COMMISSION OF INQUIRY
ON HORMONE RECEPTOR TESTING

BEFORE THE HONOURABLE JUSTICE CAMERON - COMMISSIONER

MAY 15, 2008

Appearances:

Bernard Coffey, Q.C. . . . . Commission Co-counsel
Sandra Chaytor, Q.C. . . . . Commission Co-counsel

Rolf Pritchard/Megan Collins . . . . Her Majesty in Right of NL

Peter Browne . . . . . Doctors Kara Laing et al

Daniel Simmons/Sarah Learmonth . . . Eastern Regional Integrated
. . . . . Health Authority

Pamela Taylor . . . . . Members of the Breast Cancer
. . . . . Testing Class Action

Mark Pike . . . . . NL Medical Association
Jennifer Newbury . . . . . Canadian Cancer Society (NL Division)
David Eaton, Q.C. . . . . Central, Western and Labrador-Grenfell
Regional Integrated Health Authorities

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THE COMMISSIONER:
Q. Please be seated. Mr. Coffey.
COFFEY, Q.C.:
Q. Registrar -
THE COMMISSIONER:
Q. You're looking for something in particular?
COFFEY, Q.C.:
Q. I think, no, I'm just going to--just tell the Registrar I'm going to leave those for now. I'll come back to that later. Thank you. There are going to be some more exhibits, but I'll come back to that later. If we could, please, when you're ready, Registrar, Exhibit P-0067 please? Doctor, this is the May 24th letter of 2005 from Dr. Cook, and you've indicated to the Commissioner yesterday that you had viewed this as an occurrence report?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Okay, and in the context, and at that particular time, what was an occurrence report?
DR. WILLIAMS:
A. Well, if an adverse event happened or a

potential adverse event happened, you would do up a report to outline the issues and then develop a course of action to follow up.
COFFEY, Q.C.:
Q. Now was there any system for keeping track of occurrences, occurrence reports?
DR. WILLIAMS:
A. There was a system, however, we became involved at a later date in getting, on a national level, with trying to pilot, with some Federal Government funding I think, an electronic occurrence reporting system that would be a prototype for the country, but we did have a system. The main thing is that Quality became involved and they would be involved in tracking that from there.
COFFEY, Q.C.:
Q. So that would be Heather Predham?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Or her office anyway?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:

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Q. And so within the Health Care Corporation of St. John's, you know, during its existence, up until March 31 2005, and then this is the early days of Eastern Health, I take it that in the early months of Eastern Health generally, the Health Care Corporation, at least on the General Hospital and St. Clare's sites, just kind of continued on?

DR. WILLIAMS:

A. Yes, there was really no other option. You know, the organization came into being sort of on day one and on day one, you were into the business, so yes.

COFFEY, Q.C.:

Q. So any system, at least in those early months, after April 1 2005, to keep track of occurrence reports in relation to adverse events or potential adverse events was just simply a continuation of the Health Care Corporation's?

DR. WILLIAMS:

A. Correct.

COFFEY, Q.C.:

Q. And the system, such as it was, that was in place would have been in the quality

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department?

DR. WILLIAMS:

A. Yes. I think the important thing was to get Quality involved early on and then they'd be involved in follow up and tracking down.

COFFEY, Q.C.:

Q. Now, did they have any actual report, in the sense of reporting form for occurrence reports?

DR. WILLIAMS:

A. I think there was a reporting form. It was much--it wouldn't capture near the information of Dr. Cook on his report.

COFFEY, Q.C.:

Q. Yes, in this report.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. So this is just, I take it, some kind of a form sheet?

DR. WILLIAMS:

A. Yes, that's my recollection, a form sheet. I think what was here would be much more informative than the normal form sheet. That's my recollection.

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COFFEY, Q.C.:

Q. Now this--was the total number of occurrences, do you know, reports at the time, kept track of?

DR. WILLIAMS:

A. I would have to defer that question to the person who was in charge of that particular department at the time, Quality. Now I took over Quality probably about September when the director was hired and this type of thing.

COFFEY, Q.C.:

Q. I was going to ask you about that. Had you ever been responsible for the Quality department before?

DR. WILLIAMS:

A. No, I was on the corporate quality committee, but the reporting relationship would have been through another vice-president, a number of vice-presidents in the past.

COFFEY, Q.C.:

Q. Okay, and if we could, and I'll just bring this--on this point, bring up, if we could please, Registrar, bring up Exhibit P-0493? Now this is just a letter of June 14th 2005. It also happens--it's to you. It also happens

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to be from Dr. Cook.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. In fact, in passing, I think you referred to this letter yesterday. It's addressed to you as Vice-president, Quality Diagnostic and Medical Services.

DR. WILLIAMS:

A. Yes, correct.

COFFEY, Q.C.:

Q. So by June 14th, were you responsible for quality?

DR. WILLIAMS:

A. No, I think--I've talked about that subsequently. I think I took on the Quality portfolio when the--sometime around August/September, something like that.

COFFEY, Q.C.:

Q. And you took it over from whom?

DR. WILLIAMS:

A. Patricia Pilgrim at the time, and before her, it was Pam Elliott, I think.

COFFEY, Q.C.:

Q. So despite the fact that your title at the

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time was Quality, Diagnostic and Medical Services -

DR. WILLIAMS:

A. I think there was a transition into that role.

COFFEY, Q.C.:

Q. Okay.

DR. WILLIAMS:

A. My recollection, I also took over responsibility for pharmacy services as well, but I think there was a transition into that as well.

COFFEY, Q.C.:

Q. Would there be a document actually signifying the transfer date from Ms. Pilgrim's responsibility to yours?

DR. WILLIAMS:

A. I don't think so, but we could look.

COFFEY, Q.C.:

Q. Okay, and when you did take over finally, whether it was June, July, August or September, whatever, in '05 take over responsibility for Quality, then at that point, I take it, Ms. Pilgrim--I'm sorry, Ms. Predham would have reported to you?

DR. WILLIAMS:

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A. Yes, she would have reported through a director.

COFFEY, Q.C.:

Q. When you did become responsible for it, in the middle or latter part of 2005, can you tell the Commissioner please what you found in terms of--or learned about what kind of tracking system they had for occurrence reports, if any?

DR. WILLIAMS:

A. Ooh, I know we were looking at sort of developing a tracking system. We'd had some discussions that we were trying to pilot and there was some funding -

COFFEY, Q.C.:

Q. And that's that Federal -

DR. WILLIAMS:

A. Yes, on a national level, but I can't tell you the details of the tracking system we had in place.

COFFEY, Q.C.:

Q. Okay, before that?

DR. WILLIAMS:

A. Yeah. No, but I know that in the past, when we had issues like this or similar issues,

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because we did have other issues from time to time and I was involved in them, depending on if there was a medical involvement, that quality was prominent there and in working to follow up and make sure that we had a plan of action to follow up and people who needed to be notified were notified, this type of thing.

COFFEY, Q.C.:

Q. Now, in 2005, for example, in relation to the ER/PR matter -

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. - would that count as one occurrence? Like the entire ER/PR matter, would that count as one, or would it -

DR. WILLIAMS:

A. My view is that this occurrence, although there were multiple people affected, it would be considered an event and then that you'd track it up as an event.

COFFEY, Q.C.:

Q. So it would be one occurrence event or report?

DR. WILLIAMS:

A. That would be my perspective on it. Now other

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people may have a different perspective, but that would be an event and then a number of people would be affected, but it would be an event that you'd have to follow up on.

COFFEY, Q.C.:

Q. And in terms of the nitty gritty of how that was being accounted for on paper, Ms. Predham is the one to ask or Ms. Elliott?

DR. WILLIAMS:

A. They would know how--what the tracking, how the tracking system worked, certainly far better than me, in terms of how they collated things at the--I guess within the Department.

COFFEY, Q.C.:

Q. And while you were responsible for Quality, after you assumed the actual responsibility for it, were you ever required to prepare reports to the Board or anybody in relation to -

DR. WILLIAMS:

A. No, the quality program, because it was a new organization, because we wanted to take a different thrust and what happened was--I can explain--I need to explain this to you.

COFFEY, Q.C.:

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Q. Sure, go ahead.
DR. WILLIAMS:
A. If you don't mind.
COFFEY, Q.C.:
Q. No.
DR. WILLIAMS:
A. Back in the September 2005, we had a Dr. Robson come in, who was a consultant on clinical safety. Now before, in the old Health Care Corporation days, we had a corporate quality initiatives committee and the word is corporate because it just didn't deal with what I will call clinical safety issues.
COFFEY, Q.C.:
Q. Yes.
DR. WILLIAMS:
A. It dealt with quality issues in terms of staff, work attendance, things like that, that were--that's why the word corporate is there. It would deal with human resource issues and human resources would make a report. Materials management would make a report. So it just wasn't focused on patient safety.
Dr. Robson came in in 2004, I think it

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was brought in by the quality initiatives people as part of Patient Safety Week. I think that's my recollection. Dr. Robson did speak to leaders in our organization and we also invited Dr. Robson to speak to our clinical chiefs meeting on retreat. Every year, we had a clinical chiefs get together for a day, a retreat, where we had a guest speaker come in on issues, and also there was some camaraderie too, because we had a social aspect to it as well, but we met once a year. And he came and spoke to our clinical chiefs. There was quite a bit of discussion about his presentation. He was working in Winnipeg Regional Authority at the time and we were just getting in the stages of planning what we were going to do in terms of quality. We knew we were going to have support, I guess, to undertake new initiatives there, so he advised us that the best place in Canada for quality was the Calgary Regional Health Authority.
They were farther advanced than any other organization in the country. The reason they were farther advanced is because they had some major problems there, in terms of the number

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of patient deaths, sudden deaths from potassium chloride that got given to patients instead of some other less--I think it was sodium chloride they were supposed to get. They got potassium chloride. Potassium is pretty lethal if you give it, and they had a couple of acute deaths out there. They had somebody come in from outside and do a patient safety audit and they developed their patient safety agenda from that.
So we, once the director was appointed, probably about September/October, and I stand to be corrected on that, but we made contact with Calgary and we asked if we could come and spend some time with them to learn what they'd learned and see if it could help us develop our clinical safety agenda and they had a lot of literature written at the time as well, we saw from some of the health care journals that dealt with quality management. Ms. Elliott and myself visited Calgary around the first week of January 2006, and looked at what they were doing there and used their model to develop what we thought at the time would be an approach to quality in Eastern Health. So

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we used their model. We made a presentation, I think, to the executive management team sometime in the spring of 2006 and from there, I think we achieved some funding to start the process.
It involved--we were going to, and we did, as I was leaving, just before I left, develop an Eastern Health wide quality committee, and I forget the name of it. I could look it up, but which would be a high level committee, and I think subsequent to that, as the Board was developing their strategy, there was some reporting mechanism to the Board, but not in that time frame when I was there. So we were working towards that.
COFFEY, Q.C.:
Q. Yes.
DR. WILLIAMS:
A. Now in the Health Care Corporation of St. John's, there was a Board committee for quality and that Board committee was chaired by one of the board members and that committee met on a regular basis and each program, usually the program director and clinical chief, prepared an annual report that

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encompassed quality issues and certain programs were selected to make a--to appear before the committee and make a presentation in addition to their written presentation.

COFFEY, Q.C.:

Q. Did the clinical laboratory do some?

DR. WILLIAMS:

A. I'm sure over those years, the clinical laboratory would have done that, yes.

COFFEY, Q.C.:

Q. Okay, and then in relation to the ER/PR matter, do you know if in fact there's ever been a report of that sort of nature?

DR. WILLIAMS:

A. Not to my knowledge.

COFFEY, Q.C.:

Q. And either to the Health Care Corporation or to Eastern Health?

DR. WILLIAMS:

A. No.

COFFEY, Q.C.:

Q. Again, not to your knowledge?

DR. WILLIAMS:

A. Not any--I don't--if you look back at the reports, the laboratory medicine program, I

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don't think there will be any reference there, but I stand to be corrected, because I haven't reviewed the reports.

COFFEY, Q.C.:

Q. Now sir, just looking at this exhibit, P-0067, you've indicated before, when you received this, you had a conversation with Dr. Cook concerning the matter, and just so I understand this, up until that point when Dr. Cook called you about this ER/PR matter, estrogen receptors and progesterone receptors, in relation to breast cancer, I take it didn't really mean a whole--didn't mean anything to you?

DR. WILLIAMS:

A. Didn't mean--no, I would not have had occasion, as a general practitioner, to order those tests or act on the basis. Those were specialized areas.

COFFEY, Q.C.:

Q. And I take it that in relation to that then, the potential clinical significance of them would have been unknown to you, up until Dr. Cook called you?

DR. WILLIAMS:

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A. Yes.

COFFEY, Q.C.:

Q. Up until that point, the immunohistochemical testing, IHC testing, had you--what, if anything, did--you know, before you picked up the phone and talked to Dr. Cook that day, okay, what, if anything, did you know about IHC testing?

DR. WILLIAMS:

A. I recollect, back early when I came, there was some issues, not about--but about that testing was done in St. John's, such thing as immunohistochemistry.

COFFEY, Q.C.:

Q. This would be back around '98?

DR. WILLIAMS:

A. Probably '98 or '99.

COFFEY, Q.C.:

Q. Okay.

DR. WILLIAMS:

A. And that there was an issue of how the pathologist--should the pathologist get paid for doing that work.

COFFEY, Q.C.:

Q. Okay.

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DR. WILLIAMS:

A. In addition to their regular salaries.

COFFEY, Q.C.:

Q. For doing work for outside -

DR. WILLIAMS:

A. Yes, stuff that was referred in from other centres.

COFFEY, Q.C.:

Q. Other centres, okay, that did come up as an issue at one point?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. The pathologists in St. John's, I take it, particularly the General Hospital, at times were reporting these cases for Corner Brook?

DR. WILLIAMS:

A. Yes. These stains were only done in St. John's, I understood, so that they would be reporting them to other centres, so -

COFFEY, Q.C.:

Q. I take it they saw that as above and beyond their, at the time -

DR. WILLIAMS:

A. Yes.

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COFFEY, Q.C.:
Q. - their duties to the patients locally?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. In the sense of locally within Health Care Corporation?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. How was that--just as an aside, how did that turn out?
DR. WILLIAMS:
A. Well, we followed up on that and I think we followed up with the Department of Health, as well.
COFFEY, Q.C.:
Q. Yes.
DR. WILLIAMS:
A. It was felt that as the St. John's area were tertiary referral centres similar to for neurosurgery and this type of thing, that some consideration be given to factors like that in the staffing and that that should be part of the--should be considered part with an

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additional funding provided. I'm pretty sure of that.
COFFEY, Q.C.:
Q. Additional funding provided to provide more staff or to provide more money for the staff?
DR. WILLIAMS:
A. No, provide fees for the pathologists, additional fees for the pathologists. I think the decision was that that would be encompassed within our mandate in St. John's and within their mandate.
COFFEY, Q.C.:
Q. So were they paid any more for doing it then?
DR. WILLIAMS:
A. No, they were not.
COFFEY, Q.C.:
Q. Oh, they were not?
DR. WILLIAMS:
A. No, they were not.
COFFEY, Q.C.:
Q. Oh, the final conclusion was it's part of their job?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:

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Q. And that's it?
DR. WILLIAMS:
A. Yes, because it's part of the job of the provincial referral centre.
COFFEY, Q.C.:
Q. And do you--talking about that time frame, okay, in 1998 or so, do you know a Dr. Khalifa?
DR. WILLIAMS:
A. No, I didn't meet Dr. Khalifa.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. I know there was a Dr. Khalifa there, yes.
COFFEY, Q.C.:
Q. So by the time you got established within the Health Care Corporation yourself do you know if Dr. Khalifa was still there at that time or had he gone by then?
DR. WILLIAMS:
A. Yeah, I remember his name coming up but I think I also remember him leaving shortly after that time.
COFFEY, Q.C.:
Q. So you never met the gentleman?

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DR. WILLIAMS:
A. No, I never met Dr. Khalifa personally.
COFFEY, Q.C.:
Q. And in terms of Dr. Khalifa in your early days with the Health Care Corporation, what did you understand his role had been?
DR. WILLIAMS:
A. I understood he was a pathologist who may have been interested in cancer pathology, but that's all I would have known.
COFFEY, Q.C.:
Q. Okay. Sir, so you, in your early days with the Health Care Corporation back in 1998 would have, into 1999 you would have been exposed to the idea of IHC testing because it came up in relation to workload?
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:
Q. But in terms of actually what it was and what its clinical usage and significance was -
DR. WILLIAMS:
A. That wasn't the issue at the time.
COFFEY, Q.C.:
Q. So you wouldn't have understood that?

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DR. WILLIAMS:
A. No.
COFFEY, Q.C.:
Q. When did you first become exposed to that as a clinical, in terms of the potential clinical significance of IHC testing?
DR. WILLIAMS:
A. I'd say during this episode in 2005.
COFFEY, Q.C.:
Q. When Dr. Cook called you and -
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. - then followed up with the -
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. In writing. If we could look at, I'll just-- mouse isn't working here. Page 2 of this exhibit, Dr. Williams, Exhibit P-0067. For example, the paragraph beginning "Immunoperoxidase staining couples a peroxidase label to a primary antibody which then bonds to a specific antigen in a cancerous lesion."

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DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And it goes on at some length then to describe what this, the actual physical process, chemical physical process. The information contained in that, you would have had no knowledge of this before you read this?
DR. WILLIAMS:
A. No, not really prior knowledge, no. This is a specialized area that in terms of general practitioners, we wouldn't be ordering these tests.
COMMISSIONER:
Q. Just to go back to something you said a little earlier while it's fresh in my memory, do I take it that the board committee related to quality issues was not really in operation before you left the organization? Did I get that impression? Because it was one of the latter committees, I guess, of the board of trustees created?
DR. WILLIAMS:
A. Yes. When I left Eastern Health, that wasn't in place.

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COMMISSIONER:
Q. Okay.
DR. WILLIAMS:
A. We were just in the summer getting in place a broad-based committee that would look at all quality issues from Eastern Health.
COMMISSIONER:
Q. Um-hm. The board has its own committee, right?
DR. WILLIAMS:
A. No. The board, the board of Health Care Corporation had an committee.
COMMISSIONER:
Q. Yes.
DR. WILLIAMS:
A. But obviously that committee, when the board was disbanded in April of -
COMMISSIONER:
Q. But I thought the new board had developed later in the day a committee?
DR. WILLIAMS:
A. Oh, yes, but it must have been after I left.
COMMISSIONER:
Q. Yes, okay.
DR. WILLIAMS:

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A. Yes. What was developed when I was there was at the staff level, at the, you know, at the -
COMMISSIONER:
Q. Yes. And that was the Eastern Health wide -
DR. WILLIAMS:
A. Yes, quality -
COMMISSIONER:
Q. - endeavour?
DR. WILLIAMS:
A. - committee. That was as we moved forward implementing the Calgary model that was -
COMMISSIONER:
Q. Yeah, okay.
DR. WILLIAMS:
A. - put in place.
COMMISSIONER:
Q. Thank you.
COFFEY, Q.C.:
Q. Doctor, looking--and so looking at the bottom paragraph at page 2, the reference to Dr. Ejeckam, "Our point man for immunoperoxidase testing at the General Hospital site." Until you saw this or during the conversation you had a little bit earlier with Dr. Cook earlier that month, had you known that there was such

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a thing as a point man for immunoperoxidase staining or testing?

DR. WILLIAMS:

A. I know there was a memo, we're going to talk about that letter, in 2003.

COFFEY, Q.C.:

Q. Sure.

DR. WILLIAMS:

A. But, no, I didn't know there was a point person or -

COFFEY, Q.C.:

Q. Like that kind of nitty gritty of structure within the clinical laboratory, you wouldn't have been -

DR. WILLIAMS:

A. No, I wasn't--I knew there was a site chief at both sites and that's--and they would come up through the clinical chief for appointment at the MAC, but you know, there was, I'm sure there was people who had particular interest in certain things within the lab, but I wouldn't know that.

COFFEY, Q.C.:

Q. I take it that then in terms of your involvement with the clinical laboratory

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medicine program, being exposed to the kind of nitty gritty of that, like, who does what, you know, and who's responsible for what, below the site chief level you would only become aware of the details of that if there was a problem?

DR. WILLIAMS:

A. Yes, I think that's fair enough. I didn't--yes, in a large organization I didn't get to the nitty gritties.

COFFEY, Q.C.:

Q. Yeah. What, if any, system was there in place, you know, prior to May of 2005 for the existence of a problem in the lab to be brought to your attention?

DR. WILLIAMS:

A. Any problems in the lab, I would suspect, would, we had, obviously we had a forum that we met every month.

COFFEY, Q.C.:

Q. And that was the -

DR. WILLIAMS:

A. Leadership team, I'd meet with the leadership team at the lab on a monthly basis.

COFFEY, Q.C.:

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Q. And how long, how far back did that extend?

DR. WILLIAMS:

A. Probably to the time of Dr. Haegert and Mr. Whalen, but I don't know if we met as formally then. We did meet.

COFFEY, Q.C.:

Q. Yes.

DR. WILLIAMS:

A. I know when I was at the Grace, I know I used to meet with Mr. Whalen and Dr. Haegert, but I don't know if--we certainly seemed in around 2001, 2002 to really capture that in regular monthly meetings with an extensive agenda, this type of thing.

COFFEY, Q.C.:

Q. Okay. And that would be--and that continued then, I take it -

DR. WILLIAMS:

A. Until I left.

COFFEY, Q.C.:

Q. Until you left in '06?

DR. WILLIAMS:

A. Yes. Now, we would meet--probably July and August we may not meet because of holidays, but I expect if we look back, we would have

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had at least ten meetings a year.

COFFEY, Q.C.:

Q. So that would be certainly April, May and probably June you'd meet?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Of each year?

DR. WILLIAMS:

A. If we didn't meet, it would probably be--now, I think you'll find, too, on occassion because other things were going on and one of us was away, we might have missed the odd month. But we had an agenda which we kept rotating and until things were dealt with, it stayed on the agenda.

COFFEY, Q.C.:

Q. And in terms of you then as the VP medical being informed about the existence of a problem or potential problem, you were relying upon whom?

DR. WILLIAMS:

A. Well, we--any issues would be brought up at that meeting or the clinical chief or the program director could phone or things like

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that, sure.
COFFEY, Q.C.:
Q. If it was before the meeting or -
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. - the meeting had been yesterday and it was going to be another month -
DR. WILLIAMS:
A. Yes, sure.
COFFEY, Q.C.:
Q. - but in the normal course, I take it then, your understanding with Mr. Gulliver and with Dr. Cook while they were in their roles was is they would bring forward for your attention at these meetings any problem of any significance?
DR. WILLIAMS:
A. We'd all bring forward. I could bring forward, as well.
COFFEY, Q.C.:
Q. Oh, yes, I appreciate, yes. But if it was -
DR. WILLIAMS:
A. All three could bring forward issues.
COFFEY, Q.C.:

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Q. If it was something within the lab and you wouldn't know the nitty gritty of it, you were relying upon them to bring it forward to you?
DR. WILLIAMS:
A. Yes, I would expect in normal events that anything that they, excuse me, felt that they couldn't deal with or needed to be brought up would be brought up. If they could deal with it, they may not bring it up. The other forum we had, of course, that I met with Mr. Gulliver four times a year for his goals and objective setting and follow up on those and Dr. Cook would be the same thing.
COFFEY, Q.C.:
Q. Said from your perspective if they could deal with it, they may not bring it up at the meeting?
DR. WILLIAMS:
A. Yes, you know, some things.
COFFEY, Q.C.:
Q. Was there any--did you ever have a discussion with them as to, you know, what it was or the nature of what it was in terms of problems or potential problems that you wanted to be informed about, whether or not they felt they

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could deal with it, was there ever any -
DR. WILLIAMS:
A. I can't remember any discussion that I want you to bring this up but don't bring this up, no, I can't remember that.
COFFEY, Q.C.:
Q. Like in terms of if a matter of a certain significance or potential significance?
DR. WILLIAMS:
A. No, I don't think we've ever had that discussion. We meet regularly, so I presume if there was anything that certainly they felt that I needed to know or we needed to discuss at that level, we would discuss it, it would be brought forward.
COFFEY, Q.C.:
Q. And there was, you say there was an agenda for these?
DR. WILLIAMS:
A. There was an agenda, it was sort of rotating agenda where we'd have, we keep issues usually on the agenda until we couldn't resolve them because might be a financial issue or might be something else, and eventually we'd say well we've gone as far as we can with that, or the

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issue would be resolved and it would be removed from the agenda or we'd taken some action on it. And then new issues would keep cropping up on the agenda.
COFFEY, Q.C.:
Q. Sure. Who kept track of this agenda?
DR. WILLIAMS:
A. Mr. Gulliver, that was his role, he would keep track of the agenda and would do the minutes.
COFFEY, Q.C.:
Q. And were these kept, do you know?
DR. WILLIAMS:
A. Yes, the minutes are all kept.
COFFEY, Q.C.:
Q. And was called the -
DR. WILLIAMS:
A. Laboratory--I'd have to look up the name.
COFFEY, Q.C.:
Q. Sure.
DR. WILLIAMS:
A. But we met and the minutes were kept and they're all, I think you probably have copies of them all.
COFFEY, Q.C.:
Q. Sure. So that's the laboratory leadership

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team?
DR. WILLIAMS:
A. Yeah, meeting with the vice president. I don't know what the name, you know, I'd have to look at the name, but they were there.
COFFEY, Q.C.:
Q. Do you know if in 2003 the problems with stains in the lab was raised during those meetings?
DR. WILLIAMS:
A. I don't recall them being raised, no.
COFFEY, Q.C.:
Q. Now looking at, again, page 2 of this exhibit, now you were informed at the bottom of the page first about Dr. Ejeckam's involvement in '03, having involved discontinuing testing of the ER and PR receptors, the manual method for a six-week period. "A memo was circulated to all pathologists across the province stating this. The technique was temporarily halted because of erratic staining which required readjustments of titration and staining times. Once Dr. Ejeckam felt confident of the reliability of staining the test was reintroduced." At this time, having received

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this memo, did you make any inquiries as to whether you could get a copy of that memo?
DR. WILLIAMS:
A. No, I would have probably discussed with Dr. Cook, but I can't remember the details of our discussion around the situation. And--yes, go ahead.
COFFEY, Q.C.:
Q. I'm sorry.
DR. WILLIAMS:
A. No, no.
COFFEY, Q.C.:
Q. How about in 2005, May and June, in fact, July, August and so on, all the way through 2005, did you ever speak to Dr. Ejeckam about that?
DR. WILLIAMS:
A. No, I did not. I had Dr. Cook go back and speak to him again and give me information based upon that.
COFFEY, Q.C.:
Q. And do you recall when that was?
DR. WILLIAMS:
A. Yes, in--after July 8th, the week after July 8th, after I informed Mr. Tilley we had a

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meeting out at the corporate office and we were asked to go out there. And I thought we were going to meet with Mr. Tilley at the time, and I think we were going to meet with him, but he might have got caught up in something else and so I think it was Susan Bonnell was there and Mr. Gulliver, Dr. Cook, myself and Ms. Predham, I think that's who was there.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. And the memos, Dr. Cook brought some memos along at that meeting.
COFFEY, Q.C.:
Q. And these would be these memos from '03?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Okay. And so was that--you looked at the memos at the time?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Okay. Were they discussed at that time with

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Dr. Cook and -
DR. WILLIAMS:
A. They were discussed, I think they were discussed around that time, but I don't think--we discussed them at that meeting but I think I followed up with Mr. Gulliver and Dr. Cook about those aside from the other people being there.
COFFEY, Q.C.:
Q. And what about contacting Dr. Ejeckam about the matter?
DR. WILLIAMS:
A. I asked Dr. Cook to further follow up with Dr. Ejeckam to see if there was anything new that we could add. At that time we had already made a decision to retest everybody from all years. That was my recollection.
COFFEY, Q.C.:
Q. And do you know if Dr.--did Dr. Cook ever report to you that he had followed up with Dr. Ejeckam?
DR. WILLIAMS:
A. Yes, he did. And that would have been done the first week of July.
COFFEY, Q.C.:

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Q. And so he has the memos?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And what did he tell you Dr. Ejeckam had said?
DR. WILLIAMS:
A. Dr. Ejeckam, he talked to Dr. Ejeckam, Dr. Ejeckam said he'd adjusted the staining with Ph issues and he'd adjusted the titration of the antibodies and moved on from that.
COFFEY, Q.C.:
Q. During this conversation with Dr. Cook about what Dr. Ejeckam had said, did the topic come up about, well, why wasn't there retesting done in '03?
DR. WILLIAMS:
A. I think that discussion would have come up with Dr. Cook, I'm not sure exactly at that time, but we did have a discussion to follow up with Dr. Cook.
COFFEY, Q.C.:
Q. Now, did you ever actually discuss this with Dr. Ejeckam, this whole matter?
DR. WILLIAMS:
A. No, I did not. And that's one of the things

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that in retrospect maybe it would have some benefit back then to do that, however, by that -
COFFEY, Q.C.:
Q. This is back in '05?
DR. WILLIAMS:
A. Yes. By that time we had already made the decision to retest and it would be hard, I don't know of anything that Dr. Ejeckam could have said that would have changed our mind based upon the information I had at the time.
COFFEY, Q.C.:
Q. And you say now looking back on it perhaps it might have been of some assistance to actually have -
DR. WILLIAMS:
A. Even when you -
COFFEY, Q.C.:
Q. He was in the same building with you, wasn't he?
DR. WILLIAMS:
A. Yes. When things happened, yes. And we met on the 14th, actually, and that issue didn't-- he didn't bring it up and I don't think we brought it up. By that time Dr. Cook had

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talked to him again.
COFFEY, Q.C.:
Q. So that's July 14th?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. You met with Dr. Ejeckam?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. What was that about?
DR. WILLIAMS:
A. He had sent a report to us in June from the surgical pathology review committee with some recommendations on it.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. And it was in follow up to a recommendation he'd sent before about the proper information on the requisitions.
COFFEY, Q.C.:
Q. Yes.
DR. WILLIAMS:
A. And I felt based upon that memo that he was a

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little concerned that that recommendation hadn't been followed up fully, so I thought it would be wise for Dr. Cook and myself to meet with him because of that recommendation and to assure him that it was followed up and it was being dealt with.
COFFEY, Q.C.:
Q. And so -
DR. WILLIAMS:
A. And there were some other issues we wanted to discussed too, yes.
COFFEY, Q.C.:
Q. So but when you did meet on July 14th, 2005 with Dr. Ejeckam concerning a matter involving requisition completion?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. That he didn't raise the ER/PR issue with you?
DR. WILLIAMS:
A. No.
COFFEY, Q.C.:
Q. And you did not raise it with him?
DR. WILLIAMS:
A. No.

