

08 April 2008

Sandra Chaytor Q.C.
Bernard Coffey Q.C.
Counsel to the Commission of
Inquiry on Hormone Receptor Testing
Commission Offices
50 Tiffany Lane
St. John's, NL., A1A 4H7

Dear Ms. Chaytor/Mr. Coffey

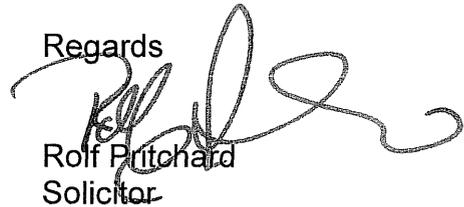
Re: Responses to Recent Questions

- Bruce Cooper's and Betty Donahue have no relevant e-mail or documents not already disclosed;
- Robert advises that Tim Murphy left Cabinet Secretariat in June 2005. Sandra Barnes did not start until August or September of 2005;
- Robert Thompson advises that he did not blind copy anyone on his 19 July 2005 e-mails contained in Volume 12 of the Province's disclosure;
- On Friday I received a response to my inquiry regarding the possibility of reconstructing the composition sequence of the briefing notes from OCIO. They have said that an analysis of a particular briefing note would provide a bench mark that may permit a more generalized conclusion about the feasibility, cost, etc., of doing this on a larger number of documents. This of course begs the question are you looking at certain briefing notes or all briefing notes? Could you please advise your views on this;
- Please find attached Robert Thompson's notes regarding the e-mail searches;
- The ER/PR issue did not appear on a Cabinet agenda prior to May 2007.
- The communications retreat referenced at Tab 52, volume 13 of the province's disclosure did not occur. It appears that no materials were prepared in anticipation of this event.

- I have reviewed the briefing decks from the Cabinet briefings on 16 January, 2008 and 08 February 2008. I maintain as I did on Sunday that the 16 January, 2008 briefing is solicitor-client privileged. The 08 February 2008 briefing deck is not privileged and it is included in volume XIV of the Province's documents, attached, which contains the other materials disclosed last weekend.

I trust that this is satisfactory.

Regards

A handwritten signature in black ink, appearing to read 'Rolf Pritchard', written over the printed name.

Rolf Pritchard
Solicitor

Notes on Search for Additional E-mails for Purposes of Disclosure
 April 2, 2008

- OCIO was contacted on April 1, 2008 to construct email archives of witnesses for additional searches. By mid-afternoon an initial review of OCIO-restored archives was possible. It was evident that the restored archives were only available on Groupwise software, not new Microsoft Outlook software. Therefore, the assistance of an OCIO employee, Steve Power, was necessary to efficiently manipulate the data and conduct searches.
- The whole process was significantly aided by the fact that the restored archives were the same archives that had been restored for purposes of the original email searches. If they had not been originally restored some months ago, the process of restoring them for the current search would have taken days. While this would make the process more efficient, our expectations decreased regarding the possibility that new emails would be discovered because these archives had already been examined previously. The key supplementary source that had not been examined before were the back-up archives in the Department of Health which were not known to Department of Health personnel and had not been retrieved by anyone in the initial searches.
- During the evening of April 1, 2008 Steve Power, OCIO prepared the specific archives that we would review, and most of April 2nd was spent conducting searches. These searches were conducted on Groupwise software. The archives of the following people were conducted: Gary Cake, John Ottenheimer, Ross Wiseman, Tom Osborne, John Abbott, Elizabeth Matthews, Brian Crawley, Ross Reid, Danny Williams, Carolyn Chaplin, Tansy Mundon, Moira Hennessey, Darryl Hynes, Marilyn McCormack, Josephine Cheeseman and Bev Griffiths.
- In addition, I visited the offices of Moira Hennessey and Bev Griffiths on April 1st to look at their email archives, and Steve Power and I visited the offices of Brian Crawley, Gary Cake and Sheree MacDonald on April 2nd to examine their email archives. The purpose of the direct office visits was to determine whether the use of Outlook's search engine would enable a better search on email that was accessible directly from the computers in each of their offices.
- In regard to the Groupwise searches, we looked for emails in and around July 19, 2005, August 18, 2006 and November 23-December 11, 2006 as appropriate depending on the person. In addition, we conducted searches on the subject headings and message contents using such search terms as ER/PR, Cancer, and Eastern. The records had been restored from back-up tapes that are maintained by the OCIO. The oldest back-up tape for Executive Council is February 2007 (meaning that it represents a snapshot of all email for people within Executive Council stored in their accounts on that date, reaching back over several years). The oldest back-up tape for the Department of Health and Community Services

