

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE

ON

PUBLIC ACCOUNTS

Wednesday, April 23, 2014

LEGISLATIVE CHAMBER

Department of Labour and Advanced Education
Occupational Health and Safety

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Public Accounts Committee

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Mr. Chuck Porter

Hon. Maureen MacDonald

Hon. David Wilson

[Mr. Bill Horne was replaced by Mr. Terry Farrell]

[Mr. Chuck Porter was replaced by Mr. Tim Houston]

[Hon. David Wilson was replaced by Hon. Frank Corbett]

In Attendance:

Mrs. Darlene Henry
Legislative Committee Clerk

Mr. Gordon Hebb
Chief Legislative Counsel

Mr. Terry Spicer
Assistant Auditor General

WITNESSES

Department of Labour and Advanced Education

Ms. Lora MacEachern, Associate Deputy Minister

Ms. Christine Penney, Senior Executive Director, Occupational Health and Safety

Ms. Anne Partridge, Acting Executive Director, Occupational Health and Safety

Ms. Laurie Bennett, Director, Financial Services



House of Assembly
Nova Scotia

HALIFAX, WEDNESDAY, APRIL 23, 2014

STANDING COMMITTEE ON PUBLIC ACCOUNTS

9:00 A.M.

CHAIRMAN

Mr. Allan MacMaster

VICE-CHAIRMAN

Mr. Iain Rankin

MR. CHAIRMAN: Good morning, I call this meeting to order, and I'd like to remind everybody to place their telephones on silent. We'll begin with introductions.

[The committee members introduced themselves.]

MR. CHAIRMAN: Thank you. Today we have guests with us from the Department of Labour and Advanced Education. They're going to be speaking to us about occupational health and safety, including workplace safety and inspections and penalizations of small business.

I'd like to allow Ms. MacEachern to begin with an introduction and, also, perhaps you could introduce yourselves as well.

MS. LORA MACEACHERN: Good morning committee members. Thank you for the opportunity to speak about the significant work that's underway to enhance and improve workplace safety in Nova Scotia.

I'd like to introduce myself and my colleagues: I am Lora MacEachern, Associate Deputy Minister of Labour and Advanced Education; on my left is Christine Penney, she's the Senior Executive Director of the Safety Branch; on my right is Anne Partridge, she's the Acting Executive Director of the Occupational Health and Safety Division; and Laurie Bennett is our Director of Financial Services.

Let me begin by saying that safety of all working Nova Scotians is our priority. It's our belief that every person who gets up and goes to work in the morning should come home safely, and I'm sure everyone in the room shares that sentiment. My department's work is focused on achieving that goal. To do that, we must all continue working together.

Workplace safety is the responsibility of employers, workers, industry leaders, and government, and no one person or organization can achieve this hefty goal alone. That is why we welcomed and accepted the analysis on the province's Occupational Health and Safety Services provided by the Auditor General in November. Many of his recommendations echoed the advice provided by hundreds of Nova Scotians to the development of the province's Workplace Safety Strategy. Through that process and from the Auditor General we heard that there needs to be an increased focus on prevention; we heard there needs to be more inspections of high-risk industries and offenders; and we heard that some of our compliance practices need review.

While the Auditor General's Report provided good direction for improvement, we're already hard at work on our own changes, and the report confirmed that the department has been moving in the right direction. For example, we've been setting targets for safety officers to ensure they focus their efforts on high-risk industries; we are evaluating inspection results; and we are confirming checklists for inspection.

As part of his report the Auditor General pointed out that compliance and follow-up are critical - and we couldn't agree more. While the department tracks every compliance order, we will make changes to improve how actions are documented. As well, we will ensure businesses show evidence of compliance for violations that pose significant health and safety risks. We also agree that orders need to be acted upon in a timely fashion.

My department will strive for greater consistency with response times, recognizing that serious issues like fatalities take priority. We have also reviewed our policies around extensions for complying with orders to assure approvals are obtained and documented before an extension is granted.

Much of the work is underway and is supported by the goals in the province's Workplace Safety Strategy. This five-year strategy is a partnership with the Workers' Compensation Board; it aims to make Nova Scotia the safest place to work in the country. In order to accomplish this vision, there is a strong focus on collaboration, education, and leadership. This month actually marks the one-year anniversary of the launch of the strategy and we are making progress. One of the first action items to come out of the strategy was a review of the administrative penalty system, to make it more consistent and fair. That review is well underway; legislative changes have already been made and changes will be implemented soon.

The strategy also calls for enhanced communication and a focus on social marketing - many of you would have seen our "What Matters Most" ads on TV or heard

them on the radio. These ads focus on why we all go to work in the first place: to come home to our families at the end of the day, safe and sound. These ads call for a shift in thinking.

This won't happen overnight, but with help from Nova Scotia business sectors, it's safe to say the shift is already on. It may sound harsh to some, but our stance is that if work can't get done safely, it should not be done at all. This needs to be the new norm. We all have to buy into a culture of workplace safety at all times. The strategy also calls for increased leadership and education. These two components of the strategy are key to changing safety culture. Good work is underway, and more is coming.

Just last month we announced that our Occupational Health and Safety team is expanding. Additional staff members will help implement the Auditor General's recommendations and advance our goals. We are also partnering with the Public Prosecution Service to add an additional prosecutor to focus on Occupational Health and Safety offences. The posting closed late in March, and the interview process is moving forward.

Within the Occupational Health and Safety Division there will also be a new unit that is focused solely on education and outreach. Five new inspectors will focus on inspections in all businesses, including high-risk industries. These positions have now been filled, and the inspectors will be in place soon. To that point, over the past few years we have steadily increased the number of inspections. Last year safety officers conducted nearly 2,500 field activities - the highest number to date. Next year we'll do even more. But inspections are only one piece of the action plan. It will take hard work and dedication on the part of all Nova Scotians to really improve workplace safety.

If change is really going to happen, we must all commit to eliminating workplace injuries and deaths and to become a leader in workplace safety. Thank you for the opportunity to provide some opening remarks, and we're certainly happy to answer any questions you may have at this time.

MR. CHAIRMAN: Thank you, and we'll move to the PC caucus. Mr. Houston, for 20 minutes.

MR. TIM HOUSTON: Thank you, folks, for showing up this morning. I was anxious to hear the presentation.

When I go around Nova Scotia and I go around my constituency and I talk to small business owners - of which I used to be one - I think small business owners care about their employees. I think in a lot of small businesses employees are like family, so they do want their employees safe, for the most part. Of course, we have a small subset where they want things done as opposed to maybe worrying about safety. I guess I would see your role as

trying to keep that small percentage subset on the straight and narrow, if you would. Is that kind of how you characterize it?

MS. MACEACHERN: Yes. We have a variety of tools that we can use to encourage compliance with the Occupational Health and Safety Act, but what we do find with small businesses is that oftentimes they are feeling like they have a lot of requirements on them, and so getting that opportunity to have the knowledge and information that they need about Occupational Health and Safety is really important to them.

When we did the consultations on the Workplace Safety Strategy across the province, we definitely heard that from small- and medium-sized businesses, that they really were interested in understanding the law and complying with it, but they were having struggles with getting that information available to them. That's one of the reasons why there's an educational component to the Workplace Safety Strategy over the next five years, and one of the key reasons why we have expanded our Occupational Health and Safety Division to have an education unit, so that we can provide that information to small- and medium-sized businesses, so that they aren't in a position where their employees are injured on the job.

MR. HOUSTON: I just have a few questions to orient myself, and then I'll move into my questions about how inspections happen and that type of thing. I do think that education is obviously key in this. It's important for the employers and the employees to understand the best ways to do things to keep people safe. I also think it's important that the inspectors understand the business environment they're going into. That's where I hear the biggest concern from small business owners, is that an inspector came who doesn't know anything about how you cut steel, and they're trying to tell me the safest way to do it. That's a concern and a challenge that your department will have to overcome to get the respect of the employers too. It's a two-way street, right? And we're going to do all that in 20 minutes, I guess.

MS. MACEACHERN: Okay, we'll try.

MR. HOUSTON: You mentioned that there are new inspectors that have just been hired - how many inspectors are in the department as of today?

MS. MACEACHERN: We have - there are 40 positions and 40 are filled.

MR. HOUSTON: So you have 40 inspectors now. You probably didn't have 40 during the course of the year, but those 40 inspectors did, I think you said 2,500 field visits?

MS. MACEACHERN: Yes, and that would actually be a lower number that did those field activities because I'm including the five additional that have been added for the last little bit.

MR. HOUSTON: So what is the average time of a field visit?

MS. MACEACHERN: It really can vary depending on the circumstance, so it's really hard to give an average time for a field inspection. It really depends on the nature of the organization and the circumstances surrounding it.

MR. HOUSTON: Would some of them be multiple days?

MS. MACEACHERN: It potentially could be. Some investigations could be quite complex. An inspection could be quite complex. It depends on the nature of the complaint too - for example, discriminatory action complaints are quite complex investigations involving examining a number of witnesses and talking to a number of witnesses, so it really does depend.