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COFFEY, Q.C.:
Q. And is there anything you can tell the Commissioner to help to explain well why you wouldn't just ask him about it?
DR. WILLIAMS:
A. Well I think Dr. Cook had already discussed it with him, there was nothing--new information to add and at that time we had decided to retest and that was my thinking at the time, in retrospect, as I said, sometimes when you look back at things that you did or you didn't do, it might have been one of the things that may have been helpful, but nothing would have changed certainly in my mind in terms of retesting everybody at the time, based upon the information we had.
COFFEY, Q.C.:
Q. I'm not suggesting that Dr. Ejeckam would have even attempted to change your mind, not at all, on the 14th of July when you went into the meeting with Dr. Ejeckam, you would have understood that from Dr. Cook's perspective, the clinical chief's perspective, that Dr. Ejeckam was the point person for immunoperoxidase testing.

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DR. WILLIAMS:
A. Yes, I knew that at the time, yes, I did.
COFFEY, Q.C.:
Q. And if he was that in early 2003, what did you understand about who the point person was in 2005?
DR. WILLIAMS:
A. That he was still in that role, yes.
COFFEY, Q.C.:
Q. So the point person, would that have suggested to you he was perhaps the most knowledgeable person around about it?
DR. WILLIAMS:
A. Well I, I was--I would take my advice from Dr. Cook, he was very knowledgeable, he was working on the issue with Dr. Carter.
COFFEY, Q.C.:
Q. I appreciate that, but Dr. Cook had suggested to you in writing here -
DR. WILLIAMS:
A. Yes, that's right.
COFFEY, Q.C.:
Q. - that Dr. Ejeckam in fact perhaps knows more about this than I do, in the sense that he's our point person.

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DR. WILLIAMS:
A. And Dr. Cook was the clinical chief and I relied on him for advice and he did talk to Dr. Ejeckam again.
COFFEY, Q.C.:
Q. Okay. When we look back at page 1 of this exhibit, there is in the first two paragraphs, would you agree that there is fairly detailed information provided by Dr. Cook here and I gather it probably came via way of Drs.--well certainly Dr. McCarthy and perhaps Dr. Laing, concerning ER/PR status of certain types of cancers, of breast cancers?
DR. WILLIAMS:
A. Yes, uh-hm.
COFFEY, Q.C.:
Q. Before you received this letter, would you have been aware of that sort of information?
DR. WILLIAMS:
A. No.
COFFEY, Q.C.:
Q. In terms of the fact that breast cancer, there were a number of different types of breast cancer. Here, there happens to be mentioned infiltrating lobular, but there is material

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before the Commissioner that suggests there are a number of other different possible types of breast cancer.
DR. WILLIAMS:
A. Uh-hm.
COFFEY, Q.C.:
Q. Before May 24th, 2005, would you have been aware that that was so?
DR. WILLIAMS:
A. Well medical school days there might have been different cancers, but I wouldn't have been aware of all the details, no; nor how they related to this particular test or anything like that.
COFFEY, Q.C.:
Q. Now, sir, if we could just look at page 3, at the top of the page, in the second sentence Dr. Cook advises you "I have no idea at this point in time in knowing whether there are few isolated cases or whether we are dealing with a much bigger issue."
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. By this point he had only retested two and

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they had both converted or changed results.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. In May of 2005, before you got the letter and your earlier conversation, when you got this letter or just in the conversations with Dr. Cook immediately afterward, did you get any sense of how many ER and PR tests there would have been annually? It says test, retest all negative ERs and PRs for the year 2002 and possibly 2001, so -
DR. WILLIAMS:
A. I may have discussed it by phone, but I'm not sure of that, no, I can't -
COFFEY, Q.C.:
Q. You can't recall -
DR. WILLIAMS:
A. No, I can't recall him saying this is the number we've had.
COFFEY, Q.C.:
Q. To get some sense of the magnitude of the retest operation.
DR. WILLIAMS:
A. He may have said that, but I don't--right now

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I can't recollect that.
COFFEY, Q.C.:
Q. Now he does have three very--well actually four very specific recommendations.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And he couches, in his final comment, he couches, describes them as preliminary recommendations and acknowledges they will no doubt require additional manpower and funding levels.
DR. WILLIAMS:
A. Uh-hm.
COFFEY, Q.C.:
Q. Above those that currently existed.
DR. WILLIAMS:
A. The fact, he refers to additional manpower and funding levels, what significance did that have? What, if anything, would that require?
DR. WILLIAMS:
A. That would require, you know, you would have to review what they were and then you'd have to get the budgetary adjustment to implement those, yes.

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COFFEY, Q.C.:
Q. And in a practical sense, what did that involve after you actually got the numbers, what would you have to do?
DR. WILLIAMS:
A. Then I'd have to prepare something for the CEO to--and take it forward, I guess.
COFFEY, Q.C.:
Q. Now did that ever actually happen?
DR. WILLIAMS:
A. We had a meeting, a follow up of these issues at some--I've got it documented here, then because we decided to do an external quality review, we wanted to wait until the external quality review took place to define exactly what had to be done, if there was anything in addition to this, this type of thing.
COFFEY, Q.C.:
Q. And I take it then that that additional manpower and funding levels' request, is the October 13th, 2005 report from Dr. Cook and Gulliver?
DR. WILLIAMS:
A. Yes, I asked them -
COFFEY, Q.C.:

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Q. And they actually had figures and numbers and -
DR. WILLIAMS:
A. Yes, I asked them to prepare a full report about what our needs would be to implement the thrust of the recommendations of Dr. Banerjee and Ms. Wegrynowski from Mount Sinai, even though we didn't have her report at the time, we had an exit interview which we captured some of the issues, a lot of the issues were the same as Dr. Banerjee had laid out.
COFFEY, Q.C.:
Q. Sure.
DR. WILLIAMS:
A. So we had enough information I felt then to ask them to prepare a document that we could bring forward.
COFFEY, Q.C.:
Q. Now here Dr. Cook above, in the first paragraph, concludes by saying, "If it's identified that we have a much more significant conversion factor problem involving many patients, we would need to seek advice and guidance from QI on how best to disclose this information, as this involves

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breast cancer patients across the province."
What did you interpret that to mean?

DR. WILLIAMS:

A. Well I interpreted that to mean that if we had a major problem, we would need to sit down and see how we were going to deal with it, in terms of disclosure and public information, that's how I interpreted it.

COFFEY, Q.C.:

Q. And he does, though, refer to it as breast cancer patients across the province.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Meaning that they were patients of other authorities too?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Okay, so it would involve the other authorities, possibly?

DR. WILLIAMS:

A. Yes, it possibly would.

COFFEY, Q.C.:

Q. So the recommendations sets out here "the

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immediate establishment of a external proficiency testing and monitoring program for immunoperoxidase testing"?

DR. WILLIAMS:

A. Uh-hm.

COFFEY, Q.C.:

Q. Had that suggestion ever come up before?

DR. WILLIAMS:

A. No, and I remember clearly discussing this with Dr. Cook, I said, "Don, I thought we had a proficiency testing throughout our lab", you know, because I understood that all our divisions we had proficiency testing through a number of organizations, both at the St. Clare's and at the General site. And I remember Dr. Cook saying this area is like an island in the sea, this is an area that if we didn't have those things in place that we had in other parts of the lab.

COFFEY, Q.C.:

Q. So Dr. Cook advised you at that point that there was no external proficiency testing or monitoring program for immunoperoxidase testing at the Health Care Corporation or Eastern Health at that point?

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DR. WILLIAMS:

A. Yes, that's correct.

COFFEY, Q.C.:

Q. And when was it he advised you of that? Oh, you mean it's right here -

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. But you said you discussed it as well because you asked him why.

DR. WILLIAMS:

A. Yes, that would have probably been after I got the letter, I would suspect, but it was early on I asked him why and I can remember him saying it in those words.

COFFEY, Q.C.:

Q. Did you discuss with him at that point whether or not any such programs actually existed?

DR. WILLIAMS:

A. No, I did not, but I just presumed that they did exist.

COFFEY, Q.C.:

Q. They did, yes, you presumed that?

DR. WILLIAMS:

A. Yes. He didn't say that they didn't exist, so

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I presumed that they did exist. We just were not involved in it.

COFFEY, Q.C.:

Q. Did he offer any explanation at the time to you as to why this was an island, as opposed to -

DR. WILLIAMS:

A. No, and he really within our program and with Dr. Cook, his interest in quality, he just wasn't aware of it.

COFFEY, Q.C.:

Q. He gave you the understanding he hadn't been aware that they were not proficiency testing here -

DR. WILLIAMS:

A. Yes, he was not aware of it, that they were not.

COFFEY, Q.C.:

Q. That they were not, this had been news to him he was telling you, as well.

DR. WILLIAMS:

A. Yes, yes.

COFFEY, Q.C.:

Q. Okay. And I certainly will be canvassing that, of course, with Dr. Cook. He also goes

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on to say, number two, "The establishment of a separate immunoperoxidase service with at least three technologists solely dedicated to immunoperoxidase testing with separate testing facilities." Now do you know if that--well, had that topic ever come up to your knowledge before, when you first read this, had you ever heard of any such thing before?

DR. WILLIAMS:

A. No, I hadn't heard of that.

COFFEY, Q.C.:

Q. Now yesterday we did look at a document involving, arising out of the Hay report and the idea of using pathology assistance -

DR. WILLIAMS:

A. Uh-hm.

COFFEY, Q.C.:

Q. And Mr. Gulliver's response to that, he was not in favour of that, but wasn't there a reference in it, do you recall, to utilizing certain technologists?

DR. WILLIAMS:

A. There was a reference that he was going to use certain technologists to perform some of the grossing functions, I think that's what it

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described.

COFFEY, Q.C.:

Q. Okay, and that was the grossing, not to actually have technologists dedicated solely to immunoperoxidase testing.

DR. WILLIAMS:

A. That's correct--no, no, I don't think he referred -

COFFEY, Q.C.:

Q. No, he didn't do that, no, okay, it was the grossing part of it.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And to your knowledge before May 24th or whenever, May 25th, when you first read this letter of '05, you have no recollection of anybody ever bringing that sort of a recommendation to your attention?

DR. WILLIAMS:

A. No, I've looked through our minutes and stuff; I can't find it.

COFFEY, Q.C.:

Q. And that's the minutes of these meetings?

DR. WILLIAMS:

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A. Our monthly meetings, yes. That's who I expected it would come up through.

COFFEY, Q.C.:

Q. Number three is "the training of immunoperoxidase technologists in a major immuno referral lab that has a well established, quality controlled and troubleshooting program." So when you read this, what, if anything, did you conclude about whether or not your own labs' immunoperoxidase technologists had ever been so trained?

DR. WILLIAMS:

A. Well I think that was a recommendation that we should do that.

COFFEY, Q.C.:

Q. Did you ever ask Dr. Cook about, well how much training do they have?

DR. WILLIAMS:

A. I'm not sure if I did ask him at that time.

COFFEY, Q.C.:

Q. Did you ever ask him?

DR. WILLIAMS:

A. It came up at a later date, I think, but I'm-- and it came up in some of the reports and in

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some of the recommendations.

COFFEY, Q.C.:

Q. Okay, that's the, would be the external reviewer reports?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And they certainly recommended such training?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. So I take it before May 25th, 24th, 25th, 2005, you had not been aware that the technologists at the General Hospital had not been so trained?

DR. WILLIAMS:

A. No, I had not been aware of that. Now there are things I found out subsequent to that because I went back and found out how the service was started up back in '97 by Dr. Khalifa, but that was after this time.

COFFEY, Q.C.:

Q. And appropriate CME funding for these immunotechnologists, he refers to here, at that point in time, was there any CME funding

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for immunotechnologists?
DR. WILLIAMS:
A. I wouldn't get into that level, I would expect that that would be brought forward from the lab. I know that we went through a difficult period of time in the--with the budget and some of the things that were impacted on were education programs, this type of thing.
COFFEY, Q.C.:
Q. What does impacted mean in this context?
DR. WILLIAMS:
A. Well it was sometimes harder to get support for some of these things.
COFFEY, Q.C.:
Q. Was it either cut or just not--or just not worth funding if it didn't already exist?
DR. WILLIAMS:
A. I don't think it was not worth funding, I think it was maybe some budgetary issues that would come up. I don't recall anything coming up for immunotechnologists or anything like that. There was issues, there was some issue coming up, I think in terms of cytology and I think we were, we sent somebody out of the province, there was some request for funding

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there for Mrs. Francis, I think, to go out of the province.
COFFEY, Q.C.:
Q. That's a particular type of technologist, cytology.
DR. WILLIAMS:
A. Yes, and I remember Vern Whalen way back when looking at probably sending somebody out and we thought maybe we should enrole in some on-line education programs at the time, but that was pre-dating this. I don't remember anything about immunotechnologists, no.
COFFEY, Q.C.:
Q. Now you said to the Commissioner just now that after this came to your attention in May of 2005, you did make some inquiries about, to ascertain the circumstances under which this was originally set up in 1997?
DR. WILLIAMS:
A. Yes, because -
COFFEY, Q.C.:
Q. And what did you find in that regard?
DR. WILLIAMS:
A. I found that Dr. Khalifa had set it up.
COFFEY, Q.C.:

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Q. And when was it you went and did those investigations, first of all?
DR. WILLIAMS:
A. That was around here, I know somebody gave me a memo. Now it subsequently shows that I got it from Gary Baker in Carbonear, but I already had it before that, I just misplaced it and I was on the phone with Gary about something else and I asked him if he had that memo, because I don't know if Dr. Cook was there at the time, but I had something from Dr. Khalifa before that.
COFFEY, Q.C.:
Q. So you did have it, you probably misfiled it or filed it somewhere and Dr. Baker, though, did provide it to you, a copy?
DR. WILLIAMS:
A. Yeah, just so I could have it in my files.
COFFEY, Q.C.:
Q. So what did you learn?
DR. WILLIAMS:
A. I learned that Dr. Khalifa had appeared, based upon that, to spend a lot of time in setting this up and in dealing with the technologists and providing that information out around the

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province, and working with Dr. Prabakaran to ship from the ligand based biochemical method to the immunohistochemistry method and when Dr. Khalifa felt that it was satisfactory, they stopped doing the biochemical method and switched to this method.
COFFEY, Q.C.:
Q. Yes.
DR. WILLIAMS:
A. And he sent out a memo around the province outlining what he had done. That's my recollection of that memo.
COFFEY, Q.C.:
Q. That's the memo that Dr. Baker was able to provide to you.
DR. WILLIAMS:
A. Yes, but I had seen it before, I just misplaced it.
COFFEY, Q.C.:
Q. And Dr. Baker was, in fact, for the Commissioner's benefit, was a pathologist -
DR. WILLIAMS:
A. In Carbonear.
COFFEY, Q.C.:
Q. In Carbonear.

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DR. WILLIAMS:
A. Yes, by that time he had been working for Eastern Health, obviously.
COFFEY, Q.C.:
Q. Do you know--as you say, you were on the phone and I suppose it crossed your mind, I'll ask--you know him as Gary, I take it?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Gary for a copy of the memo, he has it.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Did you ask in St. John's if anyone had a copy of it here?
DR. WILLIAMS:
A. Oh no, I had been given a copy by--I had been given a copy earlier of this.
COFFEY, Q.C.:
Q. Oh, by whom?
DR. WILLIAMS:
A. Oh I suspect Dr. Cook or somebody like that or maybe Mr. Gulliver. I just had lost my copy and I wanted to refer back to it for some

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reason, so that's why I asked Mr. Baker.
COFFEY, Q.C.:
Q. Okay, so in that context--by that memo of Dr. Khalifa's, you would only have first obtained a copy of that from either Mr. Gulliver or Dr. Cook.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. In May of '05 or June of '05.
DR. WILLIAMS:
A. Or June of '05. Sometime around that because I wanted to find out a little bit about how this is started up, that's why. But like I say, I had it and read it, but had lost it. For some reason I wanted to read it again.
COFFEY, Q.C.:
Q. Your purpose in making such an inquiry as to how it started up was what?
DR. WILLIAMS:
A. Just to see because this looked like it was a problem going back and I wanted to see in the first place how it was set up, so I was provided with that memo that pretty well detailed how it was set up.

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COFFEY, Q.C.:
Q. Did you ever make any inquiries throughout this as to where Dr. Khalifa was then, like currently in 2005?
DR. WILLIAMS:
A. I knew he was somewhere in Ontario or Quebec, but I'm not sure exactly where he was.
COFFEY, Q.C.:
Q. Did you ever think to make any inquiries to try and locate him and to speak to him about it?
DR. WILLIAMS:
A. No, I did not, I saw how he set it up. He left shortly after that and we were going to bring in some outside consultants, we were well on our way to retesting.
COFFEY, Q.C.:
Q. Exhibit P-0490, please. Now sir, do you recognize whose handwriting this is?
DR. WILLIAMS:
A. I can't be sure; I'd only be guessing.
COFFEY, Q.C.:
Q. Okay. It says "update Bob, June 3, 2005".
DR. WILLIAMS:
A. Okay.

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COFFEY, Q.C.:
Q. Can you see that? It's very faint, but it's right there.
DR. WILLIAMS:
A. Okay.
COFFEY, Q.C.:
Q. Now, you've indicated that there were a number of meetings and conversations you would have had with Dr. Cook following May 24, 2005, following that letter.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Yes, and over the following weeks, I take it. Did you keep any notes on those meetings or conversations?
DR. WILLIAMS:
A. I have notes starting on July 8.
COFFEY, Q.C.:
Q. July 8, okay.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. But in between, between May 24, 25, say 25 when this letter arrived in your office and

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July 8, did you ever keep any notes concerning -

DR. WILLIAMS:

A. No, I did not. There was phone conversations with Dr. Cook and I had the letters from Dr. Cook.

COFFEY, Q.C.:

Q. And how many such meetings do you think might have occurred or phone conversations might have occurred between May 25, 2005 and July 8?

DR. WILLIAMS:

A. I could not be sure, Mr. Coffey. I would have suspected that I was talking to Dr. Cook on the phone. I remember one conversation with Dr. Cook on the phone in mid to late June before he left on vacation. Because I remember we had to decide if he could go on vacation or not. He'd planned a vacation with his family for two weeks and I had discussions with him about where we were with the retesting and what they'd found and where they were. And I remember being advised that they had uncovered a number of other cases, but even him going would not impact upon the process because Dr. Carter, he put her in

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charge and he had confidence in her and that she would follow up and when she got any additional information, I would be informed.

COFFEY, Q.C.:

Q. Okay.

DR. WILLIAMS:

A. So, I remember that was certainly one phone conversation. I'm not sure if it was a face-to-face meeting, but I certainly did discuss it with them.

COFFEY, Q.C.:

Q. Now this--in terms of the ER/PR matter, in May, particularly in June and up to July 8 of 2005, if you were being briefed on the ER/PR matter, the briefing would have had to come from whom?

DR. WILLIAMS:

A. It would come from Dr. Cook, at that time.

COFFEY, Q.C.:

Q. How about Mr. Gulliver, Terry Gulliver?

DR. WILLIAMS:

A. I was looking to Dr. Cook on this particular issue at that time.

COFFEY, Q.C.:

Q. So, it would have come from Dr. Cook.

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DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. This appears to say 2002, it's handwritten, "160 cases as HCCSJ, 80 are negative, 50 percent, Bob"--that's probably problems--"seems to have started some time around, after June 24, 2002, not too bad when compared to 60 percent positive and 40 percent negative, need to" -

DR. WILLIAMS:

A. That looks familiar, that seems to be captured in a letter he might have sent subsequently, by the looks of it.

COFFEY, Q.C.:

Q. Yes, "need to correlate that"--the next word is difficult, probably that something--"with population may have a large number of young women who are young with high grade lesions who would be ER negative, need to send letter to"--something--"cases from outside HCCSJ and north MAC"?

DR. WILLIAMS:

A. I don't -

MR. BROWNE:

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Q. Notify -

COFFEY, Q.C.:

Q. I apologize, notify, thank you, "notify MAC".

THE COMMISSIONER:

Q. What a challenge you have, Mr. Browne.

MR. BROWNE:

Q. Comes from years of experience, Commissioner.

COFFEY, Q.C.:

Q. I suspect this is one of his clients' handwriting too, so, that might have assisted. And you're certainly correct, Doctor, there is another--and we'll be looking at a letter in a moment. The reason I've gone through this is this, is this is dated, appears to be dated June 23, 2005?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Do you know if, early in June, if it says, "updated to Bob", is it possible that in early 2005 you were being apprised verbally of this sort of information?

DR. WILLIAMS:

A. It could very well be, yes, that the numbers of cases that we would have to retest, sure.

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I know I had discussions with Dr. Cook, unfortunately I didn't write any notes at that time.

COFFEY, Q.C.:

Q. So, if he was going to retest, as he told you on May 224, 2005, all the negatives from 2002.

DR. WILLIAMS:

A. Um-hm.

COFFEY, Q.C.:

Q. If this reflects communication in early June, 2005 with you, there's certainly 80 tests here in St. John's that were going to be retested.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. If we could please, Exhibit P-0491 and this is a copy of a memo to all laboratory directors. It's dated June 13, 2005, it's "re estrogen and progesterone receptors", it's from Dr. Donald M. Cook. If we could bring up, please, Exhibit P-0492 because that appears to be a file copy. Just a second, please, if you would. There's a check mark on it. Bring up Exhibit P-0492, please. This is a memo on Health Care Corporation of St. John's

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letterhead to all laboratory directors, Dr. D. Fontaine HCS which Dr. Fontaine was the site chief?

DR. WILLIAMS:

A. I would say the site chief at the -

COFFEY, Q.C.:

Q. General Hospital?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Dr. G. Baker would be the pathologist in Carbonear.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Dr. S. Anwar, G.B. Cross Memorial?

DR. WILLIAMS:

A. um-hm.

COFFEY, Q.C.:

Q. Where was that?

DR. WILLIAMS:

A. That was in Clarenville.

COFFEY, Q.C.:

Q. And you would have understood he was a pathologist?

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DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Dr. F. Gallager, James Paton Memorial.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. He was a pathologist.

DR. WILLIAMS:

A. Yes. These would be the directors of the lab out there. Don Cook's counterparts, basically.

COFFEY, Q.C.:

Q. Okay. Dr. Maurice Dalton in central Newfoundland -

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. - Hospital, Dr. P.--that would be Paul Neil.

DR. WILLIAMS:

A. Paul Neil.

COFFEY, Q.C.:

Q. Western Memorial and Dr. Dankwa of St. Anthony.

DR. WILLIAMS:

A. Yes.

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COFFEY, Q.C.:

Q. It's dated June 14, 2005 and it says, "we are aware of a number of negative estrogen and progesterone receptors that have converted on repeat testing with our new Ventana benchmarking immunoperoxidase testing. This new Ventana system is fully automated and is much more sensitive that the immunoperoxidase technique under the previous DAKO method. Most of these false negatives have occurred during the year 2002. Presently we are in the process of testing all negative ERs and PRs for that particular year. I'm requesting that you forward all negative ER and PR cases for the year 2002 to Mr. Barry Dyer at the General Hospital site. I would ask that you submit the reports, original ER and PR slides including controls as well as H & E slides and paraffin blocks of the tumor. We will repeat all ER and PR receptors with the Ventana system and forward the results to you. I will keep you updated regarding additional information. If you have any concerns or questions regarding this, please feel free to contact me".

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Now sir, were you aware that this letter was going out?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And would you have received a copy of the letter itself?
DR. WILLIAMS:
A. Yes. In fact, before it went out, I would have seen it.
COFFEY, Q.C.:
Q. Sure. And why would Dr. Cook have sent it to you before sending it out?
DR. WILLIAMS:
A. Because he was going outside our organization and he wanted to see if this was the right approach, I guess.
COFFEY, Q.C.:
Q. You understood the necessity for going outside the organization in circumstances was what?
DR. WILLIAMS:
A. That we wanted to make sure that if we were testing people from 2002 that we tested all the people from 2002, not just the ones from St. John's.

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COFFEY, Q.C.:
Q. At the time that he was proposing to send out this communication, I take it you approved of him doing so?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Did you have any understanding at that point, for example, in relation to the year 2002, how many breast cancer patients would have been dealt with by the old Health Care Corporation annually compared to the rest of the province?
DR. WILLIAMS:
A. At some time I did, but by this time, I may have had it by this time, it was 60/40 at--that's my recollection, 60 percent inside -
COFFEY, Q.C.:
Q. The Health Care Corporation?
DR. WILLIAMS:
A. - the St. John's area, yes, and 40 percent outside. So it was important to, if you're going to retest to see what problems you have, you make sure that you do that. The other thing is, of course, the slides were read there rather than read in St. John's, so there

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was different pathologists out there reading the slides.
COFFEY, Q.C.:
Q. And at that point in time, in the middle of June, did you have any understanding as to whether or not, by then, as to whether or not it was Dr. Cook viewed it as an interpretation issue or a processing of slide issue or processing of tissue issue or did you know?
DR. WILLIAMS:
A. We hadn't, I don't think he reached any conclusions at the time.
COFFEY, Q.C.:
Q. This is early days, I take it?
DR. WILLIAMS:
A. Yes. And whether there may have been some discussion about that. But I don't--I think we were just at the stage, to be honest with you, to try to define how much of a problem we had, was it temporally related to 2002, because if it was temporally related in 2002, then that may be a confined problem. But as you see later, there was some--we talk about that, there was some cases that were not in 2002 which lead me to the conclusion very soon

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after this time that this was a systemic problem and not a temporally related problem around a certain time frame.
COFFEY, Q.C.:
Q. So, well, if it was a systemic problem, it could have been just a systemic problem in 2002, as well, couldn't it?
DR. WILLIAMS:
A. It could, but, no, 2002, I think, was a problem related to something that happened in 2002.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. I would say temporally related. Systemic means that it could have occurred in a number of other years, it could be right across the system, so that's a concern I had when I had the additional information.
COFFEY, Q.C.:
Q. If we could look, please, at Exhibit P-0493? This is a letter of June 14th, 2005. It's titled "Confidential." It's got a date stamp, June 22nd -
DR. WILLIAMS:

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A. June 22nd, yes.
COFFEY, Q.C.:
Q. - 2005. Yourself, it's your office's vice presidential stamp -
DR. WILLIAMS:
A. Yes, correct.
COFFEY, Q.C.:
Q. There's something handwritten here.
DR. WILLIAMS:
A. "KIV July," some date in July. Because I knew Dr.--I put a "KIV" on it just in case I didn't get anything more on it, this letter would automatically come back to me.
COFFEY, Q.C.:
Q. What does "KIV" mean?
DR. WILLIAMS:
A. Means keep in view.
COFFEY, Q.C.:
Q. And what system did you have in place for that other than noting it here, what happened after you wrote that?
DR. WILLIAMS:
A. Well, Denise would take it once I was finished with it, put it in the file and every day she'd go through that file. And if it was a

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certain date and there was something in the KIV file, she'd pick it out and automatically bring it in to me. So I put it there, I would do that if it was something that I wanted to make sure was followed up on and it would come back to me to see if it was followed up on.
COFFEY, Q.C.:
Q. Sure. And this system that you've just described utilizing a bring forward system, keep in view system, how long had you been utilizing that?
DR. WILLIAMS:
A. Ever since I came--I learned that in the department.
COFFEY, Q.C.:
Q. In the Department of Health.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Went back years ago.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. This is, again it's entitled confidential. By this point in time, mid June, after you read

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this letter, how widely known within the organization, Eastern Health, was existence of this investigation?
DR. WILLIAMS:
A. Our oncologist, our leadership in oncology.
COFFEY, Q.C.:
Q. That would be Doctors McCarthy and Laing, I take it?
DR. WILLIAMS:
A. Yes. And our leadership in the lab. Quality would have been involved in it. And that would be the extent at that point in time.
COFFEY, Q.C.:
Q. What about the general staff of pathologists, in the General Hospital or at St. Clare's? And I appreciate Dr. Carter is involved.
DR. WILLIAMS:
A. Yes, I can't answer that question although the two site chiefs, Dr. Cook and Dr. Fontaine were involved. So, I would presume they may have told the staff pathologists at the time. I didn't ask that question at the time. I was really focused in on how much of a problem have we got here and what are we going to do about it.

