered crimes that would qualify for getting yourself on the registry, but what about possession?

**Mr. Julian Fantino:** Yes, possession as well.

**Mrs. Maria Van Bommel:** Possession is involved in that as well?

**Mr. Julian Fantino:** Yes. Just to your question, which is something that people talk about all the time, if you recall the horrible murder of Holly Jones, Briere, the now-convicted killer, confessed that he was into child pornography, got all worked up about things, and the end result was the murder of a wonderful, beautiful, innocent little girl. So there is this issue. We're very concerned about it and we don't discount it. As the Chair pointed out earlier, it's pretty hard to say which is or isn't a serious sexual offence. I think they all are because they have this potential. Even though it may not be a violent, aggressive situation right off the bat, that potential is always there.

1120

**The Chair (Mr. Norman W. Sterling):** Mr. Ouellette.

**Mr. Jerry J. Ouellette:** Earlier in the presentation you mentioned a number of times about Bill 16. Should Bill 16 pass, what would be the timeline for implementation or the holdups for that? Are there actually any ideas on costing for full implementation?

**Mr. Julian Fantino:** I guess it all depends how quickly the political process can deal with it. I'd say let's do it right away.

**Mr. Jerry J. Ouellette:** It's mostly a case of once the bill is passed, it falls out of the elected officials' hands after it has received royal assent and into the ministry's and to an application.

**Ms. Deborah Newman:** I'm sorry; I missed that latter part because my ADM of policy was telling me that we would need about six months' lead time to implement the provisions of Bill 16, if passed, to essentially put all of the procedures and provisions in place and to notify offenders and so on. So about six months.

**The Chair (Mr. Norman W. Sterling):** I have Mr. McNeely next.

**Mr. Phil McNeely:** Just a very short one. It came from the commissioner's answer to my question. The Ontario system doesn't allow plea bargaining to not be included on the list, but your answer sort of spoke positively about often you wouldn't get the conviction if



you didn't have plea bargaining for keeping your name off the federal list. I'd just like some clarification on that, because we don't allow that plea bargaining, but federal—Canada does.

**Mr. Julian Fantino:** The reality is, there's plea bargaining everywhere, not just on these cases but on cases generally. My point is that it isn't always a plea bargain that results in a case going sideways or a conviction not being rendered on the primary sexual offence. There are all kinds of variables. Inevitably the crown attorneys and the courts are doing their best to secure the convictions that are appropriate for the evidence that we put before them, but for us to not acknowledge there's plea bargaining I think would be less than honest.

**The Chair (Mr. Norman W. Sterling):** Mr. Zimmer.

**Mr. David Zimmer:** I just have one question that has sort of a constitutional nature to it. In this scenario, let's suppose that we have a criminal case out here on University Avenue in the Superior Court of Ontario. The judges on the Superior Court of Ontario, of course, are federally appointed. That judge in a sex offender case registers a conviction and then has a little hearing to decide whether he should order the convicted person to register. They have the hearing and the judge exercises his discretion, following your definition that you read in earlier that says, "No, you don't have to register in the registry."

The person walks out of the courthouse and some time the following month the Ontario authorities get after him for not registering in the Ontario plan. That person says, "Well, hold on a second. I was in the Superior Court of Ontario last month and the judge specifically said after a hearing—the judge gave reasons why I don't have to be registered. Since the federal government is responsible for criminal law and the penalties that attach to criminal offences, you, Ontario, can't ask me or make me register under your Ontario plan." What happens in that situation? Somebody's obviously talking it over—one of the lawyers.

**Mr. Julian Fantino:** But I'm going to give you my non-lawyer response, and that's not a bad thing. The judge would only have the authority to make that determination with respect to the national registry. Regardless of whether the judge does or doesn't make that order, that person would still, on conviction, be on the Ontario registry. The judge's relevance here is only that which applies to an order to put someone on the national registry. We would still have it on ours, on conviction.

**Mr. David Zimmer:** Suppose the argument was, "Hold on a second. Under our system, criminal law and the penalties thereafter are a federal responsibility, so a federal judge, under a federal statute, the Criminal Code, has said I don't have to register."

**Ms. Deborah Newman:** We haven't had a case go all the way through the system on a constitutional appeal yet; we anticipate that.

**Mr. David Zimmer:** You anticipate what?

**Ms. Deborah Newman:** We anticipate that we will be challenged.

**Mr. David Zimmer:** And it'll be on that argument.

**Ms. Deborah Newman:** Essentially.

**Mr. David Zimmer:** I guess you're getting ready for the ark.

**Ms. Deborah Newman:** Absolutely.

**The Chair (Mr. Norman W. Sterling):** In terms of when people go out of our province to another jurisdiction—let's talk about Canada; Quebec, for instance. Do you strike them off our registry when they say, "I've gone to Quebec" and you've satisfied yourself that they've gone to Quebec? Do we take them off the registry or do they remain on the registry?