MR. HOUSTON: So are most of the inspections reactions to a call you received as opposed to proactive visits?

MS. MACEACHERN: It depends - the focus at the time is on complaints. We get about 2,500 complaints - calls into our 1-800 line per year. Not all of those are complaints, but a significant amount do come in through that 1-800 line, and our policy is to respond to each one of those complaints, so we are complaint-driven. As well, there is a component that is targeted inspections that we do. Right now we're about one to four in terms of complaint versus targeted; however, based on the recommendations of the Auditor General's Report and what we've been hearing through our consultations and our Workplace Safety Strategy, we plan on increasing those numbers of targeted inspections for high-risk workplaces substantially. Our plan is to increase that by 200 per cent over the next year.

MR. HOUSTON: So when you send inspectors out to do a field visit, is it one inspector, two inspectors?

MS. MACEACHERN: Again, it does depend. For an inspection, oftentimes it is one individual who will be there. If it is a fatality, then two officers will go for the preliminary investigation. Again, that was a recommendation that came up in the Auditor General's Report. It had been our practice and we've now reinstituted that, so there is no question that there are two investigators for every preliminary investigation of a fatality.

MR. HOUSTON: Do you keep track of how many warnings inspectors would give out in the course of a year - so they'd turn up on a job site and give a warning?

MS. MACEACHERN: We do have those statistics. I'll look and see if anyone else has those statistics at hand - if not, we can get those for you. But there is a significant amount of warning, so we do our orders - in terms of orders, there are statistics around 4,000 orders per year, so warnings I can't tell you exactly.

MR. HOUSTON: An order would be an actual ticket?

MS. MACEACHERN: A compliance order is a little bit different than a ticket. A ticket would often be seen as summary offence ticket so it's a little bit of a different thing. An order would be an order for compliance, so it's an order to the business or to the individual saying that you have not complied with the Occupational Health and Safety Act and here is your order to comply.

MR. HOUSTON: And there are 4,000 of those?

MS. MACEACHERN: Yes.

MR. HOUSTON: Were there any businesses in the province closed out last year due to not following regulations, or did your department take any action that resulted in a business closing?

MS. MACEACHERN: The Occupational Health and Safety Act does not have provisions that actually shut down a business. What it does have is the ability to issue a stop work order. A stop work order is something that the department could issue and does issue on a regular basis, depending on the circumstances. You might see it in a circumstance where there has been a serious incident, a fatality, and so the stop work order is issued until it can be confirmed that work on the site can continue in a safe manner.

MR. HOUSTON: Were there some of those?

MS. MACEACHERN: Yes, absolutely, there were some of those. Again, I don't have the exact numbers at my fingertips, but we'll be able to get you those numbers.

MR. HOUSTON: If you had to guess, is there a certain type of industry that those tend to be in?

MS. MACEACHERN: I can't tell you that for certain but construction situations - I'm just thinking over the past year in terms of some of the fatalities that have occurred during construction because it's an active construction site, there are activities that are happening there. If there is a fatality or a serious incident, we have often issued a stop work order at the time until steps have been taken to confirm that work can continue. That would be an example.

MR. HOUSTON: The new inspectors that were hired - I think there were 12?

MS. MACEACHERN: There are five new inspectors that were hired.

MR. HOUSTON: But there are 12 positions.

MS. MACEACHERN: There are 17 new positions in the Occupational Health and Safety Division, five of them being inspectors. Also as I mentioned, we expanded or created a new education unit, so some of those positions are dedicated to that. We also have two new regional directors which relate back to the Auditor General's Report which talks about the importance of some further oversight and systems reviews, and so those positions will really help with that.

MR. HOUSTON: So the five new inspectors - what type of background would they have? Would they be inspectors elsewhere and now they are inspectors here or are they new to the inspecting world?

MS. MACEACHERN: I might turn it over to Anne to give you details on those particular inspectors, but I will say that our inspectors are hired based on general skill. They come from a variety of different backgrounds. They may have been inspectors in another organization, they may have been inspectors within government for a different area, maybe environment, alcohol and gaming, so they come from a variety of different backgrounds. Some of them have some sector-specific skills and we utilize that. They're assigned to regions - they're not assigned to specific sectors or workplaces - but we do utilize the skills, the backgrounds that people have for particular investigations that occur.

As well when our officers are hired, they partake in an extensive training course - we call it our new officer training program - that takes place for the first six months of their work and they're also teamed with the senior inspectors so they have experience when they begin their work with the department. It's quite an extensive training program and our officers are some of the best trained in the country in terms of occupational health and safety.

MR. HOUSTON: In terms of the regions, how many regions do you divide the province into?

MS. MACEACHERN: Up until recently we had three regions and through the reorganization we expanded to four regions with five regional directors, so two for our central region. Our central region which is Halifax and adjoining area region is quite large - obviously there are a lot of businesses in that area - so we have two regional directors now for that region and then we have the three other areas of the province.

MR. HOUSTON: So Pictou County would presumably fall into some northern region and there would be how many inspectors that would cover that?

MS. MACEACHERN: How many inspectors in each?

MR. HOUSTON: Yeah, the northern region.

MS. MACEACHERN: I will refer that one over to Anne.

MR. CHAIRMAN: Ms. Partridge.

MS. ANNE PARTRIDGE: As Lora mentioned, right now we currently have three and we're moving to four regions. Right now Pictou actually moves into the eastern region which would include Cape Breton Island and part of the mainland. The number of inspectors for eastern would be a total of seven - I'm sorry, I'm getting that mixed up. Seven for eastern now which is Cape Breton, and Pictou right now is part of what's going to be the new northern but part of central which also includes seven. So in fairness each region except for the central region - if you go with the four that we're going to have - has seven inspectors and one investigator, and central will have, I think, it's 13 or 14 because of the size of the area.

MR. HOUSTON: I'm pretty good on time, eh?

MR. CHAIRMAN: Yes.

MR. HOUSTON: I'm very efficient with my time usage aren't I?

MR. CHAIRMAN: Yes, you have another eight minutes.

AN HON. MEMBER: They're good with their answers.

MR. HOUSTON: They're good with their answers, yes they are. I just wanted to flash a couple of situations by you that I've heard about and I don't know if you would find these uncommon or if you'd say, well that's just the way it is. I had a small business owner telling me that he had an inspector come to his business, a heavy manufacturing shop. He had an inspector come to his shop and look at the first aid kit which was on the wall and when they opened that, it hadn't been opened and signed-off that somebody had looked at that first aid kit on a monthly basis or whatever the regulation is. He said, that's just one that they make me put there. If you get hurt in my shop, there is nothing in there that's going to fix you; we actually use this one.

So kind of a disconnect in what works in the business versus what somebody sees on a checklist that they are supposed to have and talking about the frustrations around that and maybe getting fined for that, those types of things - so I don't know. It all feeds to the common sense part of keeping people safe and that is my concern around new inspectors who maybe don't understand the industry or come and they are looking for certain things that maybe are irrelevant and then that's taking up a day of the small business owner's time to deal with this person; then he has to pay fines and deal with this. I don't know if you hear those types of complaints much.

MS. MACEACHERN: Yes, I can speak to that. It is something that we have heard. We've heard it in the context of administrative penalties. That's a program that we are well on our way to changing, as I mentioned in my introductory comments.

The administrative penalties program was put in place in 2010. Before that compliance orders were issued based on violations of the Act but there was not a fine program. What the administrative penalties program did was put in fines for violations of the legislation so it is at this point that perhaps a violation that someone would consider a rather minor violation of the legislation, such as the first aid kit not having been filled or complete, would have generated a compliance order only and people would have said okay, it's a violation of the Occupational Health and Safety Act, I'll make sure that I do what's required with the first aid kit. It's in the legislation, I understand that.

However, the Administrative Penalty program attached a fine to that. What we heard across the province is that people found that to be very frustrating because they felt they would go, they would comply with the legislation, the day after or that day, and rectify that minor violation but yet they were still receiving a fine. For small businesses they found that to be difficult and taking away from their business and another fine that they needed to pay.

We took all that into consideration. We went across the province and heard about that. As a result we are changing that administrative penalty system. I think that with those changes you'll find that those types of complaints will start to go away. What we're doing with the administrative penalty system is changing it; we are focusing on the repetitive offenders, the high-risk offenders, as being the individuals or the companies that will be receiving fines. It's really taking that tool and focusing it better. It's a valuable tool, it's important. We need to be able to fine people for violating the Act but we want to make sure that those efforts are put in the proper direction.

The administrative penalty tool, once the changes are implemented fully, which we anticipate will be around the summer, the fines will go to high-risk offenders, will go to repetitive offenders and then our focus for the small and medium-size businesses will be more on educating. So they'll still get compliance orders, if we go in and there's a violation of legislation, but there will be more of an opportunity and we'll have that unit that will be able to provide education, which is what we think, at that point, people need to just understand the legislation, understand the requirements and then they will comply.