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COFFEY, Q.C.:
Q. How about the technologists themselves, IHC technologists, the technologists who did the IHC work, did you know whether or not they had been, by this point, informed of this?
DR. WILLIAMS:
A. No, I do not. I know Mr. Dyer, the manager, and Mr. Gulliver, obviously, were involved in this, yes.
COFFEY, Q.C.:
Q. But whether or not they'd actually informed that -
DR. WILLIAMS:
A. I'm not sure.
COFFEY, Q.C.:
Q. At that point, mid June 2005, was there any effort being taken to kind of keep it within a confined group?
DR. WILLIAMS:
A. No. My understanding was that once the tests came back, that it was our obligation to inform the patients.
COFFEY, Q.C.:
Q. The patients.
DR. WILLIAMS:

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A. Yes.
COFFEY, Q.C.:
Q. I'm talking about, with group within the institution is what I'm -
DR. WILLIAMS:
A. No, I wasn't making any attempts to confide it to one group.
COFFEY, Q.C.:
Q. Oh no, I'm not suggesting--I'm just asking you whether or not you--what your understanding was at the time.
DR. WILLIAMS:
A. What we did at the time in the middle June when--I wouldn't have got this memo until the 22nd, but I'm sure that I was talking to Dr. Cook on a regular basis. And what we were doing at the time was to try to see what the extent of this issue was. I talked to Dr. Cook about his vacation time and what Dr. Carter was doing. I got the report, additional testing from Dr. Carter, on the 30th of June.
COFFEY, Q.C.:
Q. Yes, I'll be getting into that in a moment, yes.

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DR. WILLIAMS:
A. And I'll tell you what--about that, sure.
COFFEY, Q.C.:
Q. Sure. And because I had asked you yesterday about the May 24 memo which also had the heading "confidential".
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. This is confidential.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. The mail system travelling from Dr. Cook to you.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. From St. Clare's to your office at the General Hospital. Would this come, like, in an envelope marked "confidential" or -
DR. WILLIAMS:
A. I would say if it's confidential, it would be "confidential" marked on the envelope, usually.

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COFFEY, Q.C.:
Q. And how was that handled compared to other mail within your office.
DR. WILLIAMS:
A. Confidential would usually mean it would probably be brought in to me unopened and I would open it and depending on it, I'd get it stamped then.
COFFEY, Q.C.:
Q. With the date stamp?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And if you wanted to send any communication yourself to somebody in relation to this and didn't want it opened by anybody except the person you addressed it to -
DR. WILLIAMS:
A. We'd mark "confidential" on the envelope.
COFFEY, Q.C.:
Q. With the expectation -
DR. WILLIAMS:
A. That it would be opened by the addressee only.
COFFEY, Q.C.:
Q. Okay. Now, here in this communication,

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Doctor, in the middle of June, Dr. Cook writes "further to my letter of May 24, 2005, we reviewed reports of the estrogen and progesterone receptors in 160 breast cancer patients that originated from the division of anatomical pathology, lab medicine program at the Health Care Corporation of St. John's. These 160 cases are also confined to patients and attending surgeons within the Health Care Corporation of St. John's. Of the 160 cases that have estrogen and progesterone receptors, 50 percent of these are reported as ER/PR negative. This is following a preliminary review of the pathology reports. It also seems that most of the negative ER/PR results started some time around June 24, 2002. We are in the process of retesting all negative ER/PR cases with our newer more sensitive Ventana benchmarking immunoperoxidase method for the year 2002. We also need to retest cases that are outside the confines of the Health Care Corporation of St. John's and I've recently a memo to all lab directors across the province asking them to refer ER/PR negative 2002 cases back to the division for

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retesting. On the surface, a negative rate of 50 percent, though not the greatest, is not too bad when you compare a 60 percent positive and 40 percent negative rate according to figures provided by Dr. Joy McCarthy. We also need to correlate these figures more with our population. There may very well be a large number of women who have high grade lesions who would normally be negative for estrogen and progesterone receptors. We also have cases that are ER/PR negative for 1999 and 2000 and have converted falling testing with the new Ventana system. These are specific cases that are identified and are requested for retesting by the oncologists. If the receptors have converted on retesting, the referring oncologist is notified and an addendum report is issued. In regards to the large number of cases for the year 2002, a list of patients who have converted with the newer methodology are forwarded to Dr. Joy McCarthy. I had informed Dr. Gardiner of the situation on May 25, 2005 and updated him on June 8, 2005. There is also significant communication between ourselves and the

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oncologists regarding this issue. I will keep you updated as more information becomes available. Sincerely, Don Cook".

Now, Doctor, who is Dr. Gardiner?

DR. WILLIAMS:

A. Dr. Gardiner was the medical director of the Cancer Clinic.

COFFEY, Q.C.:

Q. And what's first name?

DR. WILLIAMS:

A. Paul.

COFFEY, Q.C.:

Q. And did you have any conversations with Dr. Gardiner around this time about this?

DR. WILLIAMS:

A. No, I did not. Dr. Gardiner was invited to attend meetings subsequent -

COFFEY, Q.C.:

Q. Subsequent.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Okay. Now, in regards to the large number of cases for the year 2002, a list of patients who have converted with the newer methodology

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are forwarded to Dr. Joy McCarthy?

DR. WILLIAMS:

A. Um-hm.

COFFEY, Q.C.:

Q. Where had that idea originated?

DR. WILLIAMS:

A. I guess that would have originated with Dr. Cook and Dr. McCarthy, so to make sure that one person, I expect, from oncology is dealing with one person in the lab basically or probably two in the lab because I think Dr. Carter would have been the major participant. And I know she was a major participant in it.

COFFEY, Q.C.:

Q. And in the middle of the second paragraph on the first page, he's written to you, "we also have cases that are ER/PR negative for 1999 and 2000".

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. That's the reference you made earlier that early on you -

DR. WILLIAMS:

A. Well, some time around this time.

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COFFEY, Q.C.:

Q. In June?

DR. WILLIAMS:

A. Yes, in June -

COFFEY, Q.C.:

Q. You understood from Dr. Cook that this involved some patients from years other than 2002?

DR. WILLIAMS:

A. Yes, I would say it was around when I talked to him on the phone before he left, probably mid June. At that time too, we were expecting a--Dr. Carter was involved in retesting a large sample from 2002 when Dr. Cook was leaving and I understood the results would be available shortly.

COFFEY, Q.C.:

Q. And the reference to "these are"--that is these, I presume, are the 1999/2000 cases there -

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. - referred to--"are specific cases that are identified and are requested for retesting by

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the oncologists".
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. What was your understanding about what was going on there?
DR. WILLIAMS:
A. My understanding was that the oncologists were looking at certain types of cancers that had a high probability of being positive and they just selected those, just for retesting, a small number.
COFFEY, Q.C.:
Q. And they were identifying such patients from years other than '02?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And when you became aware that there were such patients converting in other years, you concluded what?
DR. WILLIAMS:
A. Well, I started to get alarmed that this was probably a systemic problem. I had talked to Dr. Cook and I knew that Dr. Carter was in the

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middle of retesting a larger number of patients. In the meantime, patients were being notified by their oncologists and follow up was taking place. And I wanted to wait until we had a little bit more information before I made a determination of what the next step was.
COFFEY, Q.C.:
Q. Sir, you've earlier referred to initially thinking about well, maybe it's a temporal problem.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Confined to 2002.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. What, if any, significance might that have?
DR. WILLIAMS:
A. Well, it might be just related to something that happened in a period of time. The problem might be confined to a short timeframe that something happened. So, you have only conversions says for a three or four month

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period you might look and see what happened in those three or four months. It mightn't affect things very widely throughout the system.
COFFEY, Q.C.:
Q. So, what sorts of things are you thinking about there?
DR. WILLIAMS:
A. Well, maybe something happened, you know, you'd have to investigate to find out, but it might be just a confined problem that would be limited, but when you take into consideration some other patients then, that's what alarmed me.
COFFEY, Q.C.:
Q. In the middle of the first paragraph of the June 14 letter to you, it's referenced, the sentence says, "it also seems that most of the negative ER/PR results started some time around June 24, 2002".
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Did you ever ask Dr. Cook about that?
DR. WILLIAMS:

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A. Not at the time, but we did follow up and we have documentation in there and I don't know when I asked for that to be followed up, but when we looked at the information, I don't think that proved to be totally correct.
COFFEY, Q.C.:
Q. At the time you received this you didn't take this up with Dr. Cook as to well, why are you able to say, like, a particular day?
DR. WILLIAMS:
A. I took it up later.
COFFEY, Q.C.:
Q. Later, okay.
DR. WILLIAMS:
A. Okay. And we did go back and relook at 2002 because some people were saying that there was no positive tests after a certain point in 2002 which was incorrect.
COFFEY, Q.C.:
Q. Who is the "some people"?
DR. WILLIAMS:
A. I don't know, I just--I can't tell you, but I had reviewed and looked at.
COFFEY, Q.C.:
Q. Now, the reference in the end of the first

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paragraph, "do we also need to retest cases outside the confines of the Health Care Corporation" and him having recently sent a memo to all lab directors across the province.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. You, of course, had known about the memo going out.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Can you tell the Commissioner, please, in relation to that, do you know--did you inquire of Dr. Cook if he had contacted his counterparts directly before sending that memo?

DR. WILLIAMS:

A. I know Dr. Cook was phoning people during the summer of 2005, at certain points, but I'm not sure if he phoned them before he sent out the letter. I can't answer that question.

COFFEY, Q.C.:

Q. So, how about you contacting your counterparts in the other health authorities about this,

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did you do that at that point?

DR. WILLIAMS:

A. No, I did not do that at that point. I felt Dr. Cook was dealing with the senior people in the lab, at the other points, and I did not do it at the time.

COFFEY, Q.C.:

Q. When was it you first contacted your counterparts?

DR. WILLIAMS:

A. Well, we had our first meeting with the medical directors in September.

COFFEY, Q.C.:

Q. And that would be -

DR. WILLIAMS:

A. Late September.

COFFEY, Q.C.:

Q. - later September.

DR. WILLIAMS:

A. That's the first meeting we had of medical directors after we made a decision that this was a major--after I had notified Mr. Tilley.

COFFEY, Q.C.:

Q. And you notified Mr. Tilley, I believe on July 8.

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DR. WILLIAMS:

A. June, July 8, sorry, yes.

COFFEY, Q.C.:

Q. At least that's what Mr. Tilley has told us.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. So, are you able to explain to the Commissioner, offer any reason why it was only at the end of September that you actually contacted your fellow counterparts about this?

DR. WILLIAMS:

A. I thought -

COFFEY, Q.C.:

Q. Why the delay?

DR. WILLIAMS:

A. Yes. I knew that Dr. Cook had notified the senior people in the lab and had contacted them by phone and phoned them because there is some notes that he did phone out. Also, after June 8, I knew that the CEOs and the Deputy Minister would meet every couple of weeks as these new organizations were being set up. So, maybe I thought that they were doing it. And I didn't make a conscious decision not to

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phone my counterparts. I just, I guess I didn't sit down and say, should I phone my counterparts because I don't know if it crossed my mind that that needed to be done if these other contacts were made.

COFFEY, Q.C.:

Q. You don't recall that ever actually crossing your mind?

DR. WILLIAMS:

A. No, I don't recall it crossing my mind that I had should do it. The first meeting face to face with them, I did provide a full briefing on it.

COFFEY, Q.C.:

Q. If we could, please, Exhibit P-0494. Now, is a two-page letter, it's on Central West Health Corporation letterhead dated June 29, 2005. It refers to Dr. Barry Dyer or Mr. Barry Dyer, Department of Pathology. It's re: "negative ER/PR receptors 2002" and it says, "as per the memo from Dr. Don Cook dated June 14, 2005 enclosed are our negative ER/PR cases for 2002 on the following patients" and there's a number of patients listed there. There are numbers there which signify that it is the

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year '02, each of those patients. And it continues on to the second page. Were you notified by anyone within the General Hospital that Dr. Dalton had sent in his samples from '02?

DR. WILLIAMS:

A. At some stage--there's notes in the meetings that they were received, my notes.

COFFEY, Q.C.:

Q. Yes.

DR. WILLIAMS:

A. 2002 received from Grand Falls, there's something in there.

COFFEY, Q.C.:

Q. Sure.

DR. WILLIAMS:

A. Who told me, I'm not sure.

COFFEY, Q.C.:

Q. Do you recall when it was that the next round of tissue samples came in? Dr. Dalton had his in before the end of June.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Do you recall when the others came in, first

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came?

DR. WILLIAMS:

A. No, I'd have to look at my notes. I know I was phoning Mr. Gulliver and getting updates on how our samples were being prepared and sent out. He did reference--I'm pretty sure there's a reference there to the 2002. There's a reference there to other years coming in from Carbonear and James Paton Memorial Hospital in Gander for years other than 2002 which would be the second issue.

COFFEY, Q.C.:

Q. Sure. Do you recall whether or not there were any--were you made aware of any contact or feedback from the other health authorities to Dr. Cook's letter to all these lab directors of June 14, 2005? I mean, there's a letter goes out saying, send us in all your 2002 samples -

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. - and refers to most of these false negatives have occurred during the year 2002, in his letter to all these other lab directors. Were

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you ever advised that there was any feedback or questions arising out of the other health authorities in June or July or August?

DR. WILLIAMS:

A. I may have been, but I didn't write anything down. To answer the question, I don't recollect anything specific. There may be--I think Dr. Cook mentioned he had some discussions with Dr. Neil out in Corner Brook, but I wouldn't remember what the details were.

COFFEY, Q.C.:

Q. If we could, please, Exhibit P-0495, actually--yes, P0495. Now, this is a three-page exhibit. The coverpage is a fax transmission sheet, June 30, '05. It's from Judy and she's got--after, it's for Dr. Bev Carter. It's indicated to be--I said three, it's actually four pages, the exhibit is. And it just says, "as requested".

DR. WILLIAMS:

A. Um-hm.

COFFEY, Q.C.:

Q. So, had you--and if we look at the second page of this, it's a letter dated June 29, 2005 addressed to Dr. Joy McCarthy, the

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Bliss Murphy Cancer Centre. And the text just simply says, "as per our previous discussions, repeat estrogen receptor and progesterone receptors have been carried out on the following patients. Initially they identified it as estrogen receptor negative. The results are as follows", and there is a list of a number of patient names, MCP numbers, of course the names and MCP numbers are redacted, surgical numbers, estrogen receptor status and progesterone receptor status and it continues on into the third page. And Dr. Carter concludes with "thank you for your attention in this matter. Yours sincerely". How was it you came to request this?

DR. WILLIAMS:

A. That's a question I've asked myself, why I requested it. Whether, at that time I decided I'd follow with Dr. Carter in Dr. Cook's absence, I'm not sure why I requested it.

COFFEY, Q.C.:

Q. How would you have known that it was even being sent on that day or had been sent -

DR. WILLIAMS:

A. I'm not sure.

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COFFEY, Q.C.:
Q. - day that -
DR. WILLIAMS:
A. Yeah, I'm not sure.
COFFEY, Q.C.:
Q. If we could look, please, at Exhibit P-0496. And this particular letter is on Health Care Corporation of St. John's letterhead. It is, in effect, I gather the same letter, Commissioner. And you'll note, for the sake of those looking at the screen here that the exhibit is, in fact, page 2 and 3 are reversed. It's the same letter except that here now--rearrange it in my own binder here. If you just look at page, the third page, not--of the original letter, which is right, it says, "Thank you for your attention in this matter." At the bottom of the page. "Yours sincerely, Dr. Beverley Carter." And then there's a place for--and then Dr. Donald Cook, and both appear to have signed this. See that?
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:

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Q. If we could look back, please, at Exhibit P-0495? And look at the third page of that letter which is unsigned. There's a space for Dr. Carter's signature. There's no reference here to Dr. Cook, is there?
DR. WILLIAMS:
A. No.
COFFEY, Q.C.:
Q. No. Do you know, were you aware of how that, Dr. Cook's name got added to the one that actually went out?
DR. WILLIAMS:
A. Well, sure. Dr. Cook was away at the time when this went out, so he wouldn't have been here to sign it.
COFFEY, Q.C.:
Q. So -
DR. WILLIAMS:
A. I guess Dr. Carter wanted him to sign it because it was, you know, significant changes and as clinical chief--I'd have to ask why that was done that way.
COFFEY, Q.C.:
Q. Okay. Were you made aware that it was being done at the time? I can ask, I will be asking

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them about why, but were you made aware at the time?
DR. WILLIAMS:
A. I'm not sure I have a copy, I'm not sure. At that time I would have acted on the basis of what I had on the 30th of June, to be honest with you.
COFFEY, Q.C.:
Q. Yes. And that's the one that you had Exhibit P-0495 that you had requested but you can't recall why you did?
DR. WILLIAMS:
A. I don't recall why I requested it, other than maybe I'd been thinking about it and hadn't got anything and phoned over, found out that there was something released, something available so I got a copy of it. I'm not sure, I can't be sure, Mr. Coffey, about that.
COFFEY, Q.C.:
Q. Because at that point in time, just on that point, I take it Dr. Cook was away on June 29th on vacation?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:

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Q. So the exhibit he signed -
DR. WILLIAMS:
A. Would have been signed later when he got back.
COFFEY, Q.C.:
Q. 0496 to be sent out. So that, with his signature on it, wouldn't have been available on the 29th?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Of June. So in any case, you did get an unsigned copy?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Draft in the name of Dr. Carter?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Now, having received that did you do any calculations at the time as to how many of these had--you would have understood all these were originally negatives?
DR. WILLIAMS:
A. Yes.

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COFFEY, Q.C.:
Q. As originally reported. Did you do any calculation as to how many had now converted to positive?
DR. WILLIAMS:
A. I think it was 16 to 25, that's -
COFFEY, Q.C.:
Q. Sixteen to twenty-five, yes.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Which is 64 percent?
DR. WILLIAMS:
A. Yes. Now, that was a selected, selected cases. Some of those were from different years that were selected on the basis that they probably would be positive.
COFFEY, Q.C.:
Q. And in terms of -
DR. WILLIAMS:
A. If we went -
COFFEY, Q.C.:
Q. Sorry.
DR. WILLIAMS:
A. - back and checked people who had high-grade

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tumors, we wouldn't expect any of them to turn positive, so you're selecting out a certain group, yes. So that would make a difference in the conclusions you could draw.
COFFEY, Q.C.:
Q. Sure.
DR. WILLIAMS:
A. But the conclusions I drew at the time was that we had a problem in 2002, but it looked like we had a problem in other years and that was a systemic issue and that's when I phoned Mr. Tilley and said we have a major problem here.
COFFEY, Q.C.:
Q. Okay. Now, this, in particular looking at Exhibit P-0495, which you apparently had on June 30th, the first page, six patients' results reported, three of them are '02 samples and I gather that three of them are from other years, two from '01 and one from 1999?
DR. WILLIAMS:
A. And I thought at the end of the day there was six or seven of those that were other years. And those 16 conversions encompassed the ones

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Dr. Cook was talking about earlier, so they weren't 16, all 16 new ones, they were the total that had converted at that time except for the sentinel case. That's my understanding. So there would have been 17, really, yes, at the time.
COMMISSIONER:
Q. Just to make sure I understand the point you're making, by this date you would have understood that, in fact, 26 people had been retested if you include the index case?
DR. WILLIAMS:
A. Yes.
COMMISSIONER:
Q. And 17 people would have been converted?
DR. WILLIAMS:
A. Yes.
COMMISSIONER:
Q. If you include the index case?
DR. WILLIAMS:
A. Yes.
COMMISSIONER:
Q. While the initial discussion had been in terms of doing people who were within '02?
DR. WILLIAMS:

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A. Yes, other patients, as well.
COMMISSIONER:
Q. Other patients had been included on a selected basis because of the nature of the cancer that they had?
DR. WILLIAMS:
A. Correct.
COMMISSIONER:
Q. And was it the fact that those people outside of the year '02 had converted that lead you to believe the problem was wider and therefore you had to go further afield?
DR. WILLIAMS:
A. Yes.
COMMISSIONER:
Q. Okay.
DR. WILLIAMS:
A. Because it would be hard to ignore -
COMMISSIONER:
Q. That number?
DR. WILLIAMS:
A. - conversions outside that, yes.
COMMISSIONER:
Q. Okay.
COFFEY, Q.C.:

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Q. And you mean by it would be hard to ignore, you couldn't ignore?
DR. WILLIAMS:
A. Well, you couldn't ignore, you couldn't ignore it, yes.
COFFEY, Q.C.:
Q. As a practical matter.
DR. WILLIAMS:
A. Yeah. We shouldn't say, well, it's only a problem in 2002. I looked at it, is this a systemic problem that was outside that temporal time frame and -
COFFEY, Q.C.:
Q. You've indicated that having gotten that June, the fax of June 30th by Dr.--the draft of Dr. Carter's letter?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. June 29th and looked at the data in it, you decided to contact Mr. Tilley about it?
DR. WILLIAMS:
A. Yes. Now, I can't say what happened in those intervening days.
COFFEY, Q.C.:

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Q. Sure.
DR. WILLIAMS:
A. But I did -
COFFEY, Q.C.:
Q. Why hadn't you contacted Mr. Tilley about it before?
DR. WILLIAMS:
A. I didn't think I had enough information to tell him, you know, here's how widespread this problem is and here's what we have to do. I was working with Dr. Cook at the time and working with the oncologists to define the extent of the problem. There was a lot of other things going on in Mr. Tilley's agenda and mine and I wanted to make sure we defined the problems a bit better. Testing was going on, patients were being notified as tests came back. And it was a decision I made, I have to, you know, take responsibility for that decision.
COFFEY, Q.C.:
Q. Yeah.
DR. WILLIAMS:
A. And I made that determination and notified Mr. Tilley.

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COFFEY, Q.C.:
Q. Just so Commissioner is, you know, has a clear picture of this, your understanding, I take it, had been that certainly the index case back in -
DR. WILLIAMS:
A. 2002, yes.
COFFEY, Q.C.:
Q. - 2002, but back in April of '05 that she had been retested in April of '05, did you understand -
DR. WILLIAMS:
A. No, I thought it was May.
COFFEY, Q.C.:
Q. Oh, May, okay. And anyway, in May of '05 certainly an index case had been retested.
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:
Q. Did you understood back in May that she was actually told about the retest, the fact of the results?
DR. WILLIAMS:
A. I understood that that patient, when I was told in May, that that patient had been

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notified. That's what my understanding was.
COFFEY, Q.C.:
Q. At that point did you know who the patient was?
DR. WILLIAMS:
A. At some time I knew who the patient was.
COFFEY, Q.C.:
Q. Well -
DR. WILLIAMS:
A. But I don't know if it was then.
COFFEY, Q.C.:
Q. Okay. How early on in this did you learn who the index patient was?
DR. WILLIAMS:
A. I can't--I didn't make a note on it, so I can't recall and I didn't look at it as an important issue of who the patient was, it was a patient.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. Who the patient was wasn't, in my view, an important issue. Who the patient was--the fact that we had a patient and I wanted--you know, that the patient was being followed up

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on appropriately by the oncologists. But I knew, at some stage I knew who the patient was, yes.

COFFEY, Q.C.:

Q. And just while this crosses my mind, when was it that you first met with the oncologists, face to face with them?

DR. WILLIAMS:

A. I think it was when we started to set up the series of meetings.

COFFEY, Q.C.:

Q. That would be in July?

DR. WILLIAMS:

A. Yes, I think.

COFFEY, Q.C.:

Q. '05?

DR. WILLIAMS:

A. Now, I might have seen Dr. Laing or Dr. McCarthy before that, I'm not sure, or talked to them on the phone.

COFFEY, Q.C.:

Q. Okay.

DR. WILLIAMS:

A. But sitting down face to face with all the participants would have been July. I had

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understood that Dr. Carter and Dr. Cook and Dr. McCarthy and Dr. Laing were working closely together on this, so that was my understanding.

COFFEY, Q.C.:

Q. In fact, the May 24th letter refers to such a meeting where Doctors Laing and McCarthy were there.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Can you tell the Commissioner why it was not until, really, July that you actually sat down and had a face to face with, you know, the primary oncologists involved in this?

DR. WILLIAMS:

A. Well, because I felt that the people, senior people in the lab, the senior people in oncology were working together in tandem, moving things forward as they felt appropriately based on the situation and it was then after we notified everybody and we looked--we knew by that time we had a much wider problem, that we needed to sit down with everybody and plan how we were going to deal

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with it.

COFFEY, Q.C.:

Q. Now, back in May the index patient, you understood had been told, and you understood it was me (phonetic) -

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. - at the time. May 24 you were advised in that letter by Dr. Cook there was a second patient that he had retested?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And that person had converted. Did you have any understanding as to whether or not that patient had been informed?

DR. WILLIAMS:

A. My understanding was that the oncologists would be notified if something--Dr. Cook says it in the letter. And my understanding was that then the patient would be notified. I didn't operate under the presumption that people would not be notified. If you're going to retest somebody, then you wouldn't retest

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them if you weren't going to notify them to follow up.

COFFEY, Q.C.:

Q. Now, when we look at this, page 2 of Exhibit P-0495, as you told us, there are actually 25 patients listed here, correct?

DR. WILLIAMS:

A. Um-hm.

COFFEY, Q.C.:

Q. If this letter is reporting by June 29th, 2005, I take it that would you have understood that all, any patient here who converted probably was retested sometime in June or back in May?

DR. WILLIAMS:

A. No, I would have known they were retested in--some were retested earlier.

COFFEY, Q.C.:

Q. Yes.

DR. WILLIAMS:

A. The last number, those 25, would have been retested at that time.

COFFEY, Q.C.:

Q. What time are we talking about?

DR. WILLIAMS:

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A. I would have thought it was just before the reports were released, that's my understanding. And that no follow up would take place until the oncologists would have a copy of the report. So I thought the oncologists would take, for the new tests that had come back, would take their cue from this report.

COMMISSIONER:

Q. Sorry, which report?

DR. WILLIAMS:

A. The one on the 30th of June.

COMMISSIONER:

Q. Oh, okay.

COFFEY, Q.C.:

Q. The one that you received then June 30th?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Dated June 29th. And the actual signed one, which is Exhibit P-0496, signed by Doctors Carter and Cook you say must have been signed sometime later because Dr. Cook wasn't around at that -

DR. WILLIAMS:

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A. That's correct.

COFFEY, Q.C.:

Q. On June 29th. So just so I'm--you're sitting there on June 30th with your--the fax, public draft of a letter, actually, the June 29th letter. Your understanding at that point was what in terms of all the patients listed there, 16 who were converted, had they, at that point, been notified?

DR. WILLIAMS:

A. I didn't think all of them had been notified, no.

COFFEY, Q.C.:

Q. Did you understand any of them had been notified other--because the index patient is not amongst those?

DR. WILLIAMS:

A. No. I understood that, I would certainly have understood that the five or six patients that I knew about converted earlier in June had been notified or were in the process of being notified.

COFFEY, Q.C.:

Q. And you understood that was being done through their oncologists?

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DR. WILLIAMS:

A. That's my understanding at the time.

COFFEY, Q.C.:

Q. And you would have gotten that understanding from?

DR. WILLIAMS:

A. Oh, from the letters from Dr. Cook and maybe some discussion I had with him.

COFFEY, Q.C.:

Q. Okay. So then going into early--before you contacted Mr. Tilley, I take it that you had understood then for four or five weeks -

DR. WILLIAMS:

A. That some patients -

COFFEY, Q.C.:

Q. Some patients -

DR. WILLIAMS:

A. A small number of patients had been notified, yes.

COFFEY, Q.C.:

Q. Was there ever any concern on your part during those four or five weeks that those patients, that that might become public knowledge?