was for January 2006. (Note: Renee Pendergast had OCIO search Executive Council emails in March as well, and did not turn up any additional emails at that time.)

- The Department of Health employs an automatic 180 day archiving procedure. Executive Council relies on the manual archiving activities of each employee. This situation, combined with the varying habits of employees in the way they maintain or delete current emails, means that the extent of email from each employee can differ.
- Examples of some of the problems encountered are as follows. The Carolyn Chaplin records from the Department of Health do not include the 180 days before she transferred to Executive Council in 2005. OCIO suspects that those 180 days did not meet the automatic archiving rule; and potentially could only be accessed through Executive Council. However, her Executive Council records start in August/September 2005 and do not contain the previous 180 days in Health. It is possible they were deleted in an effort to make space on the Executive Council Server. In the case of John Abbott's records, a significant archive was available for search covering the whole period, but no match could be found for the email copied to him by Carolyn Chaplin on July 18, 2005. It is evident that some days have far fewer emails than would be expected for a Deputy Minister, and this suggests periodic deleting of emails as part of general email maintenance.
- Gary Cake, Sheree MacDonald, Brian Crawley, Elizabeth Matthews and Premier Williams do not have archived records (because of the manual archiving policy which they likely did not activate for themselves), so the only emails available for search (in addition to the few hundred noted above) would be their current email folders accessible from their current computers. Crawley, Cake, and MacDonald were searched today using Outlook and nothing new was found. It is noteworthy that Executive Council, during the Groupwise period, consistently advised employees of the need to archive or delete emails in order to make space on the server. This type of advisory, I am informed, was also frequently issued to personnel in the Department of Justice.
- Despite the problems encountered, xx new emails were found from a number of people. The discovery of the new emails shows that the email search process employed over the last two days covered more territory than the process employed last summer and fall, but the bulk of disclosure of course was found at that time. Some of the new emails, in particular, had been previously disclosed by Eastern Health and were specifically targeted in searches last summer and fall, with no result. Therefore, while there remain some blocks of emails that are currently unavailable, we have a higher level of confidence that the province's email disclosure is as comprehensive as possible.

- I met with Stephen Lomond, an employee with OCIO, to get an explanation of why emails may be unavailable. He said there may be a number of reasons.
 - In Executive Council the practice was to advise all employees about the space limits available on email servers and ask employees to archive or delete emails in order to conserve space. Employees then employed their own strategies to conserve space, some times leading to a loss of records.
 - People who have archived email may find that their archives are no longer accessible. For example, it was formerly the case in Executive Council that manual archiving by default would route email to the hard drive of the computer. If a hard drive “crashed”, the archive would no longer be accessible, or if the employee changed jobs or departments, the archives may have been left on the computer and would have been deleted when the computer was reconfigured for the next staff person. The same could have happened if they received a new computer and the archive was not transferred to the new computer. The old computer’s hard drive would have been destroyed.
 - Backup were never intended to archive government electronic records. They are intended to be used to recover from a system failure. Based on this intent for backups a monthly backup tape which would capture the state of the system at that specific time were generally held for 12-18 months.
 - Staff were advised to place government records in the departmental records management system. The email system was never intended or designed to be a document management or archival system. As most departments only have paper document management system some employees would print and file their email as a part of the departmental paper document management system and delete them for the email system.
- Keith Budden advised for a period of time up to March 2006, Blackberry users who would delete emails on their Blackberry would also, perhaps inadvertently, delete emails automatically on their email accounts. This function was stopped in 2006