However, if there are serious violations, if there is a repeat, if we understand that people are not complying with the legislation, then we have those fines available and we're able to issue them in order to ensure compliance.

MR. HOUSTON: Thank you. I'm just trying to reconcile all that with - in your opening comments you referred to trying to establish targets for the inspectors - so I'm just trying to reconcile how you take a more collegiate education-type focus inspection basis and then have an inspector come back to the shop and say, did you meet your target? I might be taking the targets comment out of context but it is of concern to me that if an inspector would be heading out to the field saying, well I hope I hit my target today and get enough. I want to be fair about that, but it is a concern.

MS. MACEACHERN: Okay, I can clarify that for sure. With targets, what we're trying to do is if it's completely a complaint-based system then you may be getting numerous complaints in certain areas because they're visible, for example, but they're not high-risk industries or not workplaces that have had past situations of high-risk activities or injuries or fatalities.

The targeting will allow us to look at, based on data and statistics that we have on hand, what the high-risk industries and workplaces in Nova Scotia are. Through that targeting program we can focus some of the efforts of our inspectors to go in and look at those organizations and to focus on, if the circumstances are there, issuing orders and penalties to encourage compliance for those high-risk industries. So that's what the targeting program is about.

MR. CHAIRMAN: Thank you, Mr. Houston. If you're concluding with that, we will move to the NDP caucus for 20 minutes.

Mr. Corbett.

HON. FRANK CORBETT: Thank you everybody. I know some of you and it's good to see you again. You have a new deputy. The last one was great and this one is going to be great too - I've had the pleasure of working with both of them.

A couple of things, something near and dear to me, started out with - I don't know whether to call you Lora or Ms. MacEachern - around the prosecutor for OH&S and we had talked one time regarding one that would just be solely with the Department of Labour and Advanced Education. The way you've prefaced it in your opening remarks, am I to understand that situation will stay with the Public Prosecution Office and will it still act as it does today - that person or persons, their main job will focus on OH&S issues but will still stay under the direct supervision of Public Prosecution?

MS. MACEACHERN: Yes. They will be with the Public Prosecution Service because all the Crown Prosecutors in the province have that independent role over at Public Prosecutions, so that person will be employed with the Public Prosecution Service. However we do have an agreement with them that the role of that prosecutor will be to prosecute Occupational Health and Safety offences, and also to provide pre-charge advice and education to our Occupational Health and Safety officers so that our investigations are done very well and all the circumstances are available should the appropriate situation come forward for prosecution.

MR. CORBETT: There was a time when one of the complaints around the inspectors was that they were - these are not my words, but I'll use them - "ticket writers," they were not there to guide employers and workers in a safe manner. Do you believe that culture has changed, and what has the department done to change that culture?

MS. MACEACHERN: I think a lot of that came from the administrative penalty regime. It seems that with that the difference between just receiving the compliance orders that had always been the case versus the compliance order plus administrative penalty, a fine on top of that, really changed the relationship between the inspectors and the workplaces. That's what we heard from inspectors and that's what we heard from businesses and from the employees in those businesses when we went across the province. People saw them as ticket writers; people saw that they weren't able to have a conversation with them about what it is they should do right in their organization and what could they change.

When we heard that, we were concerned. We felt that although we had a good tool, it really wasn't being implemented in the best way possible, and so that's why we really consulted on how we could make it better, and we feel like we've really landed on a good, positive way to focus that tool in the right direction, which is high-risk offenders and repetitive offenders.

With that, we really do feel the culture is changing. Employers and employees across the province are saying, with those kinds of changes, we feel like we'd be more likely to seek your input, seek your advice. We think that our new education unit that we're getting up and running will be a really positive thing as well. There will be a unit, a section of the division, where employers and employees feel really comfortable getting some good, strong information. We'll be able to generate some really valuable plain-language information that workplaces can use across the province.

MR. CORBETT: That kind of goes to my next question, around plain language. I think he retired a few months ago - Mr. Murphy in Cape Breton.

MS. MACEACHERN: Yes.

MR. CORBETT: Great guy. I've known him when he was in drug enforcement, but that's for whole different reasons. He was one that - like I said, I've known him for quite some time, and I saw him as someone who could just do that type of thing - come into a workplace and be very common sense, if you will, about stuff. With the exit of someone like Mr. Murphy and his experience, I'll say with great certainty that he was one of those that caused that culture of ticket writing. To me, he was a get-to-yes guy.

With that, have we lost some of that? I don't know the person who has replaced him as well as I know Mr. Murphy. I guess I'm looking for some assurances that continuity in that Cape Breton area will be followed now, with the exit of Mr. Murphy and the entrance of the new head in that area.

MS. MACEACHERN: Yes, it's no question that Pat Murphy's retirement is a great loss for the division. He was an excellent staff person, and we are very fortunate that he did give us some notice that he would be retiring. He did spend the last year or so really

focusing on doing some - in addition to all the great work he did just doing his job as regional director, he spent a lot of time doing additional work in the division, like mentoring staff and working on some broad programs, including the administrative penalty system, and how within the division we could change that program so that it was stronger and better.

He also did a fantastic job mentoring the staff in the eastern region in Cape Breton, and they're all great, fantastic staff in that branch. John MacMillan has taken over for him. He has been in that office for a few years, and has had the benefit of working under Pat, so we feel really confident that we'll continue to be really strong going forward.

MR. CORBETT: To go on to one of my favorite subjects - WCB. I've been around some of those folks for quite some time, and certain people within that organization are very quick to tell you that they're an insurance company first, and they're a no-fault insurance company first. I want to get a sense of the working relationship with WCB on the Occupational Health and Safety side, through administering the accident fund or whatever.

I've always found that there is a bit of a rub there, that WCB gets a bit of a free ride or that there are companies that may even get a free ride too, because it's not 100 per cent coverage by 100 per cent employers - that people will get the benefit of it without having to pay for it, so to speak - that they don't pay premiums, but the premiums of other employers go into the pot, and everybody hopefully gets something good out of that.

So a couple of questions - I want to find out what you feel is the relationship and where you'd like to see it, with regard to sharing information and so on with WCB? I'll leave it at that and say, what's the working relationship between your department and WCB?

MS. MACEACHERN: Well I can speak for the past two years that I've been with Labour and Advanced Education. That's the time period that we've been working on the development of the Workplace Safety Strategy. That has been a very positive experience. In that respect I would definitely say we have a strong working relationship with the WCB. I think we're all united in the common goal of workplace safety and feel that as leaders, as two leader organizations in the province, our unity on that issue of raising awareness of workplace safety and the importance of using the strengths of our two organizations to advance that is really important so we're definitely very united on that. The Workplace Safety Strategy, those goals that are set out there, is a great opportunity.

We know that it's on solid ground, based on the consultations we've had, those six goals in the Workplace Safety Strategy over the next five years. WCB and LAE will be working really hard with all of Nova Scotia to advance them. We've made some great progress already so I think our working relationship, going forward, will need to be really strong to ensure that very important strategy is implemented very well for the province and to make it the safest place to work in in the country, which is the goal under the strategy.

MR. CORBETT: Around high risk and working with WCB - I'm going to toss you a lob ball here and say how is your working relationship and could you give me some detail on programs you're collaborating, I guess would be the word, with WCB around the fisheries? To me that is one of the hardest industries to corral because it's - well, I'll talk about others, like construction, but this one here is - it's not a set work site. It's not like 12 Main Street and they're out there. It's not like you can drop an inspector on a boat, so to speak; it's got to be wharf-side. I'd like you to give us an update on what you've been doing in conjunction with WCB as it relates to - well especially the inshore fishery.

MS. MACEACHERN: Yes, no question, there's a lot of concern around the fatality rate in the fishing industry. Quite a few of our fatalities last year were in the fishing industry so it's definitely a high-risk industry and definitely an area that we need to be focusing on and raising awareness of the importance of safety in that sector.

WCB and LAE, as well as the Fisheries Safety Association and others have come together, working on a fisheries action plan. Work is happening; folks in the industry would have seen wharf visits occurring lately. A media campaign around the focus on wearing a PFD, that being critical, so it's a whole change in culture piece, the beginning phases of that action plan, but it will be a major focus over the next year or two, as long as it takes to improve the situation in the fisheries and significantly lower that risk of injury and death.

MR. CORBETT: Can you tell me of anything that's going to be happening? Recently, I know in my area in the middle of April lobster season starts and I believe in the chairman's region probably in about a week's time - May 1st. Is there any thought of doing dockside training now, in preparation of the season?

MS. MACEACHERN: I do believe that would be anticipated and I'm just looking if either Christine or Anne can add more to that. I know there is a lot underway; I just don't have that information with me.

MS. PARTRIDGE: I know there's the Cape Breton Safety Symposium that's going to be happening on May 8th and 9th which will focus on safety initiatives. There's going to be a certain component of that that's going to focus on fishing and they're also hoping to do a wharf-side visit during that time, just because they'll have folks. That's the first week in May.