**Mr. Vince Hawkes:** They remain on the registry. The only way they'd go off the registry is if they've received a pardon.

**The Chair (Mr. Norman W. Sterling):** Or the time span goes.

**Mr. Vince Hawkes:** Yes, depending on the offence that they were on the registry for—either up to 10 years, or if it's a multiple offence, then they're on for life.

**The Chair (Mr. Norman W. Sterling):** Let's say that the police force from Gatineau phones because of their proximity, being a border city to Ottawa. Do we share information with the Gatineau police?

**Mr. Vince Hawkes:** Yes, we do. All police agencies in Canada have access to contacting the sex offender registry and sharing that information.

**The Chair (Mr. Norman W. Sterling):** Do we have information on how many have actually migrated to Quebec? Is that collected in one pot? In other words, if the police chief for the city of Quebec phoned and said, "How many people have migrated off your registry into our jurisdiction? Can you give us information on that?" Can you do that?

**Mr. Vince Hawkes:** We could search to find out how many individuals have advised us that they have left, but if an individual just gets up and leaves and goes over to Quebec, we can't force them to come back to Ontario to let us know that information. So there is a challenge there for us. That's why the loophole between the notification on the national sex offender registry—if that was more up to the same level as the Ontario sex offender registry, then that would ensure that they are registering on the national sex offender registry when they move to another province. Unfortunately, that's not the case right now.

**The Chair (Mr. Norman W. Sterling):** Do you track, at all, the convictions in Quebec—for instance, in terms of the names of people who have been convicted of a sex offence in Quebec—and then try to match those with people who are here in Ontario?

**Mr. Vince Hawkes:** We don't have that information. That was one of the gaps that was identified in the auditor's report: If an individual is convicted elsewhere and moves to the province, they're required to register with the sex offender registry, but there's the component of, "Well, how did they know that they had to register?"

Once they're convicted in another province and they're on the national sex offender registry, if the judge orders so, then that information gets shared back and forth. The other way we can share that information is just through contact and relationships with those other police

agencies in order to let us know that we have a serious sex offender who's moving to the province of Ontario.

**The Chair (Mr. Norman W. Sterling):** But I think the commissioner pointed out that on the national registry, they don't necessarily record a change of address. Can you look at the registry and do an examination from time to time, to see if any of them have moved to Ontario from other jurisdictions? Can you see that information there?

**Mr. Julian Fantino:** On the national, yes.

**The Chair (Mr. Norman W. Sterling):** On the national one?

**Mr. Vince Hawkes:** No. I'm not sure that you can on the national one, because they only take their name and address and list that in their database.

**Mr. Julian Fantino:** We could check it, though.

**Mr. Vince Hawkes:** Yes, we could.

**The Chair (Mr. Norman W. Sterling):** And they do show a change of address then? Would you know that the person was in Quebec City and now is in Toronto? How would you know? Can you look at the national registry? Does it show those kinds of changes?

**Mr. Julian Fantino:** If the address is there. We could surface that, yes.

**The Chair (Mr. Norman W. Sterling):** Mrs. Sandals?

**Mrs. Liz Sandals:** Just a really quick comment. Commissioner Fantino mentioned earlier in his remarks that he was going to take a resolution to the Canadian Association of Chiefs of Police that the national registry be brought up to the Ontario standard, in essence. And the discussion that people are just having about people in and out of Ontario, that's why it would be in Ontario's interest to have the national registry up to the Ontario standard. Because then we really would have a mechanism for tracking people coming in and, conversely, be able to communicate if we have people who are going out effectively. Clearly, right now, Ontario has a registry which is working well and which you're continuing to improve. Our interest in the national registry is to get the ins and outs tracked effectively.

**Mr. Julian Fantino:** That's right.

**The Chair (Mr. Norman W. Sterling):** Any other questions? On behalf of the committee, I'd like to thank all the people who have attended here today. After you exit from the room, the committee will meet in closed session to give instructions to our researcher with regard to writing a report on today's hearings. Thank you very much. We appreciate your time and your effort and your answers.

*The committee continued in closed session at 1132.*



# CONTENTS

Thursday 20 March 2008

## 2007 Annual Report, Auditor General:

Section 3.11, Ontario Sex Offender Registry .....	P-55
Ministry of Community Safety and Correctional Services .....	P-55
Ms. Deborah Newman, deputy minister	
Mr. Julian Fantino, commissioner, Ontario Provincial Police	
Mr. Vince Hawkes, deputy commissioner, provincial commander of investigations and organized crime command, Ontario Provincial Police	

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