DR. WILLIAMS:

A. When you notify a patient, it could become

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public knowledge, yes.

COFFEY, Q.C.:

Q. But were you aware of that at the time, I mean, did it actually cross your mind at the time, do you know?

DR. WILLIAMS:

A. When I got this second report on June 30th, it crossed my mind, yes.

COFFEY, Q.C.:

Q. Okay. Certainly at that point when you see so many patients listed out?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And the oncologists, you certainly understood then that there was a large group of--well, 16 patients?

DR. WILLIAMS:

A. Yeah.

COFFEY, Q.C.:

Q. Those of the 16 who didn't already know were about to be notified?

DR. WILLIAMS:

A. Well, I would understand that over the next few weeks they'd be, would have--the process

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would have been in place to contact them, yes.
COFFEY, Q.C.:
Q. And then in that context the idea that it might become public because those patients were being notified, that prompted you, it was one of the considerations prompted you to contact Mr. Tilley about it?
DR. WILLIAMS:
A. No, the primary reason to contact Mr. Tilley, in my mind, was because I felt at that time we had a major systemic problem and we needed to apply, I guess, all our resources and heads to determine how we were going to deal with it. At the time I phoned Mr. Tilley, really, I was feeling that this is probably going to be the biggest kind of challenge that Eastern Health is ever going to face or any health organization is ever going to face. When you have a potential for--because we hadn't started the retesting in any great extent then beyond 2002.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. But with a number of patients converting from

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other years, it was my expectation that we would have conversions from those other years.
COFFEY, Q.C.:
Q. So did the fact that it might inadvertently become public knowledge in the sense of some patient or their relative might, who had converted might have contacted, did that play any part in your decision to contact Mr. Tilley?
DR. WILLIAMS:
A. Would have played some part, sure. The major reason I contacted Mr. Tilley was because of the significance of it, but the issue of this becoming a public knowledge would have played a part in it, yes.
COFFEY, Q.C.:
Q. Doctor, on this point, because, I mean, you'd been carrying around this information certainly since your phone call from Dr. Cook back in May?
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:
Q. Initial one and May 25th when you got his May 24th letter, I believe you--I understand you

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spoke to Mr. Tilley first on July 7th, probably, at least that's his -
DR. WILLIAMS:
A. Yeah. Mine is July 8th.
COFFEY, Q.C.:
Q. Okay, you have a note July 8th?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And I appreciate that. And he has a telephone log of July 7th.
DR. WILLIAMS:
A. Well, okay.
COFFEY, Q.C.:
Q. But -
DR. WILLIAMS:
A. It could have been July 7th, sure.
COFFEY, Q.C.:
Q. Doctor, on that point, like in that intervening time frame in relation to this matter, how did you feel about it at the time in the sense of was it a burden to you?
DR. WILLIAMS:
A. Yes, you know it was a burden.
COFFEY, Q.C.:

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Q. Right. And this is in terms of if you could explain to the Commissioner in terms of, you know, as time went on, as best you can recall, up to that point when you finally were able to tell Mr. Tilley.
DR. WILLIAMS:
A. Yeah. It was a burden on me, really, from--I was hoping that, you know, probably we'd--it'd be confined. When I realized it was certainly systematic--it was a burden on me from the time we started discussing it in May, obviously, and it stayed a burden on me until October, early October when it broke in the media, personally.
COFFEY, Q.C.:
Q. And why is that, when it broke in the media, and, I think,to be fair, yesterday, I believe, before or during one of the breaks you spoke about the fact that this still affects you?
DR. WILLIAMS:
A. Yes, sure.
COFFEY, Q.C.:
Q. In a conversation. What happened--so I gather from a remark you made yesterday, I supposed it's a private conversation, but you did say

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you're still burdened by this?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. What, if anything, then happened in October of '05, it didn't change the burden but something--it went public, I take it?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And what, if any, relief did you get from that?
DR. WILLIAMS:
A. Well, I got some personally that it was out and it was public and we could address it in the public sense.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. That's a personal issue for me.
COFFEY, Q.C.:
Q. Yes, sure.
DR. WILLIAMS:
A. It's not -
COFFEY, Q.C.:

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Q. And with respect to the larger underlying issue in terms of the effect on the patients, can you tell the Commissioner now, like, even today, what the effect on you is?
DR. WILLIAMS:
A. Well, I can never forget it. It just, it's with you all the time. I was ruminating on it after I left the organization and that's why I wrote Dr. Howell in December of 2006 with some--I had given it some thought after I had left and I thought there was another couple of issues, couple of bases that we should have maybe touched and I wanted to make sure that I got those points across again. I had a chance to think about it in more detail and I was really thinking about how we might prevent this ever happening again in the lab or some similar event in another part of the lab. Even though I was confident in my own mind from what I'd been told that we really participated in all things from a quality perspective and had done that for years in the lab, in discussions I had had and in follow up I had had and I had some discussions with the Mount Sinai tech, too, after when she was

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here, and talking about the gold standard, even though they participated in the College of American Pathologists she felt that the gold standard was the quality management program that they had for labs in Ontario. And they had it for a specific reason, because there was a lot of private labs in Ontario. So I felt that based upon what you see we done before and followed up with Dr. Richardson before the tech came down and my discussions with Trish Wegrynowski we--she brought forward the standards they had in Ontario and she felt that they were hired in the College of American Pathologists and this type of thing for their labs. So I felt that was a good place to start and that if we got enrolled-- I'm not talking about our lab, I'm talking about all the labs in the province would probably benefit from being enrolled in that program.
COFFEY, Q.C.:
Q. And your interest in that, in fact, I gather, where you wrote a letter in December of '06 to Mr. Tilley, in fact, continued after you -
DR. WILLIAMS:

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A. To Dr. Howell, I asked Dr. Howell -
COFFEY, Q.C.:
Q. - I apologize, Dr. Howell -
DR. WILLIAMS:
A. - if I should send it to Mr. Tilley or himself and if we talk to Mr. Tilley about it and he said send it to him, that Mr. Tilley had a lot of things on his plate and he'd pick the right time to follow up with him on it. So that's why I addressed it to Dr. Howell.
COFFEY, Q.C.:
Q. But you took it upon yourself to do so even after you had left the organization?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. It followed you out?
DR. WILLIAMS:
A. Yeah, it followed me out. And I continued on think about it and wanted to sort of make a couple of recommendations. Another recommendation was one that Dr. Banerjee alluded to and I didn't think we fully addressed it and I made a recommendation as to how I thought that should be addressed.

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COFFEY, Q.C.:
Q. Yes. If we could please, just before, one more exhibit, P--500, please? Doctor, this is again at--a copy of that June 29th, 2005 letter to Dr. McCarthy from--when we go to the third page, this is again the listing of patients, of the 25 patients whose, 16 of whom's results had changed on retest. On the third page it says here, "Thank you for your attention in this matter. Yours sincerely," and signed, "Beverley Carter, MD." And then out to the right-hand side it's, that would be Donald Cook's signature?
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:
Q. Dated July -
DR. WILLIAMS:
A. Looks like it, yes.
COFFEY, Q.C.:
Q. July 13th, 2005?
DR. WILLIAMS:
A. u
COFFEY, Q.C.:
Q. So this is another version of the same letter.

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Is it your understanding that that would be, because it was -
DR. WILLIAMS:
A. I don't know whether I was copied on those, I'm not sure.
COFFEY, Q.C.:
Q. Okay. On that point, this is what I -
DR. WILLIAMS:
A. I don't know if there's any difference.
COFFEY, Q.C.:
Q. Do you recognize the handwriting here?
DR. WILLIAMS:
A. That wouldn't be mine.
COFFEY, Q.C.:
Q. It's not yours. Do you recognize whose handwriting it is?
DR. WILLIAMS:
A. No.
COFFEY, Q.C.:
Q. Thank you, Commissioner.
COMMISSIONER:
Q. Fifteen minutes.
(RECESS)
COMMISSIONER:
Q. Please be seated. Mr. Coffey.

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COFFEY, Q.C.:
Q. Thank you, Commissioner. If we could, please, Doctor, the first note that you have, I take it, of your own, is July 8th, 2005?
DR. WILLIAMS:
A. July 8th.
COFFEY, Q.C.:
Q. Yes. And I pointed out to you before the break that Mr. Tilley has told the Commissioner that was probably July 7th, at least his notes indicate that he first spoke to you about this?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. The day before. Do you recall was it a phone call?
DR. WILLIAMS:
A. A phone call. I would have phoned Mr. Tilley.
COFFEY, Q.C.:
Q. And do you recall what it was you told him?
DR. WILLIAMS:
A. Well, I think I told him everything I knew at the time.
COFFEY, Q.C.:

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Q. Okay.
DR. WILLIAMS:
A. But I said in my note, "I met earlier in day with Dr. Cook and Mr. Gulliver," but I must have been wrong on that because Dr. Cook wasn't here, wasn't in the province. So I don't--that -
COFFEY, Q.C.:
Q. That would be July 8th, your note of July 8th.
DR. WILLIAMS:
A. Yes. He wasn't here.
COFFEY, Q.C.:
Q. I'm just thinking to ask you--and you don't have any--if you did call him on July 7th, you don't have any -
DR. WILLIAMS:
A. No.
COFFEY, Q.C.:
Q. That's Mr. Tilley, you don't have a note of that?
DR. WILLIAMS:
A. It's either I've got the date wrong or he's got the date wrong. Could be me.
COFFEY, Q.C.:
Q. You finally decided, of course, to call Mr.

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Tilley. Do you recall how long the initial phone call was?

DR. WILLIAMS:

A. I'm not sure of that. My recollection is that I called him in the afternoon, that I would have explained to him what we knew at the time, that I would have explained to him that I was very concerned, I expect, about the extent of this and it was a major issue, and -

COFFEY, Q.C.:

Q. - that it involved other parts of the province, would you have -

DR. WILLIAMS:

A. I would probably have told him that as well. I would think that I would have told him that, and that I felt that this was probably the biggest challenge that Eastern Health was going to face, and it would be--I don't know at that time. I know at certain times I was thinking that this would be a national issue. Now that was my anticipation at the time and that's what I felt, based on the information I had at the time, that was going to happen and that that's why I raised with Mr. Tilley what I felt was the extent of the situation and

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that really, at this stage, we should say something publicly that probably to the extent that we'd uncovered a potential problem here. We done some investigations and whatever we were doing, we just say it publicly. I didn't--I expect at the time I realized that it would take some time to identify and do it individually, so I was seeking, at that time, some kind of a public statement that we had a problem, maybe that we'd had some investigations done. Some people had converted and they were being followed up by their doctors, and that we wanted to advise people that when we identified who might be retested that we'd be following up and probably, at some stage, I think it says we should have a hotline for people to phone in on. That comes up three or four days, four or five days later.

COFFEY, Q.C.:

Q. So by the time you first contacted Mr. Tilley about this, whether it was July 7th or 8th, you had given some thought to, from your perspective, how this would--perhaps could proceed in terms of how Eastern Health might

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handle it?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. In terms of public -

DR. WILLIAMS:

A. And I had given a lot of thought to how big a problem I perceived this to be and that it was not just a provincial issue, but it would become a national issue.

COFFEY, Q.C.:

Q. I was going to ask you about that. Why is that? By that point in time, why did you feel that way?

DR. WILLIAMS:

A. Because based upon the fact that we had conversions from pretty well three or four different years, that this was an important test, ER/PR test, that people based treatment decisions on and that it could affect, you know, a number of people, not just 10 or 15 or 20 people, but I thought probably a hundred or so, maybe a couple hundred possibly at the time. That's why I felt it was a significant issue, a sensitive issue, and that that's the

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attention that would be paid to it.

COFFEY, Q.C.:

Q. So that it would garner national attention?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Okay, not that the problem existed elsewhere in Canada, but that it would garner -

DR. WILLIAMS:

A. Well, no, I wouldn't have thought that maybe I knew, at that stage, how much--because it's only after we started--even Heather Predham, she started getting the literature out, that we started to realize that, you know, this could be a problem in other jurisdictions because they found out it was a problem in the United Kingdom and they set up a quality program. There was some literature from the U.S., especially from the person who was the editor of the Journal of Oncology in the U.S., that why hasn't this surfaced in the U.S. as a major issue, because the test is problematic.

COFFEY, Q.C.:

Q. And you first became aware of that, like the European experience and at least some articles

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or publications in the U.S. addressing the matter, you first became aware of that when? Would that have been -

DR. WILLIAMS:

A. I would start we were starting to become aware of that in mid July, that the articles -

COFFEY, Q.C.:

Q. In July.

DR. WILLIAMS:

A. - Heather was starting to research the literature. Dr. Carter had given me an article from the National Institute of Health in the U.S. about this particular issue. So I started to read those articles.

COFFEY, Q.C.:

Q. But at the point where you first spoke to Mr. Tilley, your reference to it being a national issue, I take it, was from your perspective that it would garner national attention?

DR. WILLIAMS:

A. Because it was -

COFFEY, Q.C.:

Q. Because of the numbers potentially involved?

DR. WILLIAMS:

A. Yes. My feeling was that it was a serious

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problem.

COFFEY, Q.C.:

Q. Did you--and you conveyed that view to Mr. Tilley?

DR. WILLIAMS:

A. I'm pretty sure, that this was a big problem, and it surfaced again anyway, so I don't think--if I didn't convey it to that extent then, it certainly got conveyed through our discussions.

COFFEY, Q.C.:

Q. Now having spoken to Mr. Tilley first about this, what happened then? Did you meet with him?

DR. WILLIAMS:

A. I recollect that Dr. Cook and myself, Ms. Predham, and Mr. Gulliver, were asked to go to a meeting in the corporate office. We went out to a meeting in corporate office. Normally, if we go out there, it would be to meet with Mr. Tilley.

COFFEY, Q.C.:

Q. Yes.

DR. WILLIAMS:

A. But I'm not sure--certainly, us four were

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there and Susan Bonnell was there. I'm not sure if Mr. Tilley intended to be there, but something happened to prevent his being there, but there was a discussion about this issue at the time, and I didn't take any notes on that meeting, so I can't give you any detail of what was discussed, but I guess, the whole scenario was discussed. I think the Dr. Ejeckam memo surfaced at that meeting. That's probably when I first saw them.

COFFEY, Q.C.:

Q. And you do have a note dated, I believe, July 8th, 2005.

DR. WILLIAMS:

A. Yes, I do.

COFFEY, Q.C.:

Q. And this is Exhibit P-0497, please? Now sir, this is your handwritten -

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. - handwriting, and if we just go to -

DR. WILLIAMS:

A. Yes, that's the typed version.

COFFEY, Q.C.:

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Q. - page two of the exhibit, yes, and I do want to thank you for this. You have provided, through Mr. Simmons--I take it you've gone through at least certain of your notes?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And -

DR. WILLIAMS:

A. All of the notes, and got them typed.

COFFEY, Q.C.:

Q. - and had them retyped and you're satisfied that the typed version accords with what you -

DR. WILLIAMS:

A. Pretty well. There's some things that come up. What is not correct there is that it wouldn't have been Dr. Cook I talked to earlier in the day, because he wasn't in the province, and I'm not sure who that was, but in any event, I phoned Mr. Tilley.

COFFEY, Q.C.:

Q. And do you recall--well, first of all, when would you have written this note?

DR. WILLIAMS:

A. That note?

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COFFEY, Q.C.:
Q. Yes.
DR. WILLIAMS:
A. I would say that note was contemporaneously with phoning Mr. Tilley.
COFFEY, Q.C.:
Q. And are you able to tell the Commissioner why you would have then, if it was the same day, why you would have referred to "met earlier in the day with Dr. Cook and Mr. Gulliver"?
DR. WILLIAMS:
A. Well, the July 8th is the day, so I would have said I met earlier in July 8th, on that day.
COFFEY, Q.C.:
Q. That's what I'm--"met earlier -
DR. WILLIAMS:
A. In the day
COFFEY, Q.C.:
Q. - in the day with Dr. Cook and Mr. Gulliver."
DR. WILLIAMS:
A. Yes, so I might have phoned Mr. Tilley at 4:00 in the afternoon, because it was late in the afternoon. I might have met with Dr. Cook--I was thinking it was Dr. Cook, and Mr. Gulliver at 2:00 or something.

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COFFEY, Q.C.:
Q. But Dr. Cook wasn't -
DR. WILLIAMS:
A. No, so it must have been somebody else. I must have had Dr. Cook on my mind or something. I don't know why I would have said that.
COFFEY, Q.C.:
Q. And in Dr. Cook's absence, you would have been--the pathologist you would be dealing with at that stage was Dr. Carter?
DR. WILLIAMS:
A. Would have been Dr. Carter. I don't know if I phoned Dr. Carter or not. I can't be sure of that. I may have, but certainly had the information that her office provided me on the retesting.
COFFEY, Q.C.:
Q. And here, there's reference to--I gather you've written "met earlier in the day with Dr. Cook and Mr. Gulliver" and you've pointed out Dr. Cook wasn't then at work. "On review of the situation, the problem appears not to be confined to a few negatives that have converted to positives in one batch, but a

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larger problem. Have been advised that all runs of tests had control/controls which should be documented. Spoke to Mr. Tilley and advised him of concerns and larger problem and consideration of public rather than case-by-case follow up on test results."
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And you've explained that aspect of the matter to the Commissioner. Who would have advised you that all runs of tests had control or controls which should be documented?
DR. WILLIAMS:
A. It would be Mr. Gulliver probably or Dr. Cook.
COFFEY, Q.C.:
Q. Had you made or caused any inquiries at that point to be made into whether or not that was so?
DR. WILLIAMS:
A. Well, I asked the question, I guess, and I was told it was so.
COFFEY, Q.C.:
Q. Okay, but the idea that they would be documented, did you -

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DR. WILLIAMS:
A. Well, yeah, I think we later learned that some of them were not documented, but I was assured, even if they weren't documented, that they were still done.
COFFEY, Q.C.:
Q. And the significance, from your perspective, at that time, you would have understood the significance of them being done was what?
DR. WILLIAMS:
A. Well, that's a check and balance.
COFFEY, Q.C.:
Q. And perhaps you -
DR. WILLIAMS:
A. And it's part of a quality control, if you got some checks and--there's a lot of elements in quality. It starts with hiring people who are qualified to do the job, people who have credentials and this type of thing. It goes then into giving them the facilities and the equipment to do the job properly, and it goes then into what we call internal quality and external quality. Internal quality would be, what we were talking about, having controls that were run so that if there's a problem,

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you'd pick it up that way, and external quality would mean enroling in the College of American Pathologists or some such organizations, proficiency testing program for the particular type of thing you're doing.

COFFEY, Q.C.:

Q. And the idea of these controls that either Mr. Gulliver or Dr. Cook had spoken to you about, "all runs of test had control or controls which should be documented," that would be--your understanding at that time, what was your understanding of what those controls were?

DR. WILLIAMS:

A. See, it's hard for me to go back and say that exactly.

COFFEY, Q.C.:

Q. Okay.

DR. WILLIAMS:

A. Because since then there's a lot of information coming forward from Dr. Banerjee and things like that. I think at the time, I thought that they had a series of controls that were of a known significance, whether a control that would stain positive was done alongside of an unknown, a new sample that

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they were testing. So that would be my--I think it was my understanding at that time that these were known samples that were known to be positive that had been run alongside tests.

COFFEY, Q.C.:

Q. And whatever may be the nitty gritty of that, the intricacies, the technical -

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. - you understood though, at the time, that protocol, good practice required that controls be run?

DR. WILLIAMS:

A. Yes, I understood that that was--if you were going to do this test, you'd run controls as part of the test.

COFFEY, Q.C.:

Q. And you'd only report the test results, I take it, if the controls worked?

DR. WILLIAMS:

A. Yes, that would be my understanding.

COFFEY, Q.C.:

Q. That was your understanding.

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DR. WILLIAMS:

A. And as you go along and as I read more through July and August, I've seen Dr. Khalifa's menes (sic). I've seen Dr. Banerjee's report. So it's hard for me to say, at this point in time, what I knew because we're going back now to 2005 and a lot of things happened over the next few months and when I learned about something, in terms of what a control--are there different types of controls, I might have learned about that a little later.

COFFEY, Q.C.:

Q. In terms of the types of controls?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. But the idea that there should be controls, you knew that early on?

DR. WILLIAMS:

A. I knew that there was a system of checks and balances in place, and I was told that we did have this. So I was scratching my head, initially, "well how could this happen if we have a system of checks and balances?"

COFFEY, Q.C.:

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Q. And you were being assured at that stage that those checks and balances had been followed?

DR. WILLIAMS:

A. Yes, that was my understanding. You know, how much of an understanding I had of what kind of controls, I knew there was such a thing as a positive control and if the possible control didn't stain, well you know, that was a good check on your system.

COFFEY, Q.C.:

Q. Did you ask either Mr. Gulliver or Dr. Cook, or both of them, that very question, which is "look, if there are such things as controls and you have run them, how could this happen?" and if so -

DR. WILLIAMS:

A. At some stage, I would have asked that question, yes.

COFFEY, Q.C.:

Q. Do you recall what the response was? Who you asked and what the response was?

DR. WILLIAMS:

A. You know, that's hard. I understand that at one stage, somebody said well, the control might be moderately or--you know, when you

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select your controls, you might have had a control that showed a moderate degree of staining, like 40 to 50 percent, and maybe the tissue specimen that you were doing at the time, might have only been one or two or five percent and maybe that was a factor.

COFFEY, Q.C.:

Q. Okay, so kind of the nuances of different controls, different types of staining of controls and so on -

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. - you became aware of that afterward?

DR. WILLIAMS:

A. Yes, at some stage.

COFFEY, Q.C.:

Q. And it was explained in that--okay. If we could, please, Exhibit P-0498? So just before I go on to this, you've spoken to Mr. Tilley. You can't recall if you actually met with him at that point, like that day or the next?

DR. WILLIAMS:

A. I didn't meet with Mr. Tilley that day. I phoned him and I'm pretty sure--well, I know I

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would have gone through my take on this.

COFFEY, Q.C.:

Q. To bring him up to date.

DR. WILLIAMS:

A. And that I felt it was a very serious problem.

COFFEY, Q.C.:

Q. And was there a meeting then arranged with Mr. Tilley?

DR. WILLIAMS:

A. There was a meeting arranged, well, we had--we went out to corporate office and if you're going to corporate office, you're usually going out to meet with Mr. Tilley, and I don't remember Mr. Tilley partaking in that meeting. Susan Bonnell was certainly there at the meeting.

COFFEY, Q.C.:

Q. Do you recall what was discussed in the meeting? I take it you have no notes on it.

DR. WILLIAMS:

A. Well, Dr. Ejeckam's memo surfaced at that meeting, I'm pretty sure that's when Dr. Cook brought them out. So there was some discussion about that. I could stand to be corrected, but I'm pretty sure that that

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happened. But most of the discussion then would have ensued around, well, what's going on here. How much of a problem have we got? And really, with Susan there, I guess, is how are we going to handle it, from the public perspective, a patient's perspective and how we're going to deal with that. That's probably what most of the meeting was about.

COFFEY, Q.C.:

Q. So would you have explained to Susan Bonnell kind of what you knew up to that time?

DR. WILLIAMS:

A. Well, I would expect I would, yes, and I think that Heather Predham was there, Don Cook was there, Terry Gulliver was there, so I think she would have got a full flavour of the issues.

COFFEY, Q.C.:

Q. And so this meeting would have been what, probably what date? If you talked to -

DR. WILLIAMS:

A. I would say within the first two to three days of the next week. My date says July 8th, that would be a Friday.

COFFEY, Q.C.:

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Q. Yes.

DR. WILLIAMS:

A. Dr. Cook would have got back on that Monday. So it was sometime after the Monday. It could have been the 12th or 13th.

COFFEY, Q.C.:

Q. Okay, 11th, 12th, 13th, in that area.

DR. WILLIAMS:

A. I don't think it was the 11th.

COFFEY, Q.C.:

Q. But it would be the following week?

DR. WILLIAMS:

A. Yes, it would be the 12th or 13th or something, yes. Wouldn't be much--wouldn't be long after I phoned Mr. Tilley, but again, I may be wrong on that, but I expect it was before the--if my notes--I expect it was before the 14th. It might have been the 12th or 13th, because Susan Bonnell was--we were meeting with the oncologists and everybody on the 14th, so that meeting would have taken place before that.

COFFEY, Q.C.:

Q. If I could, Exhibit P-0498, please? Now this is a print out of, I gather, an internet

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posting to VOCM's .dom, that website. The heading is "Court gives approval of a class action, July 8th 2005" and the source is indicated, source from the perspective of it came to the Commission in Volume 10, page 186 from Eastern Health, the source, Susan Bonnell. And it reads "the Provincial Supreme Court has given the go-ahead for a class action law suit against Health Labrador Corporation. In his decision, Justice David Russell ruled that class action law suit can be launched on behalf of all patients at the gynecological clinic at Captain William Jackman Memorial Hospital between October 2001 and March 2003, including those who have contracted" and there's a list of diseases, and he goes on to say "Health Labrador has admitted that staff of the clinic, at that time, failed to properly sterilize medical instruments used in gynecological exams. The law suits claims that as many as 333 women and their spouses were put at risk for various diseases. Justice David Russell says the class action law suit will try to determine if Health Labrador breached the duties of care

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during examinations and in following up with the patients and will also determine what, if any, damages the patients are entitled to, including any punitive damages."

And if we could, please, bring up Exhibit P-0499? This is, again, a story posted on the same website, dated July 9th 2005, entitled "law suit given go ahead" and it says "the lawyer representing women in a class action law suit against Health Labrador Corporation says his clients are thrilled the case has been given the go ahead by the Provincial Supreme Court. Ches Crosbie says as many as 33e women could be involved in the law suit launched by women who were examined with improperly sterilized equipment at the Captain William Jackman Memorial Hospital in Lab City. The incidents occurred at the gynecological clinic between October 2001 and March 2003. Crosbie says there's a chance the law suit could be settled out of Court."

Now sir, on July 8th, 9th, 10th, did you become aware or were you aware of that proceeding?

DR. WILLIAMS:

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A. I'm not sure, Mr. Coffey. It doesn't ring any bells with me. That issue came up sometime later, from my perspective, when there was a document done to look at the pros and cons of how we might disclose and which was the appropriate way. I understand that there was some concerns with this particular situation of how the disclosure took place. I think there was some kind of letter sent out or registered letters. I'm not quite sure of that, but it came up. It was an issue that came up and it's documented somewhere in here. I'm not sure if I--I wasn't much into, you know, looking at the media and getting that issue. I'm not sure if I would have known that at the time or subsequently it came up as part of the thinking process and decision making process, what actually happened here.

COFFEY, Q.C.:

Q. In this first meeting that you had which Susan Bonnell was there for, do you recall if the topic came up or was raised then?

DR. WILLIAMS:

A. I don't recall it being raised. That doesn't mean it wasn't raised. I just didn't do any

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notes, so I don't recall it being raised.

COFFEY, Q.C.:

Q. If we could, Exhibit P-501, please? Now this is--the exhibit is three pages. Your handwritten--these are your handwritten notes?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. I take it for July 12th 2005?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And are you aware of any discrepancy between the typed version and the handwritten ones here?

DR. WILLIAMS:

A. I don't--I think I would have read it at some past date, so I think it's all right.

COFFEY, Q.C.:

Q. Okay.

DR. WILLIAMS:

A. If we go through it and I see anything, I'll certainly let you know.

COFFEY, Q.C.:

Q. And this, if we could go to page three,

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please, this might--it says, and this is typed version of the notes, July 12th 2005, attendees: Dr. Cook, Ms. Predham, Mr. Gulliver and Dr. Williams. This would have been a Tuesday. The 8th is a Friday, this is a Tuesday.

DR. WILLIAMS:

A. Yes, okay.

COFFEY, Q.C.:

Q. Dr. Cook obviously is back to work. Do you recall this meeting, where this meeting occurred?

DR. WILLIAMS:

A. I would say it occurred in my office, but just by the number of--the people that are there.

COFFEY, Q.C.:

Q. And it says "follow up on status of IP testing for ER/PR receptors."

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And immuno--IP is immunoperoxidase?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

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Q. "Prior to 2004, semi-automated, semi-manual DAKO testing procedure for testing for ER/PR receptors. Complicated procedure to unmask the antigens in the test, which include boiling of tissue." Third bullet, "there was a system of positive controls." Fourth bullet, "October 2003, the laboratory medicine program visited Ventana system at the Montreal Jewish Hospital." Next bullet, "January 2004, Ventana system purchased training--purchased" I'm sorry, "training commenced late March, early April and new system fully operational here, full automated, company says ten times more sensitive."