MR. CORBETT: The reason I ask is because it's not a nine-to-five job and it's not like they can lay down the tools and go to an auditorium, so to speak. That's why I think, of all the industries, that is the one that has to be done right at the workplace and for them the workplace would be the wharf. That is why I would like to see that component take place sooner than later and that the understanding is that is where they are at.

I think, too, some of the questions Mr. Houston was asking, sometimes there is a disconnect with us and we forget that in the lobster fishery there, we'll say for sure there is a finite time you can get to work, so you can't take an hour, let alone a day, let alone two days out, to do a symposium and stuff like that. I'm glad to hear that you're taking that to the wharf.

Just looking at the Auditor General's recommendations and in Recommendation 5.1, do you have it in front of you? In that one, in the area of Plan to Complete, I'm going to assume where the checklist is for 2015-16 we talk about high risk. I'll read the first sentence and then I think you'll get the gist of it, "The inspection plan will consolidate individual performance targets, joint targeting activity with the WCB, outreach to high risk sectors such as Construction and Fisheries and inspection blitz activities targeting specific regulations such as fall protection." Can I ask you why that is out to 2015-16 as opposed to - I would see urgency there, more urgency than having to wait another fiscal year?

MS. MACEACHERN: We are doing - I didn't quite catch the point, the actual sentence you were reading there, but with the targeted inspections, we do some targeted inspections right now but what we're doing this year is expanding to create, actually, the action plan, a targeted action plan for this year. So the officers and the division as a whole, based on the information statistics we have in our system and through the WCB, will be looking at the high-risk industries and workplaces, an action plan is being created, and our officers will be targeting doing an increased number of target inspections this year.

This year alone our plan is to increase our number of target inspections by 200 per cent. What's happening in 2015-16 is we are going to take a look at the success or the issues associated with our annual inspection plan for this fiscal year and we're going to expand it further and have regional and provincial targets so we'll be even broader and we'll look at how successful we were and what changes need to be made.

In addition to that we will be evaluating and monitoring this annual inspection plan and with the additional compliance to - we're having two new staff, compliance and evaluation officers, whose jobs in part will be to look at this sort of thing, evaluate, have a role in the office evaluating the success, the issues with these plants, and how we are doing and how we can improve them in the future. This is very much a priority. We understand that the targeting of high-risk workplaces and offenders is very important and we are working on that right now.

MR. CORBETT: I take from that then the stretching out to the 2015-16 fiscal year is really the ability to get the information and then bring it forward again. Rather than just throw it at the wall and see what sticks, you'll have a finite idea of what's going on.

MS. MACEACHERN: Exactly.

MR. CORBETT: In less than a week we're going to have a day of remembrance. How many fatalities have been in this province this year?

MS. MACEACHERN: There have been two acute fatalities this year.

MR. CORBETT: And they were in what sector?

MS. MACEACHERN: One was in the fishing sector and the other was a motor vehicle accident, work related.

MR. CORBETT: They were in a work vehicle?

MS. MACEACHERN: They were in a work vehicle, yes.

MR. CORBETT: Was that on the Mackay?

MS. MACEACHERN: It's the Barrington Street incident.

MR. CORBETT: You're not including - when I say year, what are you using, a calendar year?

MS. MACEACHERN: From January forward, yes.

MR. CORBETT: I noticed during the Day of Mourning, they'll go from April 29th of last year to April 28th of this year. But you're just using what . . .

MS. MACEACHERN: Right, so last year as a calendar year there were 34 fatalities - 17 of those being acute and 17 being chronic, and so far this year we've had two acute. I don't have the exact cut-off between April and now, but that would be the last 16 months, the fatalities that have occurred in the province.

MR. CORBETT: Do you know how many were related to a construction site?

MS. MACEACHERN: I don't know if I have those exact numbers, but there have been quite a few - none so far this year as I mentioned, but there were several acute last year and . . .

MR. CORBETT: My time's running out.

MR. CHAIRMAN: Order. Mr. Corbett you can continue later. I will now move to the PC caucus.

Mr. Houston.

MR. HOUSTON: Back to me?

MR. CHAIRMAN: Oh, I'm sorry, I do apologize. I am getting ahead of myself. That would be very unfair of the Chair to do that.

The Liberal caucus, and Mr. Rankin.

MR. IAIN RANKIN: Thanks for coming in today, and there were some very good points made by both members there.

There certainly has to be a balance, I believe. I'm from the private sector and I've seen a lot of inspections when I've managed commercial buildings, and I think one thing I've noticed after moving from different jurisdictions in the country that from my small sample size there seems to be more inspections here, but it is a small sample size. I guess my question would be, given that we've hired five new inspectors, how do we compare nationally? Do you have a number per capita, the number of inspectors we have per buildings or per population here, and how does that compare on the national scene - do you happen to know that?

MS. MACEACHERN: Our information is that we're on a par with other jurisdictions across the country. I don't have an exact per capita comparison; the definition of workplaces can vary. I think in the Auditor General's Report they said there were around 50,000-ish workplaces in the province, so with 40 inspectors I'm not sure what the ratio is there but that's kind of how it lays out.

MR. RANKIN: The other thing I'm wondering about is synergies with other types of inspections, especially with the other Auditor General's Report with the municipalities struggling to find funding for fire inspections, and with that ultimately coming under jurisdiction of the province we're responsible to make sure that it does ultimately get completed. Is there any avenue to find synergies in economies of scale with, instead of having a separate person go in and doing fire inspection, can we not train - since we're spending money on new FTEs in this department - can we not find ways to combine these inspections, is that out of the realm of possibility?

MS. MACEACHERN: It's a very interesting point and I do believe that issue and topic has come up over the years. I do know that with certain provincial departments there has been some combination of duties of the various inspectors. So far that hasn't been something that has been moved forward with/for Occupational Health and Safety. Within our office, Labour and Advanced Education, there are some other inspectors - we have Technical Safety inspectors and, up until recently the Office of the Fire Marshal was LAE.

Those folks were all together in the safety branch, which is Christine Penney's branch, and those officers did have a good degree of knowledge about the work of the others. There was definitely a synergy there that has been helpful in them having awareness

of the different workplaces and the roles of others, so they were more able to call on one another if they noticed a violation in another area that wasn't exactly their area of expertise but something that they thought didn't seem quite right and were able to call on others.

It's definitely an issue that government might want to explore for the future.

MR. RANKIN: This new Public Prosecutor, is his sole job just this? He just looks at cases - and I'm thinking, what if there are no cases, is he going to be used in other areas?

MS. MACEACHERN: Well, the focus of the prosecutor who will be working in that area will also be to provide pre-charge advice to our officers, so there always will be investigations and inspections that will be occurring. Whether those lead to prosecution or not will vary depending on the circumstance, but there will always be that need for that strong pre-charge advice. That person will be available to our officers, which we think will be very helpful. Oftentimes they will have questions or there will be issues regarding evidence and that sort of thing. That person will be available to them as well.

Also for education, there are new cases all the time, and understanding the Criminal Code provisions, we have new officers who are coming. As I said, we've got our new officer training program that our officers are going through on a regular basis. So that prosecutor will be a very valuable resource in order to have our officers really trained up and ready to do a thorough and expert job should the circumstances require it.

MR. RANKIN: What exactly qualified the 17 new FTEs, the prosecutor, the two regional directors - would it just be the fatalities that have happened? I know the Auditor General's Report came out. Was it a government decision, or was it something that has been happening and finally was completed from the past year?

MS. MACEACHERN: The decision to expand?

MR. RANKIN: Were they vacancies, or were they just creating new positions?

MS. MACEACHERN: They are new positions that were created. The funding for the Occupational Health and Safety Division primarily comes from the accident fund, which is from the WCB. The premiums the employers pay into WCB create an accident fund. A certain portion of that fund is allocated to the Occupational Health and Safety Division. Those additional positions are funded out of that accident fund.

The decision was made to expand the Occupational Health and Safety Division for a variety of reasons. One was the Workplace Safety Strategy. Of the consultations we did to create that strategy, we definitely heard that there were some areas of focus that were important that we didn't have the staff to be able to focus on. It dovetailed quite nicely with the recommendations of the Auditor General. Through that, we took a really strategic look at the division, where our resources were, and where they could be in the future in order to

be able to improve workplace safety in the province. As a result, we decided to expand in those areas.

MR. RANKIN: I know my colleague has some questions about small businesses. He's a business owner, too. I guess one quick question in that vein is, if there is a small business that has an order, is there any mechanism to challenge that order, or is it always just black and white? Further to that, is there - I'm thinking of businesses that are close to break-even. Is there any way they can apply for an extension, especially for futile things, like if you don't have a commercial-grade ladder? I've seen a lot of what I would consider very futile things to change. I know some of them fall under the warning category, too, but if they are not paying the principal down and they need to get to break-even, they're paying interest only on their commercial mortgage. These things are critical to sustain that business.

I'm just wondering if you could explain to me how we can help, if there is a challenge that they can actually give to the department, or if it's black and white.

MS. MACEACHERN: Absolutely, the orders can be appealed. I'm going to refer that one over to Anne, who plays a significant role in the appeal process. She can explain it in a little bit more detail.

MR. CHAIRMAN: Ms. Partridge.

MS. PARTRIDGE: Right now under the Act, all orders can be appealed to the executive director. If a business owner wants to challenge an order, they have 30 days to do so. Between the time frame that basically the appeal is filed and a decision is made, they can request that a stay be granted. What that means is they actually ask that the division suspend the order - so if they need time to get money or do whatever - until the executive director actually makes their decision.

Once the executive director makes a decision, if the parties are still unhappy with that decision, then they can appeal to the Labour Board. The only thing I have to add to that - and I don't want to get into too much detail or complicate the matter - is that there were changes made to the Act in mid-December that will be proclaimed once the new administrative penalty regulations come into force in the Spring, and the level of appeal to the executive director is changing to a power of review.

So there will still be an ability for the executive director to review compliance orders, but at the end of the day, if the business owner is unhappy, the appeal will go directly to the Labour Board. We needed to do that because we had to line up the appeal process for orders and administrative penalties, so I just wanted to qualify that for you.

MR. CHAIRMAN: Mr. Stroink.

MR. JOACHIM STROINK: My question is about small businesses, for sure, and I guess rural parts of Nova Scotia are struggling with businesses and small businesses. A lot of these small businesses are run in facilities that were built in the 1800s and so when common sense applies, the inspector will come in and say you have to meet this, this, this, this, and this. Well, the cost of doing those five things is so huge that it's going to put them out of business.

What I am asking is, is there a mechanism or a common sense clause in this? This building has been built since 1800 and there has never been an accident, and no one has ever been hurt, and no one has ever died, but this owner will have to shut down maybe three or four floors of his business because he can't meet the new standards of the regulation that has been put in place.

I guess I'm asking, in a way, is there some kind of a mechanism or some kind of a tool that these businesses can say, I need to stay in business. I employ seven people in this community, this community needs me, but if you put these regulations in place, understanding the safety, I'm done and then the community has lost a big asset. I guess I'm trying to figure out how we work with an inspector and a small business owner to ensure that the success of these businesses can continue?

MS. MACEACHERN: That's an excellent question. Well common sense and reasonableness are very important aspects for us. Speaking in generality it's a bit difficult to answer the question. It depends on the circumstance. If it is a serious issue and a situation of noncompliance with the legislation and it would pose a risk to the health and safety of our workers, it's the job of our officers to enforce the Occupational Health and Safety Act.

However there are often times where you can look at the situation and find some really practical solutions; that's always the stance that we would like to take. If an employer is having those kinds of concerns and is not able to reach a resolution with the officers, we're always open to having discussions with the department to see what options there are available in those circumstances but still ensuring compliance with the Occupational Health and Safety Act.

MR. STROINK: I hope that happens but I've talked to some business owners - and I'm not sure if this falls under your department, but this is an example: we need you to put steel doors in. Well, the barn is from 1800, if it catches on fire, guess what's standing? The steel doors and nothing else, right, and the cost of doing that is so exorbitant that they're going to have to increase their cost of goods and lay off some people. I guess common sense is a tough one.

MS. MACEACHERN: Just conferring with my folks here - we are thinking that that's not really the Occupational Health and Safety Act that you might be referring to. It might be other issues with small business and regulations but it doesn't sound particularly

like the Occupational Health and Safety Act, but we're absolutely open to hearing specifics of any particular circumstances and looking at whether it's an Occupational Health and Safety situation and what we can do.

MR. CHAIRMAN: Mr. Farrell.

MR. TERRY FARRELL: Good morning, I'm Terry Farrell the MLA for Cumberland North, sorry I wasn't here for the start of your presentation. I just wanted to ask about Recommendation 5.3 because it makes it sound like the different branches of government as just working independently and that there is no real exchange of information and as a result of that there may be a number of businesses out there working almost in an unregulated environment. Can you give us a little bit more information about how you do keep up to date on new businesses that are opening and how you might use existing resources within government to do that?

MS. MACEACHERN: Absolutely. We derive information about businesses and the risk from a variety of sources. We have our own internal database. We also have information that is derived from the Workers' Compensation Board and also some information from Service Nova Scotia, the business registry. As noted in the Auditor General's Report, it is important - and we agree that it is important - to have really strong, accurate, timely information about new businesses so that we have that information about what businesses are in operation so that we can target those businesses if necessary, do inspections, and also we think as well to provide them with really important information that they need to know about occupational health and safety.

So we are working with Service Nova Scotia. We now have a group formed to sort of get at those issues and how we can do that even better than we have been doing in the past. Some of the issues around it are system issues - they're IT issues - and Service Nova Scotia is in the process of changing its database. As they do that, through our conversations we're going to be able to feed into that and help that system to be able to generate information that will be useful for occupational health and safety, and also to get timely information out to these businesses.

One step we have taken, which will be in place over the next couple of weeks is that through our relationship with Service Nova Scotia we've created - and this came from an idea that came out of a small business workshop that we had - just to create a brochure of basic information about the Occupational Health and Safety Act and Regulations that is plain language and useable for small businesses. Based on the information from Service Nova Scotia, that brochure will now be mailed out to all new businesses in Nova Scotia so they have some basic information about the occupational health and safety requirements. As well, they'll be given a link to information on our website on the Occupational Health and Safety Act and Regulations. So we feel that is a good, strong first step to getting some of that information because we do know that these small businesses typically do want to comply and it's really just getting a good, strong understanding.

MR. FARRELL: I guess it seems sometimes that technology and IT is the solution to all these problems, but sometimes that's where the barriers are.

MS. MACEACHERN: Sometimes, yes.

MR. FARRELL: Well, thanks very much.

MR. CHAIRMAN: Ms. Lohnes-Croft.

MS. SUZANNE LOHNES-CROFT: Thank you for being here today. Would violence in the workplace fall under OHS?

MS. MACEACHERN: There are violence in the workplace regulations that do apply. Maybe I'll see whether Anne can give you more detail.

MR. CHAIRMAN: Ms. Partridge.

MS. PARTRIDGE: There are regulations that apply. The key with the regulations is they only apply to certain workplaces so they define specifically in the regulation what it would apply to. I believe it's before my time, but they came about a number of years ago as a result of a gas station attendant who was killed at work and his family lobbied very hard in terms of legislation and changes. We do regulate those. If you looked at our annual report statistics you would have a sense of the number of orders that we've issued under those, but the key point is they don't apply to all workplaces in Nova Scotia.

MS. LOHNES-CROFT: So health care professionals, educators, residential counsellors - would they fall under this category?

MS. PARTRIDGE: I'd have to take a quick look, to be honest, because in my mind I typically go to places where there is an inherent risk like restaurants, bars, gas stations, people working alone, and so I've got to be honest, I don't know if certain para-public sectors are included there or not. I can take a look; I actually have them here with me.

MS. LOHNES-CROFT: I'd appreciate that because predominantly these are women in the workplace and many of them are at risk on a daily basis, and I think that's a piece of information that - I don't know if all workers are getting the information they should have. I mean, there are crisis intervention programs that I know educators take and are offered to residential counsellors. Are forms there for them to fill out? Do they know the process and the procedure to take when they have come across violence in the workplace? It's a daily occurrence for many workers.

MS. PARTRIDGE: Right, so you're thinking of situations where a health care worker might be working and there's a situation with a patient.

MS. LOHNES-CROFT: Mental health units for one aspect. Educators, especially in high schools and junior highs, are exposed to violence daily. Residential counsellors are working with people with mental illness and disabilities who often have violent outbreaks.

MS. PARTRIDGE: I suspect they are covered, but to be honest they are listed in the regulation and we'd have to take a look at that and get back to you.

MS. LOHNES-CROFT: Okay, thank you.

MR. CHAIRMAN: Mr. Maguire, you have just a little less than a minute.

MR. BRENDAN MAGUIRE: We'll pass it over.

MR. CHAIRMAN: Okay. With that, we'll move to the PC caucus and Mr. Houston.

MR. HOUSTON: Thank you very much, Mr. Chairman. I'm finding this all very interesting so I appreciate it.

It sounds like it's a time of change for the department. I'm hearing about different things that are changing, coming down the pipe and stuff. I'm wondering what the litmus test is when you have an idea for a new rule? I think what you're hearing is a lot of concern - as MLAs, oftentimes people don't call us on their best day, they often call when something has gone wrong or something is bothering them. We have a lot of stories on this side of employers calling, I'm sure for different things, right?

When you're sitting at the department and somebody says, I have a good idea for a new rule, I just wonder what the process is. I mean in this Chamber the process is pretty effective. I stand on this side and I have a new idea, a good idea, there's usually 33 people who sit over there and tell me it's not a good idea. But I don't know in the department what the - you're making these rules, you're making these changes, they're impacting employers and I don't know how you balance that, just from sitting in an office in Halifax. Maybe you can quickly say how that goes about.