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. "We have pulled all the cases in September 2001 to review findings and retest. There was an issue of erratic staining in early 2003. Testing pulled for six weeks. Titration times and staining times were adjusted. Tests sent out for six weeks to other labs."

DR. WILLIAMS:

A. I now know that that's not correct.

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COFFEY, Q.C.:

Q. Yeah, you know now.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. This is, I take it at the time--and I'll ask you about that in a moment. It goes on "For breast tissue samples, should be formalin for 48 to 72 hours, controls are"--and then there's something blank here, "are in formalin, perhaps for optimal time.

DR. WILLIAMS:

A. Yeah.

COFFEY, Q.C.:

Q. "IP testing in place since late 1990s before this was done in biochemistry. We can go back and retest because we have the samples. We first alerted when patient was seen in the USA, an oncologist there felt patient testing should have been positive for ER/PR. On retesting here it was, Ventana system takes the human factor out of the equation." And then having decision, "One, test all samples of living patients. Two, what are our positive rates for infiltrating lobular and

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ductal cancer; three, look at our rate of positivity by year; four, check out procedure verses DAKO standards; five, set a process to inform oncologists in the cancer care program; six, check with Dr. Ejeckam re: process in 2003; seven, implement recommendations of May 24th, 2005 correspondence and identify."

DR. WILLIAMS:

A. That would have been, I think, with respect to the quality aspect of Dr. Cook's memo, that last number seven.

COFFEY, Q.C.:

Q. Yes, those four recommendations he had.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Now, sir, the people in attendance here are Dr. Cook, Ms. Predham, Mr. Gulliver and yourself?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. By this point, by July 12th, 2005--do you know if by this point you had actually met with Mr. Tilley?

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DR. WILLIAMS:
A. No, I can't be sure, I think our meeting that we went out to the corporate office was to meet with Mr. Tilley. That's my recollection, but he wasn't there.
COFFEY, Q.C.:
Q. Okay. So -
THE COMMISSIONER:
Q. So you really don't think you had not really met with him?
DR. WILLIAMS:
A. No, I discussed it with him on the phone.
THE COMMISSIONER:
Q. Yeah, but hadn't actually -
DR. WILLIAMS:
A. Recall the corporate office, I seem to think and my memory may not be quite right that if we were going to corporate office, it was contemplated that Mr. Tilley would be meeting with us. That would be my -
THE COMMISSIONER:
Q. But he wasn't able to be there for some reason.
DR. WILLIAMS:
A. Well I may be wrong on that, but I think if we

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went out to corporate office, it would probably be to meet with Mr. Tilley.
COFFEY, Q.C.:
Q. And, sir, in terms of the group then, on July 12th, 2005, these four individuals, including yourself, at that point in time your understanding was in whose hands was the responsibility for addressing this problem?
DR. WILLIAMS:
A. Well I would be working on the laboratory side getting all the testing redone and responding to what we felt was a problem, that on the communication side, communications would take the lead role and I would have input into that, but communications would take a lot of their directions and cues from Mr. Tilley because I think this is a big issue, I didn't see my role as directing communications, I don't have--but I would see my role as providing input when asked and doing interviews when asked, but not, you know, overall responsibility for communications aspect, but to be involved in that. And I felt my main role at this point was to really get the ball rolling and get things going with

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the retesting and working with quality to make sure that we had patients identified and this type of thing.
COFFEY, Q.C.:
Q. And in terms of identifying recruiting members of the group to deal with the technical clinical end of the matter which you understood, you would have felt responsible for organizing.
DR. WILLIAMS:
A. Yes, we would organize in the lab getting -
COFFEY, Q.C.:
Q. The make up of that group was whose decision?
DR. WILLIAMS:
A. The make up of what group for -
COFFEY, Q.C.:
Q. Of that group to handle it.
DR. WILLIAMS:
A. To handle the retesting and this type of thing?
COFFEY, Q.C.:
Q. Yes.
DR. WILLIAMS:
A. That would have been my responsibility to deal with that, yes.

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COFFEY, Q.C.:
Q. So what I'm getting at here is this, there are four people here, Dr. Cook, Ms. Predham, Mr. Gulliver and yourself.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. If there was to be anyone else involved in that group or to be added to the group, that would be your decision?
DR. WILLIAMS:
A. Yes, if somebody in that group thought they should be added in, to check with me, sure.
THE COMMISSIONER:
Q. Do I get the view that this was decision day in the sense of--should I read more into this that by the time--can we just scroll down to the bottom there, decision to test all samples of living patients, now had you actually made that decision at any point before and you were now recording it or was this the day when you finally said we've been talking about it, but now we've got to do it.
DR. WILLIAMS:
A. I think is the day we had probably been

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talking about it, but we just documented that that's the thing we're going--we're going to be retesting. I may have alluded to that in my discussion with Mr. Tilley, that that's what I thought we should do.

COFFEY, Q.C.:

Q. But in terms of actually recording it in writing, like have a plan of action -

DR. WILLIAMS:

A. That was probably the first time it was recorded in action, yes.

COFFEY, Q.C.:

Q. At the time, Doctor, did you have any sense at that point as to how long this might take at that time?

DR. WILLIAMS:

A. Well at that time we were contemplating using our Ventana system, so I think we had some control over how quick that could be done, recognizing that you had other things to do too, so you'd have to balance that off.

COFFEY, Q.C.:

Q. Did you have any sense at that time as to how long?

DR. WILLIAMS:

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A. I don't think we sat down and discussed about a timeframe, but I think we had a sense that we had some control over that.

COFFEY, Q.C.:

Q. Now, so test all samples of living patients, all samples for what years? Was there -

DR. WILLIAMS:

A. Every year.

COFFEY, Q.C.:

Q. Every year, okay.

DR. WILLIAMS:

A. That's my -

COFFEY, Q.C.:

Q. And your understanding was that every year, would that include the Ventana years at that point?

DR. WILLIAMS:

A. I thought we were going to test from '97 right up to a current date, that's my understanding, but it may not--it may be just testing up until we started the Ventana, so I'm not sure, I'd have to be--I'd have to look through my notes and see when that changed.

COFFEY, Q.C.:

Q. Because at this point in time -

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DR. WILLIAMS:

A. Because if we were going to retest with the Ventana, I presume we wouldn't retest, so it would probably be 1997 to up to when the Ventana came in, that's probably what we were thinking about at the time.

COFFEY, Q.C.:

Q. And in terms of, what was your understanding about how those patients were to be identified?

DR. WILLIAMS:

A. Well at some stage I knew that we had an order entry system in St. John's.

THE COMMISSIONER:

Q. I'm sorry, a what?

DR. WILLIAMS:

A. An order entry, a computerized order entry system, on the Meditech, so that any of these ER/PR tests that were ordered, would be entered into the Meditech system and could be pulled off that system, except for the Grace Hospital for a year or two, I understood from Mr. Gulliver, that that would have to be done manually and I forget the details of it, but I think there was a small manual part, but most

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of it was on the Meditech computerized order entry system. And obviously that--and if you were going to go forward and test, there'd be some contact made outside St. John's to, in addition to now getting into 2002, let's get into other years as well.

COFFEY, Q.C.:

Q. Sure.

DR. WILLIAMS:

A. But at that time we hadn't established the parameters around what the, what the factors would be and the consideration of who would be retested. So early on in, I think at that time we had identified that we were going to retest, but then we had to get the parameters around, you know, what would the markers be or what would be use to retest, like would we retest people who are ten percent or thirty percent; that hadn't been decided yet, that level of detail.

COFFEY, Q.C.:

Q. So prior to this, who had been making the decisions as to which patients to retest, your understanding of -

DR. WILLIAMS:

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A. My understanding it was Dr. Carter and Dr. Cook in consultation with the oncologists.

COFFEY, Q.C.:

Q. Okay, and whatever criteria they were using, they weren't really keeping, you were leaving it up to them at that point.

DR. WILLIAMS:

A. I didn't know there was a certain criteria set out, but if we're going to retest, we'd have to, if you're going to do a massive retesting, then you'd set out the criteria.

COFFEY, Q.C.:

Q. Sure. The reference to "what are positivity rates for infiltrating lobular and ductal cancer", who is going to ascertain that and why?

DR. WILLIAMS:

A. Well just compare it with what we did after, I think we got to that level, we just got our rates for different years, positivity rates for different years. If you're going to do it for infiltrating lobular, you would want to see if your rates were up around 85, 90 percent or were they different. That would tell you if you had a problem.

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COFFEY, Q.C.:

Q. So whose idea was this?

DR. WILLIAMS:

A. I would expect it would probably come from Dr. Cook, you know, it wouldn't come from me.

COFFEY, Q.C.:

Q. It didn't come from you and it probably not Ms. Predham or Mr. Gulliver.

DR. WILLIAMS:

A. No, I would suspect it would come from Dr. Cook, maybe, in some of the discussions he had. Ductal cancer, I don't know what that refers to, I'd have, you know, we'd have to ask somebody -

COFFEY, Q.C.:

Q. Yes. Or even now, do you have any knowledge of lobular and ductal are just two different forms of -

DR. WILLIAMS:

A. They are two different forms, I have some knowledge now, there's five or six different types of breast cancer. The commonest type would be ductal, infiltrating ductal, but the others, there was mucoid would be another kind, so yes, there were five or six different

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types and some of these types would have a higher ER/PR positivity rate than other types. And then the grade of the tumor, if it's a high grade tumor, you would expect that their ER and PR status would be negative.

COFFEY, Q.C.:

Q. Sir, so the identifying then of all samples of living patients as of July 12th, whose responsibility, in a practical way, was that going to be?

DR. WILLIAMS:

A. That was going to be really Mr. Gulliver's and Mr. Dyer's first to get the list out and then to try to -

COFFEY, Q.C.:

Q. That would be of all the patients who had had the test?

DR. WILLIAMS:

A. Yes, and then it would be some linkage--I think Ms. Predham was going to be involved in trying to find out who was alive and this type of thing.

COFFEY, Q.C.:

Q. The third one is "look at our rate of positivity by year"?

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DR. WILLIAMS:

A. That would be Mr. Gulliver, he was going to get that for us.

COFFEY, Q.C.:

Q. And how did you understand he was going to do that?

DR. WILLIAMS:

A. He was going to be able to go in and get the order entry system and review it on a computerized basis and then he, in some of them, he would have to go through the reports just to get that.

COFFEY, Q.C.:

Q. And in terms of that, do you recall at that point was he being given any criteria as to what was positive at that time?

DR. WILLIAMS:

A. No, I think it was just if there was any degree of positivity recorded.

COFFEY, Q.C.:

Q. Okay, and why was he asked to discover that?

DR. WILLIAMS:

A. Oh because we wanted to see if there was any particular years that was worse than any other years. If we were going to go back to '97,

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something we would like to know, what's the positivity rate in '97. I still think given that we had conversions in a number of years, it probably still wouldn't deter us from retesting.

COFFEY, Q.C.:

Q. What's what I'm curious about, what difference did it make whether in '98 or '99 -

DR. WILLIAMS:

A. Well, it would be helpful to see what our rates wee, to see if there was a difference between one year and another.

COFFEY, Q.C.:

Q. But if you were going to do all the retesting, what difference would that make?

DR. WILLIAMS:

A. Well we would want to see and to see if there was any change over time. It might help us if we're going to do an investigation later on, to see where we put our resources to investigate. So I think it's important information to gave, that would be my view, so that's why I asked for it.

COFFEY, Q.C.:

Q. And why would it be important information to

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have?

DR. WILLIAMS:

A. Again because I'd want to see if, what the changes were over time of one year compared to the other.

COFFEY, Q.C.:

Q. And what significance would that have, possibly?

DR. WILLIAMS:

A. Overall to see if we were going to do an investigation later on, you know, it might lead us in some direction, that's all.

COFFEY, Q.C.:

Q. Okay, what sort of investigation?

DR. WILLIAMS:

A. Well just to see what happened.

COFFEY, Q.C.:

Q. I take it to try and figure out why it had happened--if it had happened -

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Because at this point, it was only -

DR. WILLIAMS:

A. I just thought it was good information to have

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available and there may have been some discussion then, there might be some national data rates that we could compare it with as well. So I didn't see why we shouldn't go ahead and get it. I expect if we didn't have it, somebody would ask me, well what were your rates in 1998, if I didn't have it.

THE COMMISSIONER:

Q. So I'm thinking if you discovered, for example, that your rates were higher in 1999 then you'd be concentrating on what if anything you were doing differently in 1999?

DR. WILLIAMS:

A. Yeah, you might be doing that, sure. It might help you in the end and I expect, Mr. Coffey, that if we didn't do it, that somebody might be asking me why we didn't do it.

COFFEY, Q.C.:

Q. I appreciate that.

THE COMMISSIONER:

Q. I guarantee you Mr. Coffey would be.

COFFEY, Q.C.:

Q. Now you've indicated that, you know, by this point, by mid July, you recognized, as you told Mr. Tilley about earlier in the month

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that this is, as you describe it, the biggest challenge perhaps Eastern Health -

DR. WILLIAMS:

A. Or any health organization would face.

COFFEY, Q.C.:

Q. - had faced. At that time, did you have any consideration to going outside the organization to consult with anybody about how one might approach this?

DR. WILLIAMS:

A. I don't recall it coming up, Mr. Coffey, of the going outside. Mr. Tilley, obviously as our CEO, went outside the organization in terms of contacting some of his counterparts, contacting the persons, the executive director for the quality council at the national level.

COFFEY, Q.C.:

Q. He did that in the fall of '05?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. But in terms of at this point, in the summer of '05, you, by the middle of July, you realized the magnitude potentially of it?

DR. WILLIAMS:

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A. Yes.
COFFEY, Q.C.:
Q. And I take it, did it occur to you and you discounted it or it just didn't occur to you?
DR. WILLIAMS:
A. It just didn't occur--we were really focused on let's get on with this as quick as we can, get the testing done and get any patients notified and treatment changed if necessary, I mean, that was our focus. Now, again, Dr. Cook made some contacts with other laboratory directors, Dr. O'Brien in New Brunswick, Dr. Dogan in the Mayo Clinic, just to see what their perspective was on it, but that was from the perspective of do we have any problems. When we contacted the Mayo Clinic, I think by that time we were thinking about sending out the testing. We didn't send them there because they had problems.
COFFEY, Q.C.:
Q. And I'll be going through that with you, I appreciate that. So and I appreciate that at the pathologist level, certainly Dr. Cook, clinical chief, he did consult other people outside, he did go outside the organization.

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DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And from time to time, he would have made you aware of that.
DR. WILLIAMS:
A. And Dr. Carter was having some discussions with her counterpart and so on, I'm pretty sure at the time.
COFFEY, Q.C.:
Q. At the level of organizing the retesting investigation or the investigation and the retesting, at your level, there was no consultation outside from your perspective -
DR. WILLIAMS:
A. No.
COFFEY, Q.C.:
Q. Or your counterparts elsewhere.
DR. WILLIAMS:
A. No, and I doubt if from what I read, now there's a lot in the literature since about retesting, but at that time, I don't think there was much large scale testing going on in our country.
COFFEY, Q.C.:

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Q. The reference in No. 5 here to "set up a process to inform the oncologists in a cancer care program." What was that about?
DR. WILLIAMS:
A. Well we wanted to make sure, we had been discussing it with Dr. Laing and Dr. McCarthy, but we were contemplating getting together a large group of people to sit down, people, surgeons and oncologists and make sure there was a forum for dialogue and people were informed about that and probably have some discussion, I guess, with the two lead oncologists that there colleagues were into, and of course bring Dr. Gardiner into the picture too as the medical director in the Cancer Clinic.
COFFEY, Q.C.:
Q. Well what about informing, like physicians throughout Newfoundland? Was there any discussion at that time?
DR. WILLIAMS:
A. At that time, no. There was discussion a little later on and the letter went out to physicians, but that was a little later.
COFFEY, Q.C.:

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Q. Yeah, that was in fact the fall?
DR. WILLIAMS:
A. In October, yes.
COFFEY, Q.C.:
Q. So that was after it became public?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. So up until that time, after October 2nd, was there any thought given amongst the group or by yourself that you were aware--amongst the group that you were aware of by yourself of letting physicians throughout the province know this?
DR. WILLIAMS:
A. No, I don't remember it coming up as a discussion.
COFFEY, Q.C.:
Q. Do the know if the NLMA was apprised of this during July of 2005? Were you aware of whether or not Mr. Ritter was aware of it?
DR. WILLIAMS:
A. I think Mr. Ritter was aware of it, yes.
COFFEY, Q.C.:
Q. But, as executive director, do your knowledge

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he was aware of it, but the idea of letting all physicians know -

DR. WILLIAMS:

A. No, that hadn't been discussed. I think we were focused on getting the testing done and then we had to decide how we were going to provide information to the public and to the patients and at that time, I suspect probably you would talk about getting the information out to physicians too.

COFFEY, Q.C.:

Q. What about at this point, July 12th or so, you've internally made the decision to test all samples of living patients. What about contacting the other health authorities, because you're going to go back to '97 up to probably the beginning of '04 when the Ventana started, was any thought given in the middle of July to through the beginning of August to contacting the other health authorities and asking for their samples of '97, '98, '99, 2000, 2001 and 2003?

DR. WILLIAMS:

A. It's my understanding that Dr. Cook was making some phone calls during July and August to

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other directors at the labs.

COFFEY, Q.C.:

Q. What about actually--because you knew that there had been a formal letter gone out back in June 14th.

DR. WILLIAMS:

A. Yes, that's right.

COFFEY, Q.C.:

Q. What about a similar letter, was there any thought given to sending a similar letter, except changing the years to be covered in it? Was that discussed at that time?

DR. WILLIAMS:

A. I can't remember really any discussion of that, but I know Dr. Cook was phoning out and then there was a letter went out a little later.

COFFEY, Q.C.:

Q. And that would be in September.

DR. WILLIAMS:

A. Early September. And that was to lay out, in addition to any calls he might have made, the criteria for what would be retested based upon the criteria that he developed with Dr. Laing and the oncologist.

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COFFEY, Q.C.:

Q. So back on June 14th, 2005, Dr. Cook's letter requesting all the 2002 samples -

DR. WILLIAMS:

A. Uh-hm.

COFFEY, Q.C.:

Q. He just said "negative ER/PR", there's no clarification or qualification of what negative means.

DR. WILLIAMS:

A. No.

COFFEY, Q.C.:

Q. Back in the middle of June, did you have any understanding of what negative meant?

DR. WILLIAMS:

A. Well I thought at that time negative meant no -

COFFEY, Q.C.:

Q. Like zero.

DR. WILLIAMS:

A. Zero, yes, but that changed subsequently in terms of criteria.

COFFEY, Q.C.:

Q. And are you able to--if the first such contact with the pathologists elsewhere by Dr. Cook

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wasn't until late August and then a letter in September, are you able to tell the Commissioner why the delay from, the decision July 12th until late in August?

DR. WILLIAMS:

A. I think Dr. Cook had phoned out some of the--was attempting to phone them on the phone over July and August with respect to getting other samples in, then he followed up with a letter in July--sorry, in September on it. That's my understanding.

COFFEY, Q.C.:

Q. Number six says, "Check with Dr. Ejeckam, re: process in 2003"?

DR. WILLIAMS:

A. That was Dr. Cook to do that.

COFFEY, Q.C.:

Q. And you've already, I take it, told the Commissioner earlier this morning as to what he then reported to you about his contact.

DR. WILLIAMS:

A. Yes, we already talked about that.

COFFEY, Q.C.:

Q. In terms of this and I ask you, I'll canvass this with you one more time, by this point in

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time, by the middle of July, well actually we'll go to it, perhaps exhibit P-0503. Now this is a, well it's a typed document, the way it came to us is described as documents collected by the VP Medical and Diagnostic Services, which would be your office, I take it, at that time.

DR. WILLIAMS:

A. Uh-hm.

COFFEY, Q.C.:

Q. "Meeting notes, July 14th, 2005, Laboratory Medicine. Present, Ms. Heather Predham, Dr. Donald Cook, Dr. Bob Williams and Mr. Terry Gulliver. Issue discussed: ER/PR receptor results and priorities. One, identify all people who had ER and PR receptors; two, ones who are negative for ER and PR receptors, recheck receptors with new methodology; three, meet with surgeons and oncologists; four, assess current testing standards, cross-referencing with another laboratory; five, advise the public; six, assess the quality of the service of the laboratory level once we have information on the magnitude of the problem and relevant timeframes, this will

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involve external technical consultation." Are these notes that you had prepared afterward?

DR. WILLIAMS:

A. These are probably notes I had prepared afterwards, yes, that's just laying out some of the things we're going to do.

COFFEY, Q.C.:

Q. Would you have distributed those notes to the people afterward?

DR. WILLIAMS:

A. I may not, no, a lot of my notes are just notes to, so I knew what decisions were made and where we were going. So I would say I may not have distributed all of the notes. Some of them I may, I may have made a copy of. The ones that were typed, they probably would have got a copy; the ones that were written, I don't think there would be any benefit, the writing wasn't very good. It was just trying to capture some of the things.

COFFEY, Q.C.:

Q. Sure. If you look at exhibit P-0504 please? Now sir, this is the same or another copy of the same typed version of those notes.

DR. WILLIAMS:

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A. Yes.

COFFEY, Q.C.:

Q. But number five says, "Advise the public" and there's a dash, "set up hotline for public to call".

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Is that your handwriting?

DR. WILLIAMS:

A. That's my handwriting, yes.

COFFEY, Q.C.:

Q. So when you got the notes typed by your assistant -

DR. WILLIAMS:

A. Yes, typed them up and rather than have her retype them again, I just wrote that down.

COFFEY, Q.C.:

Q. Wrote that on it.

DR. WILLIAMS:

A. Yes. I wasn't sending this out to some outside organization or something, so writing in my hand would be enough. This is the kind of things we were thinking about at the time.

COFFEY, Q.C.:

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Q. Sure. Now looking at this, "identify all people who had ER and PR receptors", so I take it that that was identify everybody who had been tested for ER and PR?

DR. WILLIAMS:

A. Yes, that's right.

COFFEY, Q.C.:

Q. And that was, amongst the group here, who was responsible for doing that?

DR. WILLIAMS:

A. That would be Mr. Gulliver.

COFFEY, Q.C.:

Q. And why Mr. Gulliver?

DR. WILLIAMS:

A. Because him and Mr. Dyer could look up the system, I had, you know, to get the pathologists involved in cutting the box and doing that we were under a lot of pressure in pathology then with service coverage issues, so I left that to Mr. Gulliver and Mr. Dyer to do that. It was an issue that I think they were fairly familiar with the system and they could do it.

COFFEY, Q.C.:

Q. And that was familiar with the Meditech

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system?
DR. WILLIAMS:
A. Meditech. And I think Mr. Gulliver may have said, "look, I can do that", he probably volunteered to take that on.
COFFEY, Q.C.:
Q. Now was any thought, and I gather that Mr. Gulliver did undertake that challenge and Mr. Dyer.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Were you ever made aware of any problems that they encountered?
DR. WILLIAMS:
A. No, I would have been made aware, I told you earlier that they felt comfortable that they had an order entry system that should work, it was computerized, it was under Meditech which was the leading provide of health information systems, certainly in North America and that they would meet a problem at the Grace because they would have to do that manually for a couple of years, not a large number, but -
COFFEY, Q.C.:

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Q. Did they ever indicate to you or did it ever come to your attention that there were potential problems with searching, like electronically searching within that database?
DR. WILLIAMS:
A. No, it only came to my attention much later, maybe after I left, that if somebody didn't enter that it was ER/PR, they were asking for, but they should have entered it, you're asking for a test that should be entered.
COFFEY, Q.C.:
Q. Yes, but the recognition that at times it had not been so entered, like in -
DR. WILLIAMS:
A. That was much later, I don't even know if I was in the organization at the time, that might have surfaced later.
COFFEY, Q.C.:
Q. So if that happened, it wasn't brought to your attention?
DR. WILLIAMS:
A. Not at the time, no. And I don't think they wouldn't have known, I don't think.
COFFEY, Q.C.:
Q. Doctor, was there any thought in the summer of

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2005 given to actually retaining a person with IT, information technology expertise?
DR. WILLIAMS:
A. No, it wasn't discussed, it's not like it was discussed, it was rejected, it wasn't discussed, it wasn't brought up as far as I know. What I think we did here was probably captured in the notes, most of the discussion--not all of it, but most of it.
COFFEY, Q.C.:
Q. And so ones who are negative ER/PR receptors, recheck receptors with new methodology, which I take it was to use the Ventana?
DR. WILLIAMS:
A. The Ventana, yes, that was our thought at the time.
COFFEY, Q.C.:
Q. "Meet with surgeons and oncologists."
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. What was the purpose of doing that?
DR. WILLIAMS:
A. Well let's get everybody in the room and put our heads together and see how we're going to

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approach that, is there any other ideas that we should consider, this type of thing.
COFFEY, Q.C.:
Q. Why--I appreciate the oncologists because they're the ones who actually uses the pathology results to formulate a treatment for their patients, why the surgeons?
DR. WILLIAMS:
A. Because the surgeons are the ones that really are in the front lines, in terms of breast cancer, they are the ones who make the diagnosis in the first place.
COFFEY, Q.C.:
Q. And it would be useful to get their perspective.
COFFEY, Q.C.:
Q. Who makes the diagnosis in the first place?
DR. WILLIAMS:
A. It's the surgeons usually because that's a surgical diagnosis, breast cancer.
COFFEY, Q.C.:
Q. Well the surgeons would certainly, you know, presumably find reason to operate -
DR. WILLIAMS:
A. Yes, but the report would go back to the

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surgeons.
COFFEY, Q.C.:
Q. The report from the -
DR. WILLIAMS:
A. Yeah, you can't make a diagnosis of breast cancer unless you have a pathology report. And the pathology report is gotten by--the specimen is gotten by a surgeon.
COFFEY, Q.C.:
Q. Oh yes.
DR. WILLIAMS:
A. So that's why the surgeons--and as well, so they were sort of leaders and they were intimately involved in the diagnosis of treatment of breast cancer and one of our surgeons, leading surgeons, Dr. Kwan, of course was a surgical oncologist as well, so he had a little bit more expertise than most surgeons in the oncology area and he was a person who was in his early sixties, he spent years here in our province. He was actually the former medical director of the Newfoundland Cancer Treatment and Research Foundation on a part-time basis in the '80s. So we thought that he would lend a lot of

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expertise and commonsense to it.
COFFEY, Q.C.:
Q. Sure. What about meeting with the pathologists?
DR. WILLIAMS:
A. I left that to Dr. Cook to meet with the pathologists.
COFFEY, Q.C.:
Q. At this point, mid July, do you know whether or not he did in mid July?
DR. WILLIAMS:
A. I can't tell you, I would presume that he would talk to the pathologists, but I'm not sure about that, you would have to ask him in our organization.
COFFEY, Q.C.:
Q. Did you in fact ask him at the time, mid July to ensure, follow up with him and ensure, look, have you spoken to the pathologists about this?
DR. WILLIAMS:
A. No, I didn't think of asking him. I presume he would contact the pathologists as he felt was reasonable--obviously he had involved Dr. Carter in the process.

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COFFEY, Q.C.:
Q. "Assess current testing standards cross-referencing with another laboratory." Whose idea was that?
DR. WILLIAMS:
A. Again, I can't be sure, I would expect that idea would probably come from Dr. Cook. I doubt if I would have enough knowledge to bring that forward, but I'm not sure. I suspect it was Dr. Cook.
COFFEY, Q.C.:
Q. Advise the public was your -
DR. WILLIAMS:
A. That was my initial thought on that.
COFFEY, Q.C.:
Q. You told Mr. Tilley that right from the beginning.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And "Assess the quality of the service of the laboratory level once we have information on the magnitude of the problem and relevant timeframes and involve external technical consultation." Whose idea was that?