MS. MACEACHERN: One of the key ways that we have come to the conclusion that there's a number of changes that we wanted to take was through, as I mentioned before, our consultation on the Workplace Safety Strategy. With that process, the previous strategy for prevention for workplace safety had come to an end, so we were at the point of doing that consultation. We went around the province and that's not something that occurred with the previous prevention strategy but we decided it was really important to hear from all Nova Scotians what they had to say about workplace safety and what needed to change. That turned out to be hugely valuable to us. We heard things that we thought we would hear and we heard some things that we didn't quite realize were on people's radar screens as much as they were. That was very critical for us.

We really took the common themes, certain themes as we went across the province that really started to become clear. Through that, we compiled it and realized there are perhaps nine or 10 themes that came under a number of pillars and it really sort of set our direction. Now we have a five-year plan and the five-year plan is based on these six pillars: increase inspection enforcement; support small and medium-size business; performance measurement, so how we know when we have succeeded; changing workplace cultures, like safety culture; leadership at all levels and in all organizations; and education. Those are the six pillars.

I think based on that, all Nova Scotians agree those are great areas to focus. Everything we do now falls under one of those pillars. Those are our frameworks, that's what we look at when we're looking at changes we want to make or how we are going to move forward over the next five years - it needs to fall under one of those pillars. If it does, then we know that's something that has the support of Nova Scotians and something that we've been told is a direction we should be going in.

MR. HOUSTON: Thank you for that. I think it's true that Nova Scotians want safer workplaces. I don't think we stack up good, nationally, against some of the other provinces in terms of the number of accidents we have. We have to do better, we need safer workplaces. As we're striving towards that goal, what we want are better rules and more rules does not necessarily equal better rules, right? We need to always be careful of that.

I did talk to a gentleman on the weekend who works in road safety; he works on a road crew. He was telling me that he had been to a training course recently because there were new rules and regulations coming around road safety. He's an employee, he wouldn't be the business owner or anything like that - he was saying that some of the new rules or regulations are requiring things that they'll need all new trucks. For example, certain size sign changes now, they can't fit that sign on the type of truck they use so they have to buy new trucks and stuff.

I'm just wondering, how does that come about that businesspeople or employees get surprised by this when they show up to a training course, that well, this is the way it's going to be, this is what you have to do, and they're like well now I have to - to take some of the examples maybe we're a bit out of context but it's kind of like the steel doors sometimes, if you have to replace all of your capital equipment to meet a new standard, is that really - we just need to be very careful that that's not happening.

And I hear you - you've gone around and done some consultations, but we need to make sure that we're hearing the things but that we're also listening to what we hear and what makes sense. I don't know if in the department there are many staff that would have come from business environments.

MS. MACEACHERN: In terms of the Occupational Health and Safety Division?

MR. HOUSTON: Yes.

MS. MACEACHERN: Yes. The Occupational Health and Safety Division background is from a variety of different areas, so definitely there would have been officers who would have been, for example, Occupational Health and Safety officials within organizations and then have decided to move into the department - that would be one example. So yes, a wide variety, I don't have the exact numbers but for sure there are people who have previous business experience.

MR. HOUSTON: Have you heard these concerns about the road safety changes?

MS. MACEACHERN: I'm thinking that's probably the Transportation and Infrastructure Renewal Department's area - it's certainly not something that's coming out of the Occupational Health and Safety Division.

MR. HOUSTON: The Workers' Compensation rates that we pay in Nova Scotia are pretty high, right? Would they be the highest nationally?

MS. MACEACHERN: My understanding, again, so that would be more in the realm of the WCB, but I know they recently had their annual report out and I do understand the rates are the highest in the country - that is my understanding of that, yes.

MR. HOUSTON: So did I hear you say that a portion of those rates go to fund some of your activities?

MS. MACEACHERN: They do, yes. The accident fund under the Occupational Health and Safety Act and the Workers' Compensation Board, it does provide that 96.5 per cent of the Occupational Health and Safety budget is from the accident fund.

MR. HOUSTON: Would it be fair to say that more inspectors mean higher WCB rates, because they've got to be funded through those rates?

MS. MACEACHERN: I think that might be a good question to ask WCB. I understand they're going to be here at Public Accounts Committee in a couple of weeks. I really couldn't answer that question; I'm not sure the details of how they determine all of their rates. I don't believe that that's the case; I think it's a more complex factoring of a number of different things, so I don't know that it goes directly to the number of inspectors that are hired. There is a budget allocation to the Occupational Health and Safety Division and we are required to allocate our resources based on that budget.

MR. HOUSTON: So for the Workplace Health and Safety Regulations, that's you folks?

MS. MACEACHERN: Yes, it is.

MR. HOUSTON: I'm getting closer. There are some phase two changes that I think were just recently announced, or they're about to be announced - have they been announced?

MS. MACEACHERN: Yes, they're in progress.

MR. HOUSTON: They're in progress, so they've not been - employers aren't fully aware of what these new regulations are at this stage - right?

MS. MACEACHERN: I will refer that one to Anne, who can give a little more detail on phase two.

MS. PARTRIDGE: Just to kind of put in context, folks know that Workplace Health and Safety Regulations, that whole project, has been set up in three phases and it's essentially to move all the existing regulations that we have, I believe there are 13 things from first aid to fall protection, into one consolidated regulation.

The first phase occurred last year, which was the fall protection, all that sort of thing, as of June. Phase two is just underway now, so we have not yet gone out to consultation on that, so that's why employers and folks would not be aware. But we would be basically sharing what the changes and the updates would be and they would include things like joint Occupational Health and Safety Committees, first aid, and things like that.

MR. HOUSTON: So it was anticipated initially that they'd be presented at that Safety Services conference two weeks ago, I guess, but that didn't happen - correct?

MS. MACEACHERN: That was the day of the storm; there was a blizzard that day so unfortunately some of the scheduled events of that conference weren't able to go ahead as fully planned, particularly on day one.

MR. HOUSTON: Right, it was the day of the storm. I think some of the conference happened and some didn't. So the Joint Occupational Health and Safety Committee - that's at the company level, right?

MS. MACEACHERN: Yes.

MR. HOUSTON: If there are 50,000 worksites in Nova Scotia, are all 50,000 meant to have such a committee?

MS. MACEACHERN: The legislation requires for larger organizations that they have a JOSH committee. A smaller organization is not required to have that under the legislation.

MR. HOUSTON: And larger means how many employees?

MS. PARTRIDGE: Twenty or more is the requirement for a committee under the Act.

MR. HOUSTON: So if you have 20 employees, you have a JOSH?

MS. PARTRIDGE: Yes.

MR. HOUSTON: How many people have to be on your JOSH at that level?

MS. PARTRIDGE: It would depend again on the number above 20 that's in the workplace.

MR. HOUSTON: Let's say 20.

MS. PARTRIDGE: Okay, so essentially we'd have a co-chair - you'd have two co-chairs, one from the management side and one from the employee side. Then you would have - I have to be honest, I don't think the Act specifically says you need to have a total of five people, but you need to show if you had co-chairs and that you had equal representation of management and employees on that committee, and that it is active.

MR. HOUSTON: So it could be five?

MS. PARTRIDGE: Yes.

MR. HOUSTON: So if you have 20 employees, you have five people on your committee. I think one of the phase two regulations was that every member of the committee would have to attend mandatory training for three days. Are you familiar with that regulation?

MS. PARTRIDGE: Yes, I'm familiar that that was one of the provisions that has been proposed and that would go out to consultation to get comment back. To be honest, a jurisdictional scan was done on that to have a sense of - across the country in terms of what the requirements were for mandatory training and the three was consistent with that. But again, that's not final until the consultation is complete.

MR. HOUSTON: That's a quarter of your workforce out for the better part of a week every year, right?

MS. PARTRIDGE: Yes, it's a time and cost thing.

MR. HOUSTON: That's just one of the regulations of phase two?

MS. PARTRIDGE: Yes.

MR. HOUSTON: And the other ones haven't really been publicly disclosed - I think I heard that one anecdotally. Would employers know the full extent of them?

MS. PARTRIDGE: Right, so it's unfortunate - at the Safety Services Conference, there would have been an overview of that. We're going to do a similar session at the Cape Breton Symposium and again, all that information would be available - it would go up on our website and be available online. Once it goes out to consultation, there would be a minimum period of 60 days in which people could respond.

MS. MACEACHERN: Most definitely, if there are concerns or comments about what's proposed that you're hearing from your constituents, if they have a lack of information or questions about anything, we definitely want to hear it. We want to hear what all Nova Scotians have to say about any draft regulations that we put out for consultation. If they have comments, we will most certainly consider them and factor that into any decisions that are made.

MR. HOUSTON: Just to make sure I understand, and we'll have to use the benefit of this time wisely - I want to make sure I understand the process. Is the process for the most part - somebody calls the 1-800 number to raise an issue to the department and then the department does what? Starting with dispatching an inspector - what does an inspector do when they get there?

MR. CHAIRMAN: Order, please. I'm sorry, Mr. Houston, but time has expired. (Interruption) It's 14 minutes in the second round.

We'll now move to the NDP caucus, and Ms. MacDonald.

HON. MAUREEN MACDONALD: Welcome, good morning. I don't have a lot of questions, but I want to understand a bit better the high risk, what the categories are. When I think about occupational health and safety I think about construction and fisheries, but I know that there are certainly a lot of incidents of workplace injuries in the health sectors. When I read the recommendations from the Auditor General and the comments from the staff that conducted the audit, I see that the health and social service sector have been identified as a high-risk sector for which there wasn't a checklist for inspection services.

First, can you just tell me what the high-risk sectors are or is that yet to be established as part of your work in response to the Auditor General's Report? I'm trying to get a handle on the information we've been given - if it already is established or if it's something that's underway?

MS. MACEACHERN: We have a good sense of the high-risk sectors, based on information that's already available to us, based on fatality rates over the last few years, the significant injuries. Through WCB, through our own information that we have, we've got a good, strong sense of the high-risk sectors and you've named them so you're well aware of

them yourself. It is very accurate to say that the fishing industry is a high-risk sector; the construction sector is high risk as well.

Those two particular sectors are high risk; they tend to be for fatalities, for serious injuries. The health sector is also a high-risk sector. There tend to be more strains and that kind of injury in that sector versus fatality or serious injuries. You've named it right, those tend to be the high-risk areas, but of course, in terms of workplaces, high-risk workplaces can vary so by no means is, for example, every workplace within the construction industry a high-risk area.

With those high-risk areas we are doing a number of things. I mentioned working on doing more targeting and you mentioned about checklists. Based on the Auditor General's Report, we do completely agree about the importance of checklists for inspectors. We do have some in place. We actually have a pilot or a draft, one for the health care sector that we're looking at, confirming, based on some evaluation we do as we get it in place and use it. So we do have some checklists in place, a draft one for the health care sector and we're looking to expand those. Our additional resources will allow us to spend more time on that and have some additional resources that can focus on that.

Also in terms of targeting and the focus on high-risk areas, we have a number of partnerships underway with other organizations in those high risk areas that are really promising. In the health care sector, there's the Soteria Strains, a pilot project that is happening now and has shown some success. It's in conjunction with the WCB at the district health authorities and the safety association in the health care sector. That's a promising partnership and we've seen improvements there through that work.

As well there is a targeting program that is just getting underway with the Nova Scotia Construction Safety Association. It is called Target Zero and it will be the WCB, the Safety Association, and LAE working together targeting the high-risk workplaces within that industry, which is by all means not all of them. It is a small group, we understand. We're going to be targeting those, providing them with education and support to see those incident rates in those particular high-risk workplaces go down.

MS. MACDONALD: When you talk about targeting, you must have the capacity to identify particular work sites or particular employers that have higher rates of workplace fatalities and injuries than others, I would think. So this gives you the capacity to focus your inspections, your follow-ups and what have you, more intensely in particular ways rather than trying to do the whole breadth of the workplaces which, with the resources you have, you have to make those judgment calls, I guess.

MS. MACEACHERN: Exactly. It allows us to continue to do our complaint base which is very important, but also spend time on the targeting which we also believe to be extremely important. Both of those are needed in order to reduce workplace injuries in Nova Scotia.

MS. MACDONALD: Coming back to the health sector, it's a big sector. When you talk about the workplaces within the health sector and the pilot projects that are underway, can you tell us more about what kind of settings those are? Are they in the long-term care sector? The acute care sector? Are they within a particular district health authority? I'm very interested to know.

One of the things that I think was genuinely a big shock to me was how much money the province spends for premiums in the health care sector. Those actually have gone up, just because the rate of workplace injury is so high. It's something that I think we all felt pretty strongly about trying to address. These pilots, where are they in the health sector?

MS. MACEACHERN: Excellent question. I don't have that detailed information at my fingertips so I'm looking at Anne or Christine to see if they can help me a little bit.

MR. CHAIRMAN: Ms. Partridge.

MS. PARTRIDGE: I can only speak to it at a very high level. I know there are some efforts underway with our division and with long-term care facilities, particularly in Cape Breton. I know we've done work with particular nursing homes, like Braemore. We've actually gone in and done everything from how to set up a JOSH Committee and what's involved and what to do, to very specific things around how to safely move a patient from a lift to a bed. I know there are efforts underway with long term.

In terms of it being called a pilot with a number of nursing homes, I know that we've been very specific and reached out and worked with those who have asked for specific help and have had a lot of success there.

MS. MACDONALD: Thank you. One of the other questions I want to ask you and I'm not asking you about the specific situation but I think we were all genuinely shocked when the incident on Barrington Street occurred not so long ago - at the beginning of the year. The family in question are constituents of mine. I had an opportunity to speak with them and boy, this is a complex investigation because of all the different jurisdictions and organizations that get involved. You have police and motor vehicle concerns, the Department of Transportation and Infrastructure Renewal because there was a truck involved, and the Department of Labour and Advanced Education because people were on the job or in a company vehicle - all of these things.

One of the things that most struck me about this situation is the communication with the family around the process of investigation and kind of the transparency of who is responsible to do what and how do all these groups talk to each other. That's something that an audit and the things that the Auditor General looks at will never be captured, but yet I think in a very real way that's probably so important - the family members. I know that's

true for people, for example, in the fishery, and you talked about the family with the young man at the retail gas station in the Antigonish area.

We can talk about applying our common sense when we deal with employers but in these cases, especially if there's a fatality, there's often a family left behind. I'm wondering what the culture of your division is in terms of including the family and having them understand the process, and how that's unfolding.

MS. MACEACHERN: First of all, I would say that all of our hearts go out to the family of the individual who passed away in that Barrington Street accident, and to everyone who has been touched by workplace fatality. It's such a difficult situation, and I think it's very important for us to all remember the humanity of the situations, and to realize that it's not just a file on someone's desk. This is significantly impacting the lives of so many people when it occurs. We try to always remember that, and bring that into the work that we do.

For us, some of these situations can be complex, especially when there are numerous regulatory bodies involved and ensuring coordination and information goes out to the family. One of the things that we do is that we do send out - we do maintain contact with the family members in situations with a fatality or serious incident. A letter does go to the family members, and our officers call them and make themselves available to answer questions that they have. I understand that, in particular circumstances, our regional director will also contact the individual and provide additional information, particularly if it's a complex situation.

Another thing that we often do is make the family members aware of an organization that can be really beneficial to them. It's called Threads of Life, and we do think that more people in the province should be aware of that organization. It provides support to families whose family member has died or been injured as a result of a workplace injury. We make information about that available to them. Those are a couple of steps that we take.

MR. CHAIRMAN: Ms. MacDonald, you just have about 30 seconds left.

MS. MACDONALD: Well, I'll just say thank you very much for your answers.

MR. CHAIRMAN: We'll now move to the Liberal caucus. Mr. Maguire.

MR. BRENDAN MAGUIRE: How are you guys today?

MS. MACEACHERN: Good, thank you.

MR. MAGUIRE: I want to thank you for taking the time to come out today.

MS. MACEACHERN: I appreciate it. Thank you.

MR. MAGUIRE: One of the great things about this committee is that you get all different types of backgrounds. You hear from people who are small business owners, private industry, and you also get the chance to hear from workers and people who have done the actual work that your department affects.

For me, I've worked in confined spaces. I've worked in places from the grain elevators to busted water mains, all different types of weather and conditions, so I have a lot of experience when it comes to your department and the inspectors. To be truthful, I'm probably more comfortable working in work boots than I am in a tie.

One of the terms I started hearing over the last few years, before I did this job, was "near misses." It seems to be something that employers are concentrating on now, so they're gathering the information for the near misses. I always wondered what they are doing with that information. Is it going back to your department? We all know that the difference between a potential fatality and a near miss is sometimes inches and seconds away, and if that information is coming back to you, what are you guys doing with it, and what are you doing with repeat offenders for near misses?

MS. MACEACHERN: I'll see if Anne can answer that one.

MS. PARTRIDGE: You're quite right. "Near misses" is a term that is often used, and what would happen is if we were called on something and we went out and it was a complaint or it was an inspection, and it was a situation that was termed a near miss, if you will, then we would record and track that information. We would certainly treat the inspection as we would in any other course, in terms of whether an order is issued, a stop-work order was issued, what the follow-up will be.

What our system does is track the near misses, and then we ensure that we do go and follow up, or - I don't want to say there is a red flag that goes on the file, but we certainly do have an indication of that and do keep a close eye on that just the same as when we do a scan of a workplace and they have an order. Then we'll go back into the system and see if they are actually repeat folks. That information is recorded and tracked in our activity tracking system.