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DR. WILLIAMS:
A. It may have been mine, you know, for me to say and take ownership of that, I can't be sure. I expect I would have had some ownership or some input into that, yes.
COFFEY, Q.C.:
Q. If we could, please, the same--at the bottom of the page here, sorry, I'll just go back, I apologize, P-0503, at the bottom of the page there's some handwriting, is that your handwriting?
DR. WILLIAMS:
A. No, that's not mine.
MR. BROWNE:
Q. Dr. Cook.
COFFEY, Q.C.:
Q. Okay, that's fine. No, Dr. Cook. And at the bottom of the page, it does say--there's a date, see that, July 14th?
DR. WILLIAMS:
A. July 14th, yes.
COFFEY, Q.C.:
Q. 2005, and it appears to read, "met with Doctors Kwan, Felix, Cook, Williams, McCarthy, Laing, Gardiner, Heather Predham and Susan

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Bonnell."
DR. WILLIAMS:
A. Yes, and that's captured in my notes of July 14th.
COFFEY, Q.C.:
Q. So that would be, I take it, a follow up view to meeting with the surgeons and oncologists?
DR. WILLIAMS:
A. Yeah, that would be--we made the decision to do that and that would be the meeting, the first meeting with that larger group. It occurred two days later obviously.
COFFEY, Q.C.:
Q. And that's because the--well, the meeting notes above that say "meet with the surgeons and oncologists too," see that?
DR. WILLIAMS:
A. Yes, that's right. The meeting on the 14th is that, carrying out that issue.
COFFEY, Q.C.:
Q. Do you know this, there's a reference in this, appears to be 2.5 FTE, full-time equivalents?
DR. WILLIAMS:
A. No, I don't know what that--you'd have to ask -

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COFFEY, Q.C.:
Q. Okay, I'll ask Dr. Cook about that.
DR. WILLIAMS:
A. I can't answer that. Dr. Cook says in the note, "phone all lab directors to send all negative cases to HSC" at that time.
COFFEY, Q.C.:
Q. Yes, and if we could look at, please, Exhibit P-505? Now these are your notes for the meeting of July 14th, 2005?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. I believe it says five p.m. probably at the top?
DR. WILLIAMS:
A. Yes, correct.
COFFEY, Q.C.:
Q. Now one thing that's--I don't think it's captured on the typed version, near the top of the page, top right-hand side.
DR. WILLIAMS:
A. 350 tests per year.
COFFEY, Q.C.:
Q. And so does that suggest that that was

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mentioned at that meeting?
DR. WILLIAMS:
A. Well, it suggests that I knew it.
COFFEY, Q.C.:
Q. Sure.
DR. WILLIAMS:
A. And that we had--it may be that we were starting to get the information back on the number of positive and negative tests or it may have been that it was mentioned that we, on average, did 350 tests per year.
COFFEY, Q.C.:
Q. And here, Doctors McCarthy, Laing, Felix, Cook, Gardiner, Kwan are listed as attendees, Ms. Predham, Ms. Bonnell, Ms. Thomas and yourself. Who's Ms. Thomas?
DR. WILLIAMS:
A. She is a communications expert working for--she reports to Susan Bonnell.
COFFEY, Q.C.:
Q. And it indicates general background was given by yourself. I take it you made some kind of a talk.
DR. WILLIAMS:
A. Yes, introduction and then left the specifics

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to Dr. Cook, obviously.
COFFEY, Q.C.:
Q. And it goes on to say "issue of the results specifically in 2002." So he would have talked about those and what was known about those up to that point?
DR. WILLIAMS:
A. Yes, and he probably would have talked about others that we had too as well.
COFFEY, Q.C.:
Q. And the change in 1997 to IP testing, immunoperoxidase testing, semi-automated, switched to Ventana late March, early April 2004. Started January 2004 training, etcetera. So he was giving them an overview of -
DR. WILLIAMS:
A. Yes, I was just a very--just my notes here would be just a little bit of that, right. It was much more extensive, I suspect, than my notes indicate.
COFFEY, Q.C.:
Q. Now here, there's a note here, Dr. Laing.
DR. WILLIAMS:
A. Yes.

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COFFEY, Q.C.:
Q. And there's various bullets. One is "new information, lobular CAs," which would be carcinomas, "should be all"--I'm sorry, "should all be ER/PR positive."
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Second bullet, "at Sloan-Kettering went from 75 percent to 100 percent positive. Dr. Laing requested retesting and strongly positive results." The next bullet, "as a result asked to retest some patients." Next bullet, "followed up on a lot of patients from 2002." Next bullet, "16 out of 25 on retesting are positive." Next bullet, "doing another 38 patients in a process." Next bullet, "farm out testing outside the province" and then there's a final note, "Dr. Cook to get info on who to follow up." Okay?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Now first of all, I'll just deal with that last bullet. What was that about?

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DR. WILLIAMS:
A. I'm not sure. It's a note that I made in 2005. I'd have to think about it and -
COFFEY, Q.C.:
Q. Follow up, you don't--okay.
DR. WILLIAMS:
A. No, I'm not sure. I'm not sure.
COFFEY, Q.C.:
Q. Now looking at Dr. Laing, I take it these--you were attributing these remarks to--which of these remarks -
DR. WILLIAMS:
A. Yes, I was attributing to--that's what I'm attributing that--and it's consistent with what we heard earlier, that lobular cancers are -
COFFEY, Q.C.:
Q. So, the bullet "as a result asked to retest some patients"
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Is that attributed to Dr. Laing as well?
DR. WILLIAMS:
A. Yes.

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COFFEY, Q.C.:
Q. Okay, and all the ones down to the "farm out testing"
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Now here, the information provided here -
DR. WILLIAMS:
A. I think it might--and I'm not sure if it's 38 or 33. I'm looking at my writing and it may be 33 rather than 38 patients, when it got typed.
COFFEY, Q.C.:
Q. Yes, it's actually "doing another 33 patients" in -
DR. WILLIAMS:
A. Yes, so the 38 when it got typed is -
COFFEY, Q.C.:
Q. It's a typo.
DR. WILLIAMS:
A. - my written notes--it's not a typo. It's my bad handwriting.
COFFEY, Q.C.:
Q. Yes, but your actual handwriting is 33, and in fact, we'll look, we'll see a letter, I

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believe, afterward referring to those 33 patients. Just to give the Commissioner some sense now, this is actually the middle of July.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And you've got surgeons, oncologists, pathologists, communications personnel, quality personnel and yourself in a room. This would be at the Health Sciences Centre?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And what was the purpose of this meeting?
DR. WILLIAMS:
A. I think just to get everybody together and see if there was any different--it's the first time we'd have had everybody together and so just to start to meet and start to use the expertise of people throughout our organization into how we might approach and tackle this. I mean, I don't know of any--we're seeing a lot more of it in the last year, but I don't know, up to this time, if

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anybody had ever been put in this position that we could go to to tackle such an issue such as this. So you get all the expertise around the table, from a clinical perspective, and also from a common sense perspective. Like you get Dr. Felix who's been a surgeon here for 30 years, Dr. Kwan, expertise, try to bring them together. Let's see what we can come up with. Is there any advice they can give us how might we proceed? This kind of thing.

COFFEY, Q.C.:

Q. So the purpose of the meeting was to get them all together -

DR. WILLIAMS:

A. And start -

COFFEY, Q.C.:

Q. - tell them what you had done or propose to do.

DR. WILLIAMS:

A. Yes, and start to build a process of dialogue and consultation as to how--as we proceeded.

COFFEY, Q.C.:

Q. Now I notice that Minister (sic.) Tilley is not there.

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DR. WILLIAMS:

A. No.

COFFEY, Q.C.:

Q. And is there any reason why he's not there?

DR. WILLIAMS:

A. I don't know any specific reason. He may have been invited and maybe not able to attend. Other meetings, he did attend. I thought I would have advised his office we were having a meeting, but I can't be 100 percent sure of that.

COFFEY, Q.C.:

Q. Now Mr. Gulliver and Mr. Dyer, neither of them is there either.

DR. WILLIAMS:

A. I don't see their names there, and I'm not sure why. They may have been, at that time, busy starting to do what they were doing. I can't be sure.

COFFEY, Q.C.:

Q. In terms of getting a technologist's perspective on it though -

DR. WILLIAMS:

A. They were--they appeared, Mr. Gulliver and Mr. Dyer, at other meetings and they gave their perspective. Not everybody agreed with it, but they gave their perspective, yes.

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COFFEY, Q.C.:

Q. And Dr. Ejeckam, now by this point in time, you understood this was an IHC matter?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And Dr. Ejeckam, he's not listed here either. Is there any reason why he didn't attend any of these meetings afterward or was he ever invited to any of them?

DR. WILLIAMS:

A. No, I don't think he was invited. I think we were dealing with the oncologists and Dr. Carter, as being a breast pathologist, was dealing with this issue with Dr. Cook. That's who was advising him on this issue. Thinking back on it, it didn't come up as a thought, let's not invite Dr. Ejeckam. No, that's wasn't an issue.

COFFEY, Q.C.:

Q. But looking back on it, you know, knowing what you do now, do you find it somewhat remarkable that -

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DR. WILLIAMS:

A. Well, you can look at it in a retrospectoscope and this type of thing and look it. At the time, again, Mr. Coffey, you need to look at the milieu that some of us were working in at that time. We had Eastern Health trying to come together. I was probably at a lot of other meetings and fitting this meeting in around that, and in retrospect, it might have been wise for somebody to--you can always look at this type of thing, who had more time and could free up more time to take this on. But I was trying to do this and also do a job that, in itself, would be challenging and that's try to bring and be involved in bringing Eastern Health together. So it may be that that was, you know, when one looks at it, he may have added some benefit to this, but we'd already decided to retest, this type of thing. We were getting a lot of advice from Dr. Carter who had breast pathology training and that was -

COFFEY, Q.C.:

Q. You also had already thought about using external consultants yourself, and you

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understood that Dr. Ejeckam, in fact, was very knowledgeable -

DR. WILLIAMS:

A. Yeah, we were thinking about doing an external consultant in the sense of maybe getting them to come in and review the lab.

COFFEY, Q.C.:

Q. I appreciate that.

DR. WILLIAMS:

A. Yeah.

COFFEY, Q.C.:

Q. But in terms of expertise in IHC, if there was anyone around with it, you understood that it was him?

DR. WILLIAMS:

A. Yes, he had a level of interest. Again -

COFFEY, Q.C.:

Q. Okay, on that point, I'm just--because I wanted to explore with you that. What were you given to understand, if anything, about his level of expertise or perceived level of expertise in IHC? Because you would have talked to, well, primarily Doctors Cook and Carter about it?

DR. WILLIAMS:

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A. Yeah.

COFFEY, Q.C.:

Q. What did they you about Dr. Ejeckam's or their perception of his level of knowledge?

DR. WILLIAMS:

A. That he, when he was at the Grace, he had some little involvement in immunohistochemistry, had an interest in it -

COFFEY, Q.C.:

Q. That would be back in the '80s?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Yeah, go ahead.

DR. WILLIAMS:

A. Yeah, that would been in its infancy, yes. And I wasn't aware that when he came here after he was here for a number of months he expressed an interest and volunteered to take on some responsibilities in that area.

COFFEY, Q.C.:

Q. And did Dr. Cook or Carter tell you about--what, if anything, did they tell you about his level of knowledge?

DR. WILLIAMS:

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A. I can't remember them telling me anything about his level of knowledge, to be honest with you, in terms of that area.

COFFEY, Q.C.:

Q. Okay. So the reference we saw earlier to point person or point man.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. You interpreted that to be what?

DR. WILLIAMS:

A. In interpreted that he had an interest and some knowledge in that area, yes.

COFFEY, Q.C.:

Q. But how much knowledge he might have had, you didn't go to him--it didn't cross your mind to go to him and ask, well, how much do you really know about this or do you know something and can you help us?

DR. WILLIAMS:

A. No, I didn't. And again, I'm trying to put it in perspective of everything that was going on at the time outside ER and PR.

COFFEY, Q.C.:

Q. Yeah. Because Dr. Carter was there, I take

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it, because she was recognized as a breast pathologist?

DR. WILLIAMS:

A. Yes. She had an extra year of training in Vanderbilt on that particular area, yes.

COFFEY, Q.C.:

Q. Now, here, Doctor, the references, the comment you attributed to Dr. Laing in your notes, "New information, lobular carcinoma should all be ER/PR positive." What was that about?

DR. WILLIAMS:

A. Well, my understanding was that -

COFFEY, Q.C.:

Q. How did she explain it to you?

DR. WILLIAMS:

A. That when a colleague was consulted at Sloan Kettering, they done some research and found out that all lobular cancers were ER and PR positive. That's my recollection.

COFFEY, Q.C.:

Q. Of which she said to the group?

DR. WILLIAMS:

A. Yes. That's what I've got down here. Whether, you know--I didn't send these out as minutes, so that's just my notes.

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COFFEY, Q.C.:
Q. Sure. And then there's a reference to "At Sloan Kettering went from 75 percent to 100 percent positive."
DR. WILLIAMS:
A. Yeah. I'm not--that was my notes, but I'm not--you'd have to ask her that, if I got that right.
COFFEY, Q.C.:
Q. I certainly will be asking her about it in terms of that, I mean.
DR. WILLIAMS:
A. Yeah, sure.
COFFEY, Q.C.:
Q. But your understanding at the time was -
DR. WILLIAMS:
A. Was lobular, people with lobular CA should be positive.
COFFEY, Q.C.:
Q. And your understanding was that she had been advised by someone at Sloan Kettering?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. That upon a reexamination at Sloan Kettering?

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DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Of -
DR. WILLIAMS:
A. They did some analysis of the results and that's what I understood.
COFFEY, Q.C.:
Q. Yes.
DR. WILLIAMS:
A. Now I later understood from Dr. Banerjee that it was around 93 or 94 percent.
COFFEY, Q.C.:
Q. And I'll get to that later. But at the time in the meeting on July 14th you had understood, at least your interpretation of what you were being told verbally -
DR. WILLIAMS:
A. Yeah, that's what my notes say, yes.
COFFEY, Q.C.:
Q. Sure. Was that there had been some sort of reanalysis or analysis at Sloan Kettering -
DR. WILLIAMS:
A. Or they did some research or something.
COFFEY, Q.C.:

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Q. Some research?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And the lobular invasive carcinomas had gone from positivity, overall positivity of 75 -
DR. WILLIAMS:
A. Yes, to 100 percent.
COFFEY, Q.C.:
Q. - up to 100 percent?
DR. WILLIAMS:
A. That's my understanding. That's the notes I took.
COFFEY, Q.C.:
Q. And now it says here, "Dr. Laing requested retesting" and "strongly positive results." That, I take it, is -
DR. WILLIAMS:
A. Yes, she requested retesting on that patient and the results were strongly positive.
COFFEY, Q.C.:
Q. Okay. And that's the index patient?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:

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Q. And then you recorded her as reporting to the meeting that as a result she asked to have other patients retested?
DR. WILLIAMS:
A. Correct.
COFFEY, Q.C.:
Q. I take it did you understand that these were patients who fell into the same sort of category, like invasive lobulars?
DR. WILLIAMS:
A. I was under that understanding that we retested the patients from 2002 but we also retested some other patients from other years who were lobular cancers and that's the criteria they used, that was my understanding at the time.
COFFEY, Q.C.:
Q. Sure.
COMMISSIONER:
Q. So 2002 no matter what kind of breast cancer?
DR. WILLIAMS:
A. I think they just retested -
COMMISSIONER:
Q. Other years on the basis of -
DR. WILLIAMS:

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A. I think there was, yeah, was about six or seven that they retested that converted from other years. I think they were on the basis of the type of cancer they had. That was my understanding.
COFFEY, Q.C.:
Q. She's reporting, there's a note here, your note here, reporting to your meeting here, "Sixteen of 25 on retesting are positive" which would be that June 29th letter, I take it?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. That listing of patients?
DR. WILLIAMS:
A. That's correct.
COFFEY, Q.C.:
Q. Doing another--it's 33 patients?
DR. WILLIAMS:
A. Thirty-three, yes.
COFFEY, Q.C.:
Q. In the process. And farm out testing outside the province. Was she suggesting that the -
DR. WILLIAMS:

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A. No, I think maybe it was the concern that we can't do the retesting here, we're not able to do it and maybe we could look at farming some of it out.
COFFEY, Q.C.:
Q. See, because looking at your handwritten version of this -
DR. WILLIAMS:
A. Yes. "Farm out testing outside the province."
COFFEY, Q.C.:
Q. Is that necessarily attributed to Dr. Laing here or -
DR. WILLIAMS:
A. No, that may not be.
COFFEY, Q.C.:
Q. That may be just -
DR. WILLIAMS:
A. Because it's a separate bullet.
COFFEY, Q.C.:
Q. Yeah.
DR. WILLIAMS:
A. And it looks like a little bit bigger bullet, so you might have to move over, yes.
COFFEY, Q.C.:
Q. And she, in terms of Dr. Laing, where the

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retesting occurred, would Dr. Laing really be involved in determining that?
DR. WILLIAMS:
A. No. So it was something else that maybe that somebody else brought up. But it was typed in under her, but when you look at it now under the handwritten version, it looks like that's a big slash there, so it may be something else that came up in the meeting by somebody else.
COMMISSIONER:
Q. Wherever you can find a convenient place.
COFFEY, Q.C.:
Q. Thank you, Commissioner. If we could, please--yeah. If we could look, please, at Exhibit P-0069? Now this is a letter on Health Care Corporation of St. John's letterhead July 14th, 2005, addressed to Dr. Cook. It's signed by Bev?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Beverley Carter. And it's copied to yourself?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:

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Q. You would have received a copy of this letter?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Back at that time. And the handwriting up here is whose?
DR. WILLIAMS:
A. Dr. Cook.
COFFEY, Q.C.:
Q. Dr. Cook.
DR. WILLIAMS:
A. I have to say it's not mine.
COFFEY, Q.C.:
Q. It's not yours?
DR. WILLIAMS:
A. No.
COFFEY, Q.C.:
Q. I just want to ascertain that.
DR. WILLIAMS:
A. "Discussed with Dr. Carter" it says, yes.
COFFEY, Q.C.:
Q. On July 16th, 2005. So you would have received this letter, if not on the 14th, probably the 15th or 16th or 17th, around that time?

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DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Right. If we could, please, Commissioner, I'd like to come back to this after lunch, okay.
COMMISSIONER:
Q. All right, then. 2:05, thank you.
(LUNCH BREAK)
COMMISSIONER:
Q. Mr. Coffey.
COFFEY, Q.C.:
Q. Thank you, Commissioner. Dr. Williams we were, just before lunch started to look at this July 14th, 2005 letter from Dr. Carter to Dr. Cook but it was copied to yourself. Now, before you even got this letter, sir, were you--had you been aware of the--of an approach that is outlined here, that this was planned?
DR. WILLIAMS:
A. No, I don't think so.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. I'd have to look back at the notes to be sure, but I don't think so.

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COFFEY, Q.C.:
Q. And because Dr. Carter writes, opens with this, "Per our many recent discussions."
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And that would be hers, presumably, with Dr. Cook?
DR. WILLIAMS:
A. Yeah.
COFFEY, Q.C.:
Q. "I agree with you that our estrogen receptor status reports prior to 2003 require immediate investigation."
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:
Q. And she refers to this recent example of 16 patients converting is quite concerning. I'm just paraphrasing this. Factors identified in those slides--actually, what she actual explicitly says, "Factors identified on those slides clearly show problems with the technique of estrogen receptor testing and the interpretation of same." See that?

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DR. WILLIAMS:
A. What paragraph is that in?
COFFEY, Q.C.:
Q. I'm sorry, I'll just show you. It's right in the beginning. Just a second now. Right there.
DR. WILLIAMS:
A. Okay.
COFFEY, Q.C.:
Q. See that, it's the third--fourth line.
DR. WILLIAMS:
A. Okay.
COFFEY, Q.C.:
Q. Third sentence in the first paragraph. So factors identified on those slides, that would be, presumably, the 16 slides, or slides for those 16 patients, "clearly show problems with the technique of estrogen receptor testing and the interpretation of same." Did you ever speak to Dr. Carter about that?
DR. WILLIAMS:
A. I don't recall speaking to Dr. Carter about that particular issue.
COFFEY, Q.C.:
Q. Does that suggest to you perhaps she had

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identified the nature of what had caused the problems from her perspective in those 16 cases?
DR. WILLIAMS:
A. When you look at it, she seems to have reached some conclusions, yes, or reached some hypothesis, yes -
COFFEY, Q.C.:
Q. Hypothesis.
DR. WILLIAMS:
A. - that she needed to follow up on.
COFFEY, Q.C.:
Q. And in relation to Dr. Carter, because we will see a letter she wrote on August 2nd, 2005 where she withdraws from this effort, did you ever actually speak to Dr. Carter about what she was finding as she went through her investigation?
DR. WILLIAMS:
A. No. When--I did have a lot of discussions with her and Dr. Cook, I know we met on a couple of occasions, Dr. Cook, Dr. Carter and myself to look at the issues. I can't--and I don't have detailed notes on those, I have some notes on those, as we'll get to those.

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But I asked Dr. Cook should I speak to her when she sent her letter of August 1st in and he told me, no, he would speak to her and it wasn't any point in me speaking to her to try to convince her to do other than as she suggested in her letter of August 1st.

COFFEY, Q.C.:

Q. Okay. And that's the letter where she withdraws?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Okay. I believe it's actually August, it's dated August 2nd. Was it your understanding in July of 2005 as to who was actually reviewing the old slides or the original slides?

DR. WILLIAMS:

A. It was my understanding that certainly up until, when Dr.--up until Dr. Cook got back that Dr. Carter was doing it, especially in his absence, yes.

COFFEY, Q.C.:

Q. So but Dr. Carter would have been looking at -

DR. WILLIAMS:

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A. The retest -

COFFEY, Q.C.:

Q. - while he was gone, the retest results?

DR. WILLIAMS:

A. Yes, that's correct.

COFFEY, Q.C.:

Q. The retest slides. But how about like the original slides for those patients?

DR. WILLIAMS:

A. I wouldn't have been aware that Dr. Carter was doing that.

COFFEY, Q.C.:

Q. Okay.

DR. WILLIAMS:

A. My knowledge was that we were doing some retesting, Dr. Carter and Dr. Cook were involved in that and when Dr. Cook was away, Dr. Carter did all the reading.

COFFEY, Q.C.:

Q. Of current retests?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Okay. Now, because looking at this Dr. Carter does go on to say, "I've been unable to review

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paperwork from 1997-2003 with regards to protocols, quality practice and controls. I am therefore eager to review the estrogen receptor status of all patients seen in our laboratory from May, 1997 when immunohistochemical staining for estrogen receptor status first became available up until March, 2004 when analysis and readjustment of the estrogen receptor status protocol was carried out by Dr. G. Ejeckam. I think that it is vital that we expediently review these cases and let patients know as quickly as possible of any change in their estrogen receptor status. As quickly as possible I would like to know the estrogen receptor status of every patient tested in our laboratory between 1997 and 2004. From that information I would also like an estimate of the total of positive cases given out per year. I would need all the reports pulled from the computer for review. Patient demographics, including name, age and MCP number should be included along with their surgical number, their histological type of cancer and the histologic grade. All of the

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slides from these cases, including the estrogen receptor slides, need to be pulled and organized. All slides then need to be reviewed by me, both estrogen receptor negative and estrogen receptor positive patients. Estrogen receptor negative patients should be given priority. Blocks will be pulled from these cases and estrogen receptor, progesterone receptor status reordered. This test should be carried out as quickly as possible. Ten percent of the cases should be randomly selected for outside quality assurance consultation. Dr. Frances O'Malley of Mount Sinai Hospital has agreed to act in this capacity. Problematic cases defined by a multiplicity of reasons should also be sent for outside testing."

DR. WILLIAMS:

A. Um-hm.

COFFEY, Q.C.:

Q. and she concludes with "It will be necessary to have a computerized database for this project. This database should include the patient's name, MCP number, surgical number, hospital of origin. Please remember, these

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patients are--were treated in all hospitals in Newfoundland. Results of original estrogen receptor, progesterone receptor testing, presence of control tissues, results of new testing and any comments about the case. Also included in these computerized report should be the histologic type of cancer as well as the grade of cancer. As we have discussed, in my opinion, the above suggestion should be carried out as quickly as possible. Yours sincerely," signed, "Bev." Now, Doctor, was it your understanding that--what was your understanding in terms of whether or not--Dr. Carter, I take it, was located in St. Clare's?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. As was Dr. Cook?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. So they were actually colleagues with offices probably near or next to each other?

DR. WILLIAMS:

A. They were right together there, yes.

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COFFEY, Q.C.:

Q. Right next to each other. Now, you received this sometime, you know, July 14th or a day or two or three after?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. What, if anything, did you do with it and the information contained in it?

DR. WILLIAMS:

A. I discussed it with Dr. Cook.

COFFEY, Q.C.:

Q. y

DR. WILLIAMS:

A. And we later, I thought, if I can recollect, had a meeting with Mr. Gulliver and asked that those resources be made available and we start the process. That's my recollection. There may be some notes here of that.

COFFEY, Q.C.:

Q. And we will be--yes, there are, and we'll be looking at that. So, you pursued the matter of actually identifying the patients and identifying the blocks and original slides?

DR. WILLIAMS:

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A. Yes.

COFFEY, Q.C.:

Q. By utilizing Mr. Gulliver and his staff?

DR. WILLIAMS:

A. Yes, because they would have to go into the computers and get all that information.

COFFEY, Q.C.:

Q. Sure.

DR. WILLIAMS:

A. That's my recollection.

COFFEY, Q.C.:

Q. Okay.

DR. WILLIAMS:

A. And Dr. Cook and Mr. Gulliver and myself would have met to--and the thing would have been to ensure that Dr. Carter, we assisted Dr. Carter in getting what she wanted.

COFFEY, Q.C.:

Q. And did you understand that--I take it then you agreed that she should get what she wanted?

DR. WILLIAMS:

A. Yes, we supported her. I talked to Dr. Cook.

COFFEY, Q.C.:

Q. And you understood he conveyed what to her?

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DR. WILLIAMS:

A. That we were supporting her doing that. That's my understanding.

COFFEY, Q.C.:

Q. Well, sir, on the top, if we could, on the top of the second page, "It will be necessary to have a computerized database for this project." Was there ever such a computerized database created, do you know?

DR. WILLIAMS:

A. No, I--when I read that, I thought that that meant the Meditech database that we already had in place.

COFFEY, Q.C.:

Q. It goes on to talk about patient's name, MCP number, surgical number, hospital of origin. It talks about a number of -

DR. WILLIAMS:

A. In our database in our Meditech I thought we would have had the MCP number, the surgical number and this type of thing.

COFFEY, Q.C.:

Q. So you interpreted this as just a reference to Meditech?

DR. WILLIAMS:

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A. That's what at the time, and I don't remember anybody telling me it wasn't, how we got to get a new database together.
COFFEY, Q.C.:
Q. Well, the idea, for example, using, this maybe suggests a spreadsheet. You know, you're familiar with the idea of a spreadsheet?
DR. WILLIAMS:
A. Well, we had, we did get the information from year-by-year basis, yes.
COFFEY, Q.C.:
Q. What about like a spreadsheet with all the patient's names, their MCP numbers, the grade of cancer and histologic type of cancer, the grade and all that, that kind of a spreadsheet, do you know if anything like that was ever created, computerized?
DR. WILLIAMS:
A. I'm not sure. I don't recollect. We did have a list of MCP numbers and this type of thing, but I don't know if it had all the other things on it. And, of course, then this came to a halt before we got too far with it because Dr. Carter withdrew.
COFFEY, Q.C.:

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Q. So I take it then that there was no computerized database created that you -
DR. WILLIAMS:
A. That I can remember, no. But we did support and Dr. Cook conveyed our support for Dr. Carter and that's why we had the meeting on the 16th, to start dealing with that.
COFFEY, Q.C.:
Q. If there was to be a spreadsheet containing those sorts of information, like a patient's name and then a row with all of that information per patient, which is a spreadsheet.
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:
Q. If there are a number of patients, who within your organization would you have gone to for that sort of, for assistance in terms of creating such a database?
DR. WILLIAMS:
A. Well, I thought we'd use--you know, again, we didn't get into any detailed discussion on that. Use the Meditech and maybe Mr. Gulliver or Mr. Dyer trying to get that information off

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the system.
COFFEY, Q.C.:
Q. Oh, no, I appreciate bringing it out, but once you had it out, I'm asking you what would you do--she's suggesting creating a database.
DR. WILLIAMS:
A. I think she wanted, she wanted it to review and utilize it for her purposes.
COFFEY, Q.C.:
Q. And you understood it was to be given to her in what format?
DR. WILLIAMS:
A. Well, I didn't get into that detail on it, yes.
COFFEY, Q.C.:
Q. Okay. So the idea of utilizing or perhaps utilizing IT personnel to assist here didn't -
DR. WILLIAMS:
A. That didn't come up at the time. We met and wanted to make sure that Dr. Carter got the resources she wanted, so we started that process.
COFFEY, Q.C.:
Q. And looking back, if we could, at--she does, midway through the second paragraph, say "All

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of the slides from the cases, including the estrogen receptor slides, need to be pulled and organized. All slides then need to be reviewed by me," she says, "both estrogen receptor negative and estrogen receptor positive patients. Estrogen receptor negative patients should be given priority." Did you ever ask why that was so?
DR. WILLIAMS:
A. Estrogen negative patients should be given priority?
COFFEY, Q.C.:
Q. Should be given priority.
DR. WILLIAMS:
A. I didn't--I expect that it's because the people who are negative are the people that are going to benefit from the treatment and you need to get on with those patients.
COFFEY, Q.C.:
Q. And -
DR. WILLIAMS:
A. That's what I would have--that would be my conclusion.
COFFEY, Q.C.:
Q. And the reference to "Blocks will be pulled

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from those cases and estrogen receptor, progesterone receptor status reordered." So, the blocks to be pulled here were the estrogen receptor negative patients?

DR. WILLIAMS:

A. That's what I would understand.

COFFEY, Q.C.:

Q. Understand.

DR. WILLIAMS:

A. It's the same process we followed, I would think, when we sent the blocks -

COFFEY, Q.C.:

Q. Ultimately?

DR. WILLIAMS:

A. Sent the blocks ultimately out for testing.

COFFEY, Q.C.:

Q. What was the reference to "Ten percent of cases should be randomly selected for outside quality assurance consultation" what was that about?

DR. WILLIAMS:

A. I can't recall that level of detail. I suspect what she wanted to do was match those up with the results we got here in a 10 percent sample.

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COFFEY, Q.C.:

Q. And she explicitly refers to Dr. Frances O'Malley here has agreed to act in this capacity?

DR. WILLIAMS:

A. I knew that Dr. Carter was consulting along the way with Dr. O'Malley at Mount Sinai because they were colleagues.

COFFEY, Q.C.:

Q. Okay. So, what, if anything, did you understand about who Dr. Frances O'Malley was?

DR. WILLIAMS:

A. She was a breast pathologist in Mount Sinai who Dr. Carter knew of and had a reputation, positive reputation, that she was consulting with.

COFFEY, Q.C.:

Q. When the reference to "All the slides from the cases, including estrogen receptor slides need to be pulled and organized. All slides then need to be reviewed by me." Did you ever get any understanding as to what it was Dr. Carter was going to seek to accomplish by reviewing those slides, the original slides? Did you ever ask?

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DR. WILLIAMS:

A. I would assume that by reviewing the original slides, she would see how--what the true status was, what the interpretation was, this type of thing.

COFFEY, Q.C.:

Q. I'm sorry, could you explain that to the Commissioner?

DR. WILLIAMS:

A. Well, if you review a previous slide, you'd want to see the quality of the staining.

COFFEY, Q.C.:

Q. Yes.

DR. WILLIAMS:

A. Right. And you'd want to see what the estrogen receptor status was and just to confirm -

COFFEY, Q.C.:

Q. Based upon what she saw through the microscope?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Okay.

DR. WILLIAMS:

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A. That's what I understood.

COFFEY, Q.C.:

Q. And she would compare that to -

COMMISSIONER:

Q. This is a review of what was done before -

DR. WILLIAMS:

A. It would review -

COMMISSIONER:

Q. - the actual slide that was read before?

DR. WILLIAMS:

A. Yes. My understanding was she would review the slide that was tested before.

COMMISSIONER:

Q. Um-hm.

DR. WILLIAMS:

A. And read before.

COMMISSIONER:

Q. But the slide upon which the report was -

DR. WILLIAMS:

A. Was based.

COMMISSIONER:

Q. - based?

DR. WILLIAMS:

A. That's my understanding.

COMMISSIONER:

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Q. Okay.
COFFEY, Q.C.:
Q. The original report was based?
DR. WILLIAMS:
A. Yes. That's my understanding, Mr. Coffey.
COFFEY, Q.C.:
Q. And all with a view to doing what, to accomplishing what?
DR. WILLIAMS:
A. Well, one part of this, I looked at it, was a view to retesting people and confirming their status.
COFFEY, Q.C.:
Q. Sure.
DR. WILLIAMS:
A. To the things that we did at Mount Sinai.
COFFEY, Q.C.:
Q. And -
DR. WILLIAMS:
A. Subsequently.
COFFEY, Q.C.:
Q. That's one?
DR. WILLIAMS:
A. Yeah. And the other one was to look at the original test, sort of an audit.

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COFFEY, Q.C.:
Q. With a view to doing what?
DR. WILLIAMS:
A. A view to auditing and see, just to see what the results were. It's really rechecking the previous test.
COFFEY, Q.C.:
Q. Well, the results were reported in the written reports.
DR. WILLIAMS:
A. I know that, but she would re-review those to see if there was any change.
COFFEY, Q.C.:
Q. Okay. And she had opened, in the third sentence of her letter, saying "Factors identified on those slides," which would be the slides for the original 16, "clearly show problems with the technique of estrogen receptor testing an the interpretation of same." Now, you're referring to interpretation, which presumably is, you know, is it 60 or 30 when I look through the scope?
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:

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Q. That's, I take it, what you're -
DR. WILLIAMS:
A. Well, is it there, is it not there and what the percentages are.
COFFEY, Q.C.:
Q. Okay. Did you ever ask her or Dr. Cook what was meant by problems with the technique of estrogen receptor testing?
DR. WILLIAMS:
A. I would have assumed that that was with the staining side.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. But I don't know if we ever discussed it. I did talk to Dr. Cook about her letter and before he wrote her back we did say that we would support what she was proposing to do and we'd try to get her the resources to do it.
COFFEY, Q.C.:
Q. Did you, at the time, understand that Dr. Carter was actually going to try and figure out what had happened?
DR. WILLIAMS:
A. I thought that was one component, yes.

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COFFEY, Q.C.:
Q. Okay. So that was, one was to recheck -
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. - to see if the original results were now through to be correct on retest?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And the other component was -
DR. WILLIAMS:
A. Find out what happened.
DR. WILLIAMS:
A. - to try and find out what happened?
DR. WILLIAMS:
A. Correct.
COFFEY, Q.C.:
Q. Okay. Which you summarize, I take it, in the word "audit"?
DR. WILLIAMS:
A. Yes. That's what I would--that's what I think an audit means.
COFFEY, Q.C.:
Q. If we could, please, Exhibit P-0506, please?

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Now, at the time, that you were so apprised that Dr. Carter was proposing to embark on this endeavour and you spoke to Dr. Cook about it before you wrote back to her?

DR. WILLIAMS:

A. Um-hm.

COFFEY, Q.C.:

Q. Did you have any sense at the time as to how large scale an undertaking this was or might be?

DR. WILLIAMS:

A. No, probably not, Mr. Coffey, probably not. But in any event, we decided to support it and try to move forward with it.

COFFEY, Q.C.:

Q. These notes of July--these are notes of July 15th, 2005, they're your handwritten notes?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And they relate to, there's a reference to Terry Gulliver, Don Cook and yourself?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

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Q. I take it this would have been a meeting you had that day?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Could you perhaps take us through those notes? I'll read portions of them and ask you to comment upon them, perhaps.

DR. WILLIAMS:

A. Well, it just reviews what we discussed the previous day at our larger meeting.

COFFEY, Q.C.:

Q. Sure.

DR. WILLIAMS:

A. Identifying all patients getting tests done as soon as possible. So we were going to embark on pulling the blocks and getting on with it as soon as we could. And pull one or two people to start process, assign Mary to be--she'd be doing the cutting and testing only, that would be Mary Butler, I guess, one of our techs in the immunohistochemistry.

COFFEY, Q.C.:

Q. So and cutting and testing only, so the cutting would be making, cutting off a sliver

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of -

DR. WILLIAMS:

A. Well, yes, preparing the blocks and this type of thing. That's my understanding. Now, you'd have to ask somebody else about the technical details, but we were going to assign Mary to get on with this process.

COFFEY, Q.C.:

Q. And to do the technological part of -

DR. WILLIAMS:

A. Yes, as -

COFFEY, Q.C.:

Q. - technologist's part of it.

DR. WILLIAMS:

A. Component of it, yes.

COFFEY, Q.C.:

Q. And was there--and this is Mary Butler?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Why was Mary chosen for that, do you know?

DR. WILLIAMS:

A. I don't--she was the most senior tech.

COFFEY, Q.C.:

Q. Okay.

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DR. WILLIAMS:

A. Now, but that decision of who to choose would be, I think, Dr. Cook's and Mr. Gulliver.

COFFEY, Q.C.:

Q. And go ahead, sir, I'm sorry.

DR. WILLIAMS:

A. Then Dr. Cook was going to contact pathologists in other centres to get cases submitted. "Terry advised that each patient slide was processed alongside a control slide and the control slides were read and no reporting done until control slide read as positive." That's what he reported at the meeting.

COFFEY, Q.C.:

Q. So this was a confirmation of these controls -

DR. WILLIAMS:

A. Yes, again, to me, yes.

COFFEY, Q.C.:

Q. - control files.

DR. WILLIAMS:

A. Dr. Carter checked with Mount Sinai to see if changes in sensitivity over time with testing they use just to see if anything happened at Mount Sinai or what their experience was at

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Mount Sinai, I guess, over time, if they had any--if they noticed anything changing. And Heather Predham was going to, she started to check with the Cancer Registry, that's just Dr. Cook to see if Dr. Laing can provide Sloan Kettering on research and change of the ER/PR receptor testing.

COFFEY, Q.C.:

Q. So if I could then in relation to some of those points, if I can, there's a typed version of it on page 2 of the exhibit. Where Terry was in the fourth bullet here advising you or note as having advised you that each patient's slide was processed alongside a control slide and the control slides were read and no reporting would be done or was done until the control read as positive?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. What message was Mr. Gulliver, from your perspective, conveying to you?

DR. WILLIAMS:

A. He was conveying that there was a control process on every slide and that that was done.

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COFFEY, Q.C.:

Q. It had all checked out?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And did you take up with him or Dr. Cook any further as to well, how could that be and then have all these reconversions?

DR. WILLIAMS:

A. Well, it didn't--you know, when that happened, one of the things I was told, because I think I asked the question--I'm just trying to dig out my memory, that maybe in some of the slides we had a--as we talked earlier, a control that was -

COFFEY, Q.C.:

Q. Weakly stained, I take it, or stained -

DR. WILLIAMS:

A. Yeah, that was probably a slide that may be a slide that's moderately or strong. They used a control that maybe--and maybe the sample itself was one that wouldn't stain as much. So sometimes a stain would be picked up by the control but maybe not by the sample. That was the explanation I got from somebody at some

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time.

COFFEY, Q.C.:

Q. And you don't recall when in this whole -

DR. WILLIAMS:

A. No. I mean, it's just, as I said, from January 2005 to September 2006, it's sort of a blur. There was so much going on. I might have left this meeting and went to another meeting on a totally different subject. That's the problem.

COFFEY, Q.C.:

Q. Sir, the next bullet refers to "Dr. Carter to check with Mount Sinai to see if any change--to see if change in sensitivity over time with testing they used." Did she ever report to you on that?

DR. WILLIAMS:

A. No, I would suspect Dr. Cook brought that up and she may have talked to Dr. Cook about that.

COFFEY, Q.C.:

Q. Did Dr. Cook ever tell you?

DR. WILLIAMS:

A. No, he didn't come back to me about that. He may have, and it may not have--you know, I

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can't say that he didn't. It wasn't--I didn't make a note on it, put it that way.

COFFEY, Q.C.:

Q. The reference to Ms. Predham advising Terry Malone. Who's Terry Malone?

DR. WILLIAMS:

A. Well, I would presume--I don't know Terry Malone, so I would presume that person works in the Cancer Registry.

COFFEY, Q.C.:

Q. Okay.

DR. WILLIAMS:

A. That's the only presumption I can make.

COFFEY, Q.C.:

Q. And "he will have a list of all patients that are currently alive and deceased." So what did you understand Ms. Predham was doing there?

DR. WILLIAMS:

A. I think she was going to check maybe our list against the Cancer Registry's list.

COFFEY, Q.C.:

Q. And why--what was your understanding of why that would be necessary?

DR. WILLIAMS:

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A. Just to double check. I didn't--that's my understanding at the time. Now I know that-- and we can talk about the Cancer Registry a little later, if you want to.

COFFEY, Q.C.:

Q. And was any thought or did the subject matter come up relating to the idea of checking anywhere else other than the Cancer Registry?

DR. WILLIAMS:

A. It could have, but I didn't note it here in my notes.

COFFEY, Q.C.:

Q. Do you ever recall the idea of checking with the mortality, computerized mortality database?

DR. WILLIAMS:

A. I don't recall that coming up, Mr. Coffey.

COFFEY, Q.C.:

Q. Were you aware that there was such a database?

DR. WILLIAMS:

A. I would only know that the Vital Statistics kept data when I was in government, but that didn't come up.

COFFEY, Q.C.:

Q. And I take it, it didn't come up at any point

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in this, while you were involved?

DR. WILLIAMS:

A. Not that I can recollect.

COFFEY, Q.C.:

Q. There's a reference--the final bullet is a reference to "Dr. Cook to see if Dr. Laing can provide an article from Sloan Kettering on research and change of ER/PR receptor testing." What was that about?

DR. WILLIAMS:

A. That was just to just confirm previous discussions about some research of Sloan Kettering that said 100 percent of patients would be ER positive.

COFFEY, Q.C.:

Q. Which we referred to before lunch?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. You had a note on that.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Do you know if Doctor--were you ever--first of all, did you ever speak to Dr. Laing about

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that yourself?

DR. WILLIAMS:

A. I'm not sure if I did. I could have, but Dr. Cook would have, would have followed up.

COFFEY, Q.C.:

Q. Did you ever make any attempt yourself or have anybody on your behalf make any attempt to locate any such article?

DR. WILLIAMS:

A. No, I've left it to Dr. Cook to follow up with Dr. Laing, and we never did get an article, as far as I know.

COFFEY, Q.C.:

Q. And did Dr. Cook ever report back to you as to the results of his inquiries with Dr. Laing or his inquiries generally in relation to that?

DR. WILLIAMS:

A. I think he probably did, but we didn't get any document at the end of the day.

COFFEY, Q.C.:

Q. Did you ever subsequently speak with Dr. Cook about this, after July 15th?

DR. WILLIAMS:

A. I can't recollect, Mr. Coffey, if I did. If I said I did and I didn't, but I would say that

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at some time it came up because I knew that nothing was forthcoming in the end.

COFFEY, Q.C.:

Q. And so you were, I take it, conscious then, on a go-forward basis, kind of looking to see if such research was to be -

DR. WILLIAMS:

A. Yeah, and it could have been that when Dr. Banerjee reported in his report that there was 93--the rate was 93 percent from the literature, that we may have stopped anything there, once we got his report.

COFFEY, Q.C.:

Q. Did you ever make any inquiries about why any publication relating to the Sloan Kettering matter was not available? I mean -

DR. WILLIAMS:

A. No, we just weren't able to get it. That's all I can tell you.

COFFEY, Q.C.:

Q. From your own perspective, did you ever consider actually just contacting Sloan Kettering yourself?

DR. WILLIAMS:

A. No, I didn't consider contacting Sloan

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Kettering. At some stage, Dr. Cook contacted Sloan Kettering to see about getting some--see about the results on ER/PR and didn't get very far with anything, so I didn't--I didn't do that, and I had seen some articles in the literature that--I hadn't seen any articles in the literature that said 100 percent of this particular cancer is that, so I hadn't seen any and then Dr. Banerjee -

COFFEY, Q.C.:

Q. You had not seen anything?

DR. WILLIAMS:

A. No, I had not seen, and then Dr. Banerjee reported in his report that it was around 93 percent. That question may have been asked of him, that's why he alluded to it in his report, I expect.

COFFEY, Q.C.:

Q. Why would it be, from your perspective, were you trying to locate such research?

DR. WILLIAMS:

A. Just because it was of interest and certainly if it's 100 percent, why would you bother to test any lobular cancers in the future. That's what I would think, but I never did, so

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we did continue to test lobular cancer. Because if it's 100 percent, what's the point? You would be testing and -

COFFEY, Q.C.:

Q. Yes, perhaps for others, but if lobular invasive carcinoma was at least thought clinically, consensus of opinion was it's 100 percent -

DR. WILLIAMS:

A. Yes, organizations wouldn't be testing for that. They'd automatically put the patient on Tamoxifen. So that's where it ended. I suspect Dr. Banerjee made a point of saying 93 percent or 92 percent or something that in the process of him doing his review, somebody must have asked that question.

COFFEY, Q.C.:

Q. If we could, please, Exhibit P-0508? Now I apologize for the faintness of this, but I think you can see it on the screen. This is a letter dated July 18th 2005 to Dr. Joy McCarthy at the Bliss Murphy Cancer Centre. The received stamp, with your office--I apologize, I cannot read it, but it's sometime in July, but other than that, I can't do so.

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DR. WILLIAMS:

A. I think it might be July 25th, but I'm not sure.

COFFEY, Q.C.:

Q. July, okay.

DR. WILLIAMS:

A. And it would be somewhat later than the 18th for sure.

COFFEY, Q.C.:

Q. And it says, Doctor, "Dear Dr. McCarthy: As per our previous discussions, repeat estrogen receptor and progesterone receptor has been carried out on the following patients initially identified as estrogen receptor negative. The results are as follows:" and there are a number of pages of patients' names, surgical numbers, estrogen receptor status and progesterone receptor status.

DR. WILLIAMS:

A. Sure.

COFFEY, Q.C.:

Q. And finally, if I could, looking at the last page, it's signed by Dr. Beverley Carter and by Dr. Donald Cook.

DR. WILLIAMS:

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A. Yes.

COFFEY, Q.C.:

Q. Now sir, you just indicated it would have been sometime after July 18th. Would it be like--well, you think maybe it was July -

DR. WILLIAMS:

A. I'm not--you know, probably it may be a week later it would get to my office, because -

COFFEY, Q.C.:

Q. I was going to ask you about that. Why is that?

DR. WILLIAMS:

A. The mail system goes through the university. The university does the mail for the Health Care Corporation and Eastern Health. So that's the way--when they came together at the Health Sciences Centre, the medical school--initially it was the medical school and the General Hospital were built in 1978 at the Health Sciences Centre and there was a joint services sharing agreement that the medical school was responsible for maintenance of the building and the medical school was responsible for mail, this kind of thing.

THE COMMISSIONER:

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Q. So if somebody in the same building wants to -
DR. WILLIAMS:
A. The mail would all go--the mail room was, I think, run by the university for our organizations.
THE COMMISSIONER:
Q. But within your own institution -
DR. WILLIAMS:
A. Yes.
THE COMMISSIONER:
Q. - if somebody wants to mail you something, it goes to the university -
DR. WILLIAMS:
A. Yeah, there's a -
THE COMMISSIONER:
Q. - and routes it back again?
DR. WILLIAMS:
A. - yeah, they control the mail room.
THE COMMISSIONER:
Q. So it could take a week to get down the hall?
DR. WILLIAMS:
A. Sometimes it could. That issue came up on a number of occasions because the medical school has more holidays than the hospital.
COFFEY, Q.C.:

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Q. Okay.
DR. WILLIAMS:
A. The hospital has minimum holidays, because you're usually opened on a lot of holidays that the medical school is closed. So that's come up on a couple of occasions, yes. Not in terms of this stuff, now but on other venues.
COFFEY, Q.C.:
Q. Now here, just looking at this, would you ever have received a copy of this letter?
DR. WILLIAMS:
A. Normally I wouldn't receive reports like this.
COFFEY, Q.C.:
Q. Okay. Normally you wouldn't have. Do you know if you received a copy? Well, you did receive a copy of this one.
DR. WILLIAMS:
A. Yes, because it says I did.
COFFEY, Q.C.:
Q. Yes. Do you know how it ended up going to you? Because it's not addressed to you, nor was it copied to you.
DR. WILLIAMS:
A. Oh, then I don't--I wouldn't know how it got to me then, if I wasn't--I thought it was

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copied to me, but obviously it wasn't.
COFFEY, Q.C.:
Q. Just looking at this one, because you had gotten the June 29th one on June 30th, at least a draft of--an unsigned copy.
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:
Q. Here on this one, when we look down through it, in terms of the way estrogen receptor status is described -
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. - sometime--here there are actually percentages used at times.
DR. WILLIAMS:
A. Yeah, I can see now, when you go down through it, that if you have positive--negative is negative, I can understand that.
COFFEY, Q.C.:
Q. Well, for example, the first one is 100 percent strong nuclear positivity.
DR. WILLIAMS:
A. Yeah.

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COFFEY, Q.C.:
Q. And 100 percent strong nuclear positivity for both estrogen and progesterone.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. The second one is simply positive positive.
DR. WILLIAMS:
A. Yeah.
COFFEY, Q.C.:
Q. The third one, negative, negative.
DR. WILLIAMS:
A. Yeah.
COFFEY, Q.C.:
Q. The fourth one moderate nuclear staining in 60 percent, strong nuclear staining in 80 percent, and then the next patient is noted to be negative and negative and then simply positive and positive, and then we go back to moderate to strong nuclear positivity in 100 percent of cells and moderate to strong nuclear positivity in 100 percent of cells. Did you notice that?
DR. WILLIAMS:
A. No, Mr. Coffey, I didn't. I just looked

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through it and said we got so many converters, I think 25 out of 33, and I would have said well that's--that's what I looked at.

COFFEY, Q.C.:

Q. That's the significant number.

DR. WILLIAMS:

A. Now that you look at this, I guess the question you'd have to ask the authors of this document, why one was positive and one was in percentage terms. That's the first time I've really noticed it, that you brought it up, yes.

COFFEY, Q.C.:

Q. Just even now, looking at it?

DR. WILLIAMS:

A. Yes, because I was looking at it, well, how many converted, 25 out of 33.

COFFEY, Q.C.:

Q. You'd simply count the number of positives?

DR. WILLIAMS:

A. Yes, and I wouldn't look at the details, but it is a valid thought and point that you'd probably -

COFFEY, Q.C.:

Q. I'll be asking about it. Thank you.

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DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Doctor, just on that point, Doctor, and I just--that page we're looking at, the first page, they're all '02s, see that?

DR. WILLIAMS:

A. Yes, I do.

COFFEY, Q.C.:

Q. And then, if we could, while we're at it, the second page are all '02s, aren't they?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Third page are all '02s and the fourth page?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. So all of these patients reported in July 18th were '02, originally tested in '02?

DR. WILLIAMS:

A. Yes, because that's what they were concentrating on at the time. So I'd expect them to be all '02s. If they weren't, then I'd be surprised because they were looking at

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the '02s, but they also looked at some other years.

COFFEY, Q.C.:

Q. And they had done that earlier?

DR. WILLIAMS:

A. Yes, that's right.

COFFEY, Q.C.:

Q. And would afterward too.

DR. WILLIAMS:

A. Yeah, but I suspect why they were just doing '02s then is they had the blocks pulled for the '02s and were prepared, whereas they were getting together the--it takes a while to prepare retesting.

COFFEY, Q.C.:

Q. Sure.

DR. WILLIAMS:

A. A lot of time and effort goes into developing--you know, doing that. So they would have had, I guess, those blocks ready to go, so they did it.

COFFEY, Q.C.:

Q. On that point, Doctor, you under--like this letter, of course, going to Dr. Joy McCarthy. It ended up in your office as well. Your

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understanding at the time was what would Dr. Joy McCarthy do with this, this information?

DR. WILLIAMS:

A. Well, I think then they would review it and share it with the other oncologists and move forward on notifying the patients when they got it and had a chance to review it. That was my understanding at the time. Now I know what happened in this particular case for those.

COFFEY, Q.C.:

Q. And if we could, just to put it in context, because you're familiar with it, the June 29th listing of patients you had understood that they either had already been notified individually -

DR. WILLIAMS:

A. Or were in the process of being.

COFFEY, Q.C.:

Q. - or were in the process of being.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And what is your understanding about the 16 of those that converted?

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DR. WILLIAMS:
A. My understanding that at least 10 or 12 of them had already been notified. That's my--I think 12 at one time, and that the other four were under treatment and would, when they were coming back for their regular visits, they would be told. Now that's what I can remember.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. I may not be totally accurate on that, but that's what my recollection is.
COFFEY, Q.C.:
Q. Your memory of the numbers is pretty good, based upon the documents.
DR. WILLIAMS:
A. Okay. Yeah, but I've reviewed those documents.
COFFEY, Q.C.:
Q. I appreciate that. But what about this one then, what happened with these, the patients? There's 33 and I guess 25 -
DR. WILLIAMS:
A. Well, yes, I can tell you what happened with

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these. By the time the oncologists got the reports, signed reports, and were ready to move forward, there was a concern introduced by Dr. Carter that maybe we had a problem with the Ventana system, and because she--you know, we valued Dr. Carter's expertise, or obviously Dr. Cook wouldn't have involved her so heavily in this process. Because she was concerned about the Ventana, that there may be a problem with that, then the oncologists--that's my recollection--were a little concerned. We're going out and telling a patient that there's been a conversion, which is a very important issue, and maybe we're wrong.
COFFEY, Q.C.:
Q. So who's saying this, maybe we're wrong?
DR. WILLIAMS:
A. The oncologists. Now I don't know if they said it to me directly or it came--I know it came up--there's some notes here that it comes up at the meeting, but I expect they were saying it, probably discussing it with Dr. Cook and Dr. Carter, if we're not sure of the Ventana system, what happened is they asked for those 25 cases to be sent to Mount Sinai

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and I'm pretty sure they were sent up as consults quickly, to retest before they told the patients, and they also asked for the--that's my recollection again, the previous 16 to be sent up, just to confirm that what they had done, they didn't need to undo.
COFFEY, Q.C.:
Q. Now, sent up quickly as consults, perhaps you could explain that to the Commissioner. What does that mean here, in this context?
DR. WILLIAMS:
A. Well, a consult is--I really can't explain fully what a--I might do it wrong. I knew that--I understood that there would be a quick turnaround time and that's my understanding, these cases were. The patients they'd already informed, based on the Ventana conversions -
COFFEY, Q.C.:
Q. The 12 of the -
DR. WILLIAMS:
A. Yes, and these patients, before they informed them, they wanted confirmation that, in fact, the Ventana and it was all right to move forward on it.
COFFEY, Q.C.:

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Q. Who informed you that, for example, in respect of that matter, that they would send off the 16 out of the first 25 and then send off--as well send off the 25 or so out of 33 as consults?
DR. WILLIAMS:
A. Gee, I can't be sure whether it came from Dr. Cook or whether it came through the oncologists. I'm not sure, but my understanding is that's what was done, and I understand the rationale for them doing it because you wouldn't want to--you'd be dealing with a patient individually and then you'd go to the patient and say that "your test changed" from 2002 or whenever it was, "and so we're going to put you on Tamoxifen," and then next week you go back, two weeks time and say "by the way, no, it really didn't change. We're going to take you off Tamoxifen." I think there was a concern that because Dr. Carter raised the concern about the Ventana that they better pause, and then you see what happened then, there was a decision to retest outside the province.
COFFEY, Q.C.:

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Q. Now the -
THE COMMISSIONER:
Q. (Inaudible) the decision to test outside the province, you mean in respect of the -
DR. WILLIAMS:
A. Retest, yes.
THE COMMISSIONER:
Q. - the 25 and the 16 or you meant -
DR. WILLIAMS:
A. No, all of them.
THE COMMISSIONER:
Q. All of them.
DR. WILLIAMS:
A. And all new cases as well. In other words, they didn't do any more ER/PR testing in the province.
THE COMMISSIONER:
Q. Internally.
DR. WILLIAMS:
A. Internally in our organization.
THE COMMISSIONER:
Q. In terms of--okay. But I just want to make sure I'm really clear on what happened at this point. So the first 16 of the 25 which had converted had gone through the process. 12

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had been told.
DR. WILLIAMS:
A. And four would be told when they were -
THE COMMISSIONER:
Q. Four would be told when they came back the next time, because they were in active treatment?
DR. WILLIAMS:
A. Yes. That's my understanding.
THE COMMISSIONER:
Q. So Dr. Carter does an extra 35 and then of those, 25 convert?
DR. WILLIAMS:
A. Yes, extra 33, I think.
THE COMMISSIONER:
Q. 33, was it? Sorry. And by then, she's beginning to say "is there a problem with the Ventana?"
DR. WILLIAMS:
A. Correct.
THE COMMISSIONER:
Q. And the oncologists are concerned that they would either misinform people or have to inform people they had already told were changed that, guess what, it's changed back

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again?
DR. WILLIAMS:
A. Yes.
THE COMMISSIONER:
Q. Wanted it all sent off to Mount Sinai on a consult basis to resolve whether or not, presumably, the Ventana was problematic?
DR. WILLIAMS:
A. Yes, that's my understanding.
THE COMMISSIONER:
Q. Okay. That seems to be sort of in, say, somewhere between 20--the 20th of July and the 25th or so of July?
DR. WILLIAMS:
A. It was late July, yes.
THE COMMISSIONER:
Q. Late July?
DR. WILLIAMS:
A. Yes.
THE COMMISSIONER:
Q. Okay. So how far away is this from the decision to send everything to Mount Sinai?
DR. WILLIAMS:
A. Looking at my notes, it indicates to me that around August the 2nd is when the decision was