MR. MAGUIRE: In my personal opinion, I think your biggest obstacle is the culture around the working environment and these work sites. A lot of times when things do happen on these sites, for a variety of reasons, people are apprehensive about reporting these incidents. I know that you said you are concentrating on the education side of this. Have you already been out there doing that and are you seeing results? Are you seeing reports from industries that normally wouldn't report back to you?

MS. MACEACHERN: Yes, I think we are. This is anecdotal at this point but with our increased efforts we do feel like we are having results in that and that's through the positive feedback that we have received in terms of our educational efforts, and with our changes with administrative penalties coming online, we are hearing our organizations are much more interested in contacting Occupational Health and Safety Division, getting the information they need, and taking that back into their workplaces to make change.

MR. CHAIRMAN: Mr. Rankin.

MR. RANKIN: Thank you, I just had a question going back to the inspectors. On average do you have a number of how many inspections they do in a calendar year?

MS. MACEACHERN: For 2012-13, about 4,000 inspections and that would be on par.

MR. RANKIN: In total 4,000?

MS. MACEACHERN: No, 4,000 orders, I'm sorry - 2,500 inspections.

MR. RANKIN: There were 35 FTEs? That would mean they're doing about 70 in a calendar year, just the quick math. That's like one every three, three and a half days. Are there any metrics to try and improve that number? Did the department look at trying to - how are they compensated? Are there any incentives to do more inspections in a week? It seems to me as though they should be able to do a little bit better than that but I'm not an expert in the field or anything.

MS. MACEACHERN: The Auditor General actually gave us some recommendations on that point and we completely agree with that. We feel that our inspectors are doing very active inspections and are doing them thoroughly. It's work that's done on the site, also work that's done back in the office, in order to process their inspections and do a lot of the work that's associated with that.

The Auditor General did point out that it would be helpful to have some performance targets and so we've really embraced that recommendation and that will be part of our going forward plans in the next fiscal year. With the help of our additional resources, we're going to be looking at setting performance targets for our officers and we feel that would be a very effective way to have a good sense of the work that's being done and also be able to show to Nova Scotians and to others just how hard our officers are working and the good work they are doing.

MR. RANKIN: About the administrative penalties, where exactly does that funding go? Is it just to the general fund or is there a specific allotment that goes to fund the inspections or how does that work?

MS. MACEACHERN: Since the program was put in place in 2010, the revenues from administrative penalties have gone into general revenue. That was an issue that was of great concern. When we did our consultations and the Workplace Safety Strategy and on the admin penalty changes, we heard from all sectors that they would rather see the penalty fine amounts go into Occupational Health and Safety activities.

So in the legislative changes that were just recently made in the last sitting of the Legislature, the legislation was changed to allow for those penalty amounts, that revenue to go back into workplace health and safety initiatives. So when the program is fully implemented in the summer, that revenue will be going to workplace health and safety initiatives.

MR. RANKIN: Thanks very much for your time, that's all I have today.

MR. MAGUIRE: One more question, back to the changing of the culture around workplaces. After you have a near miss or after you have an incident that's reported, is there any kind of follow-up to make sure - and I don't want to paint either side right or wrong - to make sure the working environment hasn't changed negatively for the employee or that the employer and the employee are doing what's right because I know there are responsibilities on both sides.

Before I did this, we were sent out on training courses. We were educated. I mean, we were on courses probably weekly, sometimes, and so it is a responsibility on both sides. I just want to make sure that there is some kind of follow-up to make sure that the working environment isn't changed because that is sometimes a fear. If you report an incident, you go back to work and if you are in a position where your job changes day to day, sometimes maybe that job will get worse because of you being seen as someone who snitched or whatever it is.

MS. MACEACHERN: I will ask Anne to add to this, but a couple of comments come to mind in terms of the very important issue of employees feeling comfortable about making a complaint if they feel that they're at risk. The first one is our calls to the 1-800 line are confidential, if the person wants them to be, so there is no obligation to leave your name. We follow up on every complaint.

MR. MAGUIRE: I hope that's what you're pushing out there because I don't know if people necessarily realize that when they do make that call that it's confidential. I'm assuming they don't necessarily have to give their name or if they do, that their name isn't being given back to the employer.

MS. MACEACHERN: No, they do not need to give their name and they can make it clear, when they call, that it is important to them that the information not get back and we'll have those conversations and protect that confidentiality that they are requesting.

In addition to that, there are a couple of legislative pieces that are supportive of employees in those circumstances. The first one is that employees do, under the legislation, have the right to refuse work if they have reasonable grounds to believe that they're at risk. That's a provision in the Occupational Health and Safety Act. As well, there is a provision for discriminatory action complaints, so if they feel that they have stepped forward, made a complaint, and they're feeling retribution at work as a result of that, they can file what's called a discriminatory action complaint and our officers will investigate that as well. I don't know if Anne has anything that she'd like to add to that point.

MS. PARTRIDGE: The only thing I was going to add was to your comments around the follow-up and when something happens that we do go out. I believe the Auditor General did recognize that in Recommendation 5.6 and said that we could be doing a better job. The way it works right now is whenever an order is issued, the parties are required to provide a compliance notice, so as you can appreciate with 4,000 orders last year, there is no way we can go out and do 4,000 follow-ups. What we've agreed we need to do is we need to tighten up on that and we really need to focus on orders that have been given for the most serious offences and those that pose the most serious risk to life and safety, so certainly putting mechanisms in places and even the new targeting program that we're looking at, we're saying there is a minimum of two follow-up visits with each inspection that is done.

MR. MAGUIRE: That wasn't a knock on your department at all. In my area there are a lot of tradesmen and I have a lot of friends and family who either own small businesses that are trades or they're involved in it. There are a lot of fly-by-night companies and I think those would be the hard ones to keep a hold of. The other is just a simple question, how do you determine if it's the employer or the employee who gets the fine?

MS. MACEACHERN: That would entirely depend on the circumstances. The officers will investigate the situation. If needed, they will talk to witnesses. They'll look at the occupational health and safety legislation and what the potential violations are and will make a decision in their discretion as to whether it's an appropriate situation for the employer, the employee, or someone else on site to receive an order, in that circumstance.

MR. CHAIRMAN: With that, I guess we will conclude questions. Ms. MacEachern, I'll give you a chance to provide some concluding remarks.

MS. MACEACHERN: Thank you everyone for the opportunity to share the goals and priorities of the department, and specifically the Occupational Health and Safety Division. We are making good progress in our efforts to make Nova Scotia a leader in occupational health and safety. We've adopted practices that will make us a better regulator and a respected workplace educator, and most importantly, we want Nova Scotians to know that we have their back when they walk into their place of work, morning, noon or night.

We'll accomplish this through partnership with employees and employers, big businesses and small businesses - workplace safety is a shared priority.

I do want to leave you with a story that we heard recently from one of our officers, which really hit home for us about what we're trying to accomplish. As we talked about, I think, a little bit earlier, last year as part of phase one of the workplace safety regulations we introduced new fall protection regulations. This was greeted with some resistance by some, but this story shows the diligence of our officers can pay off. As part of the educational blitz that we did, we had one long-time worker who was opposed to taking fall protection training because of his years of experience in that particular field.

Recently this tradesperson called our officers he had dealt with in that circumstance to tell us that he had had a fall and luckily he was wearing his fall protection. He actually called to thank our officers who educated him and persevered, encouraging him and enforcing the requirements to wear fall protection. He said that it was the insistence of wearing this fall protection and being trained that really saved his life.

We really think that story shows that what we do does matter and we are very thankful that we have such hard-working safety officers who are out there every day protecting Nova Scotians and ensuring that we have a safe place to live and work, and by working together we can spare our families from hearing the devastating news that they've lost a loved one at work.

Thank you again for your interest and attention today. We really do appreciate it and we look forward to providing updates on our work as it progresses.

MR. CHAIRMAN: Thank you, Ms. MacEachern.

We do have a couple of items for the business for our committee. The first is we had a request, or we had come to an agreement, on discussing the issue of overtime costs in government. We were going to call the representatives of SAP, but it has been recommended that instead we call the Public Service Commission, which I do think is the appropriate department, but we want to have agreement from the committee.

I'm seeing some heads nodding in positive fashion - are we agreed that we will bring in the Public Service Commission to discuss overtime costs? Okay, then we will do that.

Also, since we're changing the group that is coming in, we need to give our researchers time to prepare for that meeting. We will look to have to postpone that meeting until September, because we do have meetings scheduled right through into June. I just wanted to make that point. I don't think there are any objections, but if anybody has one maybe you could state it now.

No objections? Okay. You're very agreeable. That's great.

Our next meeting will be on May 7th. We will have the Department of Finance and Treasury Board in to discuss the Public Service Superannuation Plan, plan management and asset mix. We do have the Auditor General providing us with a briefing on that. It is scheduled for 11:00 a.m., but I'm inclined to start it earlier, if we can.

Immediately after we adjourn here, we will look to bring them in, and as soon as they're ready to go, I think we can start if we're all in agreement on that.

Okay. With that, we stand adjourned.

[The committee adjourned at 10:49 a.m.]