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made to send everything out. Now that--I'm just reviewing my notes.
THE COMMISSIONER:
Q. Yes, okay.
DR. WILLIAMS:
A. And I think around -
THE COMMISSIONER:
Q. Okay, but like it isn't done the same day. It's not the same decision.
DR. WILLIAMS:
A. Still have some discussions, yes.
THE COMMISSIONER:
Q. Okay, all right.
DR. WILLIAMS:
A. The other thing is that before you can do that with Mount Sinai, you have to go and phone them and have some discussion with them and make sure that they'll do it.
THE COMMISSIONER:
Q. Oh yes. So I presume when you're saying send it to them on a consult basis, that Mount Sinai has--did Eastern Health have--did they have a deal with Mount Sinai, as it were, that they would, from time to time, do consults for them for particular patients or special

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questions or something of that nature?
DR. WILLIAMS:
A. I really can't answer the specifics of that. I just know they use the word consult sometimes and these were--my recollection, they were all sent up to Mount Sinai again, just to reconfirm before some were notified and before some--you know, to give the comfort--I can see the oncologists' position really. If this issue of Ventana hadn't been called into question, they would have gone on through and be told and move forward.
COFFEY, Q.C.:
Q. Well sir, do you know if there's anything in writing that you received at the time that confirmed that in fact that's what actually happened?
DR. WILLIAMS:
A. No.
COFFEY, Q.C.:
Q. That 16 -
DR. WILLIAMS:
A. No, was my understanding, that was my recollection.
COFFEY, Q.C.:

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Q. It was your recollection and understanding at the time. Okay.
DR. WILLIAMS:
A. But when I went through my notes, I don't have anything in writing, that was just my recollection that that was going to be done or that was done.
COFFEY, Q.C.:
Q. Okay. Do you know, your recollection is, your understanding is it was to be done and your recollection is that it was done. Do you know if those same patients' tissue was retested in the entire retesting?
DR. WILLIAMS:
A. Yes, what happened is and why I think I can answer your question with some confidence now, you know, we're going back three years, so I'm just trying to tell you what I know, as best as I can remember it.
COFFEY, Q.C.:
Q. Uh-hm.
DR. WILLIAMS:
A. That when Mr. Gulliver and Mr. Dyer were working, either working in the evenings, nights and weekends to get these docs done,

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pull them up, get them ready and then they had to go to the pathologists, Dr. Fontaine and Dr. Cook who had to review the docs they picked out to make sure that good blocks went up that had the requisite material in them, including normal breast tissue and this type of thing, because that was--and a sample of normal breast tissue and a sample of tumor. So that was time consuming, that they didn't spend the time to see if some of these cases had gone up before on a consult basis, so in fact there was some patients that were tested twice in this process. That's why I'm pretty sure, I'm trying to link this together that these patients were done at Mount Sinai as a consult and then subsequent to that, they were sent up again, in the bigger package.
COFFEY, Q.C.:
Q. Sir, now we've got those two letters of June, we've looked at June 29th and July 18th reporting on the retest results on the Ventana, we just looked at those. What was your understanding, you know, in June and July of 2005 as to what was being done to report those results, the new results, onto the

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patients' chart on Meditech? Did you have any understanding about what was happening there?
DR. WILLIAMS:
A. My understanding again, around that time and I don't know when I--was that an addendum report, at some stage this thing called an addendum report came up and that would be put in the chart, so I remember Dr. Cook talking about that and how they would go about that, but I can't give you the details, that's something you're probably going to have to ask him, but I remember the word addendum report being issued on that particular patient. So it would get in the record as a change. I remember the word "addendum" report, so -
COFFEY, Q.C.:
Q. Now in terms of this first group of 25, I'll refer to it, the June 29th group, 16 converted, meaning nine stayed negative.
DR. WILLIAMS:
A. Uh-hm.
COFFEY, Q.C.:
Q. They were on retest. Do you know if they were told?
DR. WILLIAMS:

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A. The nine?
COFFEY, Q.C.:
Q. Yes. About the fact that they had been retested and -
DR. WILLIAMS:
A. I expect not, Mr. Coffey, but I may be wrong, I expect not because we didn't--it was a bit later we got into talking about phoning the people who would be retested.
COFFEY, Q.C.:
Q. Well was there, in July of 2005, was there any discussion that you recall about telling the people who were confirmed negative that they had been retested and were negative, was there any discussion about it?
DR. WILLIAMS:
A. No, there was not, that I can recollect and I think farther down the road that, the issue of going to people actually and telling them they would be retested was a policy we adopted.
COFFEY, Q.C.:
Q. And were being retested and in fact, had been retested in some instances.
DR. WILLIAMS:
A. In some instances, yes, by the time they

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phoned the patient, they had been retested and the results were back. So, but that policy issue was discussed a little later, so I don't recall any discussion about informing--all the emphasis was on, gee, if somebody converts, we've got to make sure we contact them because there's going to be a treatment change--or could, not necessarily a treatment change, but could be a treatment change.
COFFEY, Q.C.:
Q. Do you know or did you know at the time how many of those, for example the first 12 who were told, the patients, how many of them in fact involved, the changed result involved the treatment change?
DR. WILLIAMS:
A. No, I couldn't with any credibility answer that question. I'd have to deter to Dr. Laing or Dr. McCarthy. The main thing we were considering then is to make sure that if the test had changed, somebody was following up and would do what was the appropriate thing to do.
COFFEY, Q.C.:
Q. If we could, please, look at exhibit P-0300

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please? Now, sir, this is an e-mail from Heather Predham of July 18th, 2005, 12:29 p.m. to yourself.
DR. WILLIAMS:
A. Uh-hm.
COFFEY, Q.C.:
Q. It's copied to Denise Dunn, Dr. Cook and Mr. Gulliver. The subject is "ER/PR Receptor Letter" and the attachment is "Update on ER/PR.doc" and Ms. Predham writes, "Hi, Dr. Williams, I've heard back from Dr. Cook and Terry Gulliver re: the letter and the changes have been made. Both agree that it should come from you. I was speaking to Deborah Thomas today and the Department of Health has been notified and is now involved. They would like a letter sent to each woman outlining the problem and the steps we are taking to address it. That draft letter will have to be seen by our lawyer first, of course. I guess we'll have to decide tomorrow or the next day, re: advising the public." Signed Heather. And there's a document attached, there's a Word document, "Update on ER/PR.doc.". Now in relation to this e-mail, which ER/PR receptor

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letter are we talking about here and what is this about?
DR. WILLIAMS:
A. Not having seen the letter, I would think it's a letter that would go out to people who were going to have their ER/PR retested.
COFFEY, Q.C.:
Q. Now when I say--when you say not having seen the letter, the letter would have been attached, presumably originally.
DR. WILLIAMS:
A. Yeah, but I don't have the letter here.
COFFEY, Q.C.:
Q. Oh yes, and that's because to the best I know it didn't come attached to this?
DR. WILLIAMS:
A. No.
COFFEY, Q.C.:
Q. Or to us. I stand to be corrected, but the best I can tell, it's not there. What letter, if any, was being contemplated at the time?
DR. WILLIAMS:
A. Well I think we were looking at, if I can recollect correctly, we're looking at two issues at the time we were going to move

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forward on, in terms of disclosure. We had been talking about saying something public and then it was contemplated maybe we'd send a letter to people. So obviously at that stage, on July 18th, we didn't have any listing, comprehensive listing of people that we would send this letter to, so it couldn't be sent out in that timeframe.

COFFEY, Q.C.:

Q. So if I could please, perhaps to help put this in context, because that's Monday, July 18th, if we could bring up, please, exhibit P-0070. Now this is an e-mail from Deborah Thomas to Susan Bonnell, Friday, July 15th, 2005 at 2:01 p.m.. The subject is "Update" this would be again before the weekend, and it says, she says "Hi, Susan, here's today's update from Heather Predham. Nancy is thinking about how to implement a hotline, Heather is providing an overview/synopsis for George. George wants to disclose this info to the Board next week. Dr. Williams is trying to talk him out of it. The lab has pulled names and numbers and thinks they may be able to do retesting in-house, completing in about two weeks. Terry

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G. says he has documentation that shows positive controls were done daily (Heather yet to see it). Heather checking other hospitals to see if they have any issues pertaining to this, hoping this could be just a matter of a dramatic improvement in technology (if indeed all controls were in place). Thinking we may want to release mid-late next week. Have a nice weekend." Signed Deborah. So, sir, in relation to this, this reference to "George wants to disclose this info to the Board next week. Dr. Williams is trying to talk him out of it." What, if anything, do you recall about that subject matter?

DR. WILLIAMS:

A. I wouldn't try to talk to George disclosing to the Board, what I wanted to make sure is that the Minister's office was notified in this process. You would have to ask the author of the e-mail.

COFFEY, Q.C.:

Q. Okay, and we -

DR. WILLIAMS:

A. I was concerned that an issue, such as this, of such importance, I didn't view this as an

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operational issue that the Board would go forward with and we would go forward with without informing the Minister's office. So my concern was that somewhere in this process, as we're going forward with all of this, talking to all the Board members and this kind of thing, that somehow, based upon my background in the Health department, this was something that the Minister's office would want to know.

COFFEY, Q.C.:

Q. And so in terms of looking at--and we will ask the author of this, what, if anything, she recalls about it, but is it possible really that this might have more accurately said, Dr. Williams is trying to talk him out of it before the department knows?

DR. WILLIAMS:

A. Yeah, I wanted the Minister to know--you'd have to ask George if I tried to talk him out of informing the Board and I would not do that.

COFFEY, Q.C.:

Q. And he's told us no, okay.

DR. WILLIAMS:

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A. My concern was that if we're going to be doing all of this, I thought by this time he had informed the Board Chair, I didn't know that he had not, but that wouldn't be in my purview that when you're going to inform the Board and the Board Chair, that the Minister should be in that loop along side, given the issue, not that the Minister should be involved in everything the Board does, but because I was concerned with the gravity of this issue, that this is something that the Minister should be informed about.

COFFEY, Q.C.:

Q. And why is that?

DR. WILLIAMS:

A. Because it's much more than just an operational issue, it's a major--I thought it was a major issue and having been in the department for years, I would feel that it was something the Minister would want to know about, that would be my--that was my view.

COFFEY, Q.C.:

Q. Having spent upwards of a decade as the Deputy Minister?

DR. WILLIAMS:

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A. Yeah, that's right, yes.
THE COMMISSIONER:
Q. (Inaudible) frankly it's a bit vague to me on how one figures out what to tell a minister and what you don't tell a minister.
DR. WILLIAMS:
A. Yes.
THE COMMISSIONER:
Q. And it seemed like it's kind of a gut reaction.
DR. WILLIAMS:
A. Yeah, I don't think there's anything written down here, the guidelines to tell a minister, from my perspective, having worked in the Health department for many years, that I felt it was something that the Minister should be aware of. I felt that as soon as this became a public issue, one of the first things people would go to, in addition to maybe going to the Board, would be to the Minister's office and he would be asked to explain has he been involved where--it was a "he" at the time, where we were, so it was just my sense that this was of such important and gravity that the Minister should be aware of it.

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THE COMMISSIONER:
Q. Because people who talked about whether you tell a minister or when you tell a minister and that kind of thing, say as a matter of practice we don't tell him about operational stuff, that's the kind of thing he would leave to other people, whether it's internally or even within the department or within an organization and--but there seems to be two caveats, the size of the question and whether or not it goes public.
DR. WILLIAMS:
A. Yes, and the other thing, I would think if it's a policy issue, for instance if Eastern Health decided we were going to shut down a service that maybe--it was the only service offered in the province--say we're going to shut down our nephrology service, I think that's something before we did it -
THE COMMISSIONER:
Q. That would be policy and it seems like policy seems, everybody accepts that when you get to policy level, then that's the kind of thing you would talk to the Minister about.
DR. WILLIAMS:

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A. Sure, yes.
THE COMMISSIONER:
Q. But on the operational side, the only two things that I have thus far seemed to have heard about why an issues goes, gets reported to the Minister are if it becomes public in the sense of the Minister might be asked a question about it.
DR. WILLIAMS:
A. Yes.
THE COMMISSIONER:
Q. Or if it's big enough.
DR. WILLIAMS:
A. Yes, and I think on those two criteria -
THE COMMISSIONER:
Q. This one probably met both criteria.
DR. WILLIAMS:
A. Both criteria, yes.
THE COMMISSIONER:
Q. Would there be anything else?
DR. WILLIAMS:
A. I think policy, public and the gravity of the situation I think would be the three.
THE COMMISSIONER:
Q. Okay.

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DR. WILLIAMS:
A. I think you've captured that.
COFFEY, Q.C.:
Q. And gravity, you recognized what about the gravity of this?
DR. WILLIAMS:
A. Well I recognize it's a very serious situation.
COFFEY, Q.C.:
Q. Why? What about it?
DR. WILLIAMS:
A. This is an important test that has a lot of implications for a serious disease, people with a serious disease.
COFFEY, Q.C.:
Q. And if the original test results were wrong or were incorrect, your understanding was what about what were the implications of that?
DR. WILLIAMS:
A. Well that could mean significant issues for patients who were treated.
THE COMMISSIONER:
Q. Or untreated.
DR. WILLIAMS:
A. Or untreated, yes.

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COFFEY, Q.C.:
Q. Such as what?
DR. WILLIAMS:
A. Well for instance they wouldn't be getting a drug that would have some benefit for them, in terms of their diagnosis.
COFFEY, Q.C.:
Q. I take it, it might prolong their life?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. You would have understood that?
DR. WILLIAMS:
A. Yes. There is a table that Dr. McCarthy eventually showed me that you could plug in things and then get an impact, in certain things you may have to treat a hundred patients with Tamoxifen to get a benefit for one; in another scenario, you may only have to treat 30 patients to get a benefit for 10 or something, it depends. There is an algorithm that you can use, I don't know if you've had it, you probably do.
COFFEY, Q.C.:
Q. There are references in some of the materials

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to it.
DR. WILLIAMS:
A. So, I mean, I'm just saying that you have a serious disease. We have a test that's important in the treatment of that disease and we have a situation where there were some problems identified in that test. We've not flushed them out and we know they're significant and I think that warranted that kind of reaction.
COFFEY, Q.C.:
Q. And did you speak to Mr. Tilley about your view that it was necessary like to inform the Minister, like now? Did you speak to Mr. Tilley about that and advise him of your reviews in that regard?
DR. WILLIAMS:
A. I would think, I didn't write it down, I would think when I talked to Mr. Tilley on the 8th or whether it was the 7th or 8th of July, I'm pretty sure when I talked about the words "public issues" I would have explained to him my concern around that whole issue.
COFFEY, Q.C.:
Q. And you probably at that point told him or

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suggested to him that the Minister should be told, in your view?
DR. WILLIAMS:
A. I may have, but I didn't write it down -
COFFEY, Q.C.:
Q. You can't recall, I can appreciate that.
DR. WILLIAMS:
A. I'm pretty sure that was my thinking all through this.
COFFEY, Q.C.:
Q. And Doctor, in that regard, you know, looking back on it and from the time Mr. Tilley was first told until I gather the evidence before the Commission is is that the Minister was informed on July 19th, probably, okay?
DR. WILLIAMS:
A. Uh-hm.
COFFEY, Q.C.:
Q. Do you ever recall any reasons given by Mr. Tilley as to why he was waiting to tell the Minister?
DR. WILLIAMS:
A. I don't think we discussed it. To be honest, Mr. Coffey, I didn't know when Mr. Tilley told the Minister, you know, and how that happened.

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I just talked to Mr. Tilley, we went out and met with Susan Bonnell. I thought Mr. Tilley was going to be there, but I think he might have been pulled away at the last minute because that's the only reason I can think that we would have went out to corporate office.
COFFEY, Q.C.:
Q. And in terms of when in fact he had, he did inform Mr. Ottenheimer, he didn't let you know at the time, like Bob, I've told -
DR. WILLIAMS:
A. I don't see any evidence--but he might have, I can't say because lots of times I would talk to Mr. Tilley on the phone and if I didn't record my phone conversations, I use the phone a lot.
COFFEY, Q.C.:
Q. Here at P-0070, the reference to "Heather checking other hospitals to see if they have any issues pertaining to this." Do you see that third last bullet?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:

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Q. Do you recall what that was about?
DR. WILLIAMS:
A. No, I'm sorry. It might be Deborah Thomas' take on something that may be totally different than what I would think. I don't see any reference in this in any of the minutes--notes that I took, sorry.
COFFEY, Q.C.:
Q. Idea of "hoping this could be just a matter of dramatic improvement in technology." That idea -
DR. WILLIAMS:
A. Some people expressed that idea around the table, maybe this technology is much better because it removes a lot of the problematic steps from the whole procedure. Maybe it's just a factor of--and you will see in the notes that some people were thinking that--not everybody was thinking that, some people might have been thinking that.
COFFEY, Q.C.:
Q. How about yourself?
DR. WILLIAMS:
A. My own view always was that although I felt that Ventana, whether it was DAKO or Ventana,

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it makes no difference to me, that the automated system probably could be more reproducible and standardized than a semi-automated system where you're boiling tissue and this kind of thing. So I would think that it would be easier to get a better result on an automated system than on a semi-automated system, but knowing what I did at the time that some labs were getting good results on the semi-automated system, but also that a lot of labs in Great Britain and U.S., I think I was starting to get some of the literature, around this time Dr. Carter gave me a document from the National Institute of Health, an orange paper, when I met with her over at the General site, one day I was done in the lab and she was there and just handed me the document, that I started to get a flavour for how problematic this test was, especially with the low, what they call low expressors.
COFFEY, Q.C.:
Q. Low expressors, yes.
DR. WILLIAMS:
A. Now we know that in articles that came out in 2006, we thought that there was a linear

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relationship between testing and there would be a variety of samples spread all along, so some would be 90 percent, some would be 70, some would be 30, some would be 40, some would be 20, some would be 10, an equal distribution curve. We now know with the newer, what's been published in the recent literature in 2006 that with the newer systems, the curve is bimodal, so that 90 percent of tests are either negative or strongly positive and there's only 10 percent in the negative--you know in the sort of weekly positive, that means there's a small number down this part of the mode, but most of them are up here, which is what--when we first started to get the Ventana system results, people started to notice, gee, the stains, there's an awful lot of people staining 90 percent, 80 percent here. Before we didn't see that kind of a distribution.
COFFEY, Q.C.:
Q. And, of course, this information you only became aware of -
DR. WILLIAMS:
A. In 2006.

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COFFEY, Q.C.:
Q. '06 when you really got into it.
DR. WILLIAMS:
A. Well, I think there was an article, it's in here somewhere, a letter that I wrote to Peter Dawe attaching a lot of documentation on this and one of the articles was a 2006 article that we wouldn't have known about then, it just came out in 2006, started talking about it is a bimodal curve now for this--there's all kinds of things coming out about this particular test over time. Now I don't know if that's unique to this test or if I looked at any other, a lot of other stuff we'd find out too, but it seems like there's some new things coming out here and I suspect we'd find out that if Dr. Banerjee is right about the mouse monoclonal antibody--the rabbit monoclonal antibody, that maybe we get over 90 percent, would we test anybody anyway, or would we just assume that maybe we should treat--offer people treatment, I don't know, that may change, I don't know, it's something that probably needs to be pursued with people who are much more knowledgeable than me.

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COFFEY, Q.C.:
Q. I anticipate that that will happen here in due course, but just some sense of your own exposure to it, when you became and so that, that's in 2006 that -
DR. WILLIAMS:
A. That article, yes, but back here in 2005, I noted there was some, you know, expressed that this was all because of technology change. Now, I could understand that some of it, because it makes it easier, you got a system that you don't have to boil tissue, you don't have to do this, you don't have to mix the alaquats of antibody, it's all done for you, that the system is working like it should, that makes it easier to get the better results, but I didn't attribute this problem to new technology, no, not personally I didn't anyway.
COFFEY, Q.C.:
Q. You thought that maybe some of the changes might be -
DR. WILLIAMS:
A. Well improvements were because the system was different, but you still could get good

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results from the older system, but it would be harder. Now that's my understanding.
COFFEY, Q.C.:
Q. Sure. Looking at the last bullet here in this e-mail on P-0070, it says, "Thinking we may want to release mid-late next week." That would be release what?
DR. WILLIAMS:
A. I would say something, a media release maybe. We really wouldn't be able to go out with any degree of comfort that we have a large number of patients identified. I would say when you go, get our list together and you get all the addresses together and you go out to the other Boards and get everything together, my thinking it would take probably a month or so to get a decent list to notify people individually.
COFFEY, Q.C.:
Q. That would be to actually notify individuals, so the release here would be in the context of public -
DR. WILLIAMS:
A. I was thinking that a public release, that's what we could do in a practical sense at this

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point in time.
COFFEY, Q.C.:
Q. Now, Doctor, on that point, so I take it you envisaged a public release and potentially followed up by--well then followed up by individual contact.
DR. WILLIAMS:
A. Individual contact, yes. That would be my thoughts at the time.
COFFEY, Q.C.:
Q. And the methodology used for individual patient contact, you envisaged what?
DR. WILLIAMS:
A. Well I'm a fan of personal contact, so I would probably be more in favour--well I know I would be more in favour of somebody who has a clinical background phoning up and talking to somebody--I mean, I thought about it, you know, and somebody gets a letter, maybe they get it Friday afternoon or maybe they don't get it until Saturday, get this letter, it leaves them asking a lot of questions. Unless you got a good hotline going for them to phone in, people can get aggravated and agitated; whereas if you phone somebody up and tell them

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and you got a caring person on the end of the line who has some clinical background, knowledge about this, it may be better and then you can ask them if they want to ask any questions and give them a number to phone back and a contact name and something. Now that's only my own thoughts, I don't have any expertise in communications in terms of mass communications. That's how we communicated with patients, I guess in the office, you know.
COFFEY, Q.C.:
Q. Now, Doctor, if I could please, exhibit P-0071. Now this, Doctor, is material we received, the Commission received from Deborah Thomas-Pennell and I'm just going to take you, get some sense of it, the pages are, the watermark below it is draft on the back of the page, do you see that?
DR. WILLIAMS:
A. Uh-hm.
COFFEY, Q.C.:
Q. And this particular page is briefing note, "ER/PR Receptors Background" and it goes on for two pages and then there's a draft media

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release, dated July 18th, 2005, entitled "Breast Cancer Test Being Re-examined". At page six there's another briefing note, "ER/PR Receptors Background" and this is probably another draft of the same, similar note.

DR. WILLIAMS:

A. Uh-hm.

COFFEY, Q.C.:

Q. On page 9 there's a "July XX media, draft media release retesting due to improved technology", page 11 and a "July XX draft media release note--not briefing note, media release for Eastern Health reviews, ER and PR test results--I'm sorry, I skipped one. And then there's key messages, listing at page 12 and then there's another draft media release, July XX entitled "Laboratory testing review to be completed by outside consultant." And then there's what appears to be page 14, a document, it begins "Eastern Health would like to advise you of a situation which has lead to the retesting of your breast tissue sample. This is just an advisory notice. You do not have to do anything" and it goes on at some length. And it ends with, "If you have any

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questions about this process, please call 1-800 and leave a message, someone will get back to you promptly. Thank you." It appears to be a draft letter.

DR. WILLIAMS:

A. Uh-hm.

COFFEY, Q.C.:

Q. And Doctor, on July 17th, 18th, 19th, 20th, were you aware that communications personnel had gotten this far?

DR. WILLIAMS:

A. I'm not sure. I know they were working--I would suspect I knew they were working on it, but they may not have been reporting to me on it.

COFFEY, Q.C.:

Q. If we can go back, please, to P-0300. Now, Doctor, just to come back to this July 18th, 2005 e-mail from Ms. Predham to yourself, which letter are we talking about here?

DR. WILLIAMS:

A. I'm not sure, I'd have to see the attachment.

COFFEY, Q.C.:

Q. Do you know if any letter other than the patients' letter?

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DR. WILLIAMS:

A. No, I don't, so it might be what's referenced there, I'm not sure.

COFFEY, Q.C.:

Q. And "changes have been made, both agree it should come from you", so is it your recollection that back then the idea of the patient, a letter to patients about this might have been prepared for your signature?

DR. WILLIAMS:

A. It may have, yes. It says in the e-mail, we just wouldn't be able to get it out, that's another issue.

COFFEY, Q.C.:

Q. And I appreciate that, for the reasons you've described, you'd need the addresses and so on.

DR. WILLIAMS:

A. Yes. I expect our communications people were operating on the basis that we were going to do something in terms of notification, yes.

COFFEY, Q.C.:

Q. Because it was not only apparently a draft letter, but as well actually different versions of a news release.

DR. WILLIAMS:

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A. Uh-hm.

COFFEY, Q.C.:

Q. Were you aware that different versions of a news release were being prepared?

DR. WILLIAMS:

A. I can't--in all honesty, I can't answer--so much going on. I know communications, because Susan Bonnell was at her meetings, would be working on things like that, but they might have been running this by Susan. And you know, she may not necessarily contact me all the time.

COFFEY, Q.C.:

Q. Now, the second paragraph refers to Ms. Predham having spoken to Deborah Thomas, that would be Deborah Thomas Pennell?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And "the Department of Health has been notified and is not involved". Up to the time you got this e-mail were you aware that the Department of Health had been notified and is now involved?

DR. WILLIAMS:

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A. Probably not.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. Because I don't see any other information on that.
COFFEY, Q.C.:
Q. You yourself in terms of that, did you actually contact the Department of Health?
DR. WILLIAMS:
A. No, I thought--that was--I don't--as I said earlier, I sought the permission of our CEO to phone Mr. Abbott one time on the pathologist workload issue. In future I wouldn't take it upon myself -
COFFEY, Q.C.:
Q. You would -
DR. WILLIAMS:
A. No, I think that's an issue that the CEO would deal with, the deputy and board chair would probably deal with the minister. That's the system I came from.
COFFEY, Q.C.:
Q. And a reference here to, "they would like a letter sent to each woman outlining the

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problem and the steps we are taking to address it. That draft letter will have to be seen by our lawyer first, of course". Now, this is to you, this e-mail.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Having gotten this, what, if anything did you do? There are references here to letters, lawyers.
DR. WILLIAMS:
A. I might have phoned Heather Predham and had some discussion. I'm not sure at the time, Mr. Coffey. Things were happening fairly quick and we were going to move in and see the minister, I think, the next week.
COFFEY, Q.C.:
Q. Did you--well, up to that point, this is a Monday, July 18, did you have any understanding that you would be seeing the minister that week?
DR. WILLIAMS:
A. I may have, I'm not sure and I may not have.
COFFEY, Q.C.:
Q. What was the purpose, from your perspective of

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having the draft letter seen by the lawyer?
DR. WILLIAMS:
A. I would suspect to make sure that it's a balanced letter; there's nothing in it that they would have a problem with.
COFFEY, Q.C.:
Q. In the context of what?
DR. WILLIAMS:
A. Well, you know, there's an issue of, the issue of liability here all the time when these things happen. So you want to make sure that somebody has seen it from that perspective. Not that it would deter you from sending it out, but -
COFFEY, Q.C.:
Q. Well then, what would the purpose be of--I take it the lawyer might have you change something to avoid an admission of liability. That would be the idea.
DR. WILLIAMS:
A. Well, there might be something like that yes, but still, it wouldn't deter the basic thrust of having something go out, if that's the decision that we made.
THE COMMISSIONER:

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Q. Wherever you can find a spot -
COFFEY, Q.C.:
Q. Okay, thank you.
THE COMMISSIONER:
Q. - you can let me know.
COFFEY, Q.C.:
Q. If we could, please, Exhibit P-0323 please. Now Dr. Williams, this is what appears to be a memo to George Tilley from yourself, re: update ER/PR receptor testing.
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:
Q. It's, I'll show you, undated.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And it is unsigned, but it begins with "the following activity has taken place since the memo of Dr. D. Cook to Dr. R. Williams dated May 24, 2005 (attached)".
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:
Q. So, I take it that that would be the letter

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that we looked at earlier, Dr. Cook's May 24 letter.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Do you recall, did you actually send a copy of that to Mr. Tilley?

DR. WILLIAMS:

A. I'm pretty--if it says here. I've tried to determine, looking back, when this was sent and I think it was sent around August 14, as best I can--sorry, not August, July 14, as best I can try to piece it together from my notes and where it fitted in.

COFFEY, Q.C.:

Q. And that's based upon the contents of the letter, in fact, isn't it? Juxta-positioning it against other -

DR. WILLIAMS:

A. Yeah, I think it's around the 14th.

COFFEY, Q.C.:

Q. And you report on the samples collected from the 25 women initially tested as negative in '02, were retested, 16 of these came back positive. Testing is currently being done on

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33 more patients.

DR. WILLIAMS:

A. Yes, so that's when it would--it would have to be before the 18th, probably--yes, that's correct.

COFFEY, Q.C.:

Q. And you say, "approximately 12 of these patients have been informed by their oncologists. June 13, 2005 Dr. Cook wrote to all laboratory directors to submit all negative ER/PR cases for the year 2002 for retesting with the new more sensitive Ventana system. So far no samples have been received. So, Dr. Cook will contact all laboratory directors again requesting samples from '97 to '04"?

DR. WILLIAMS:

A. Um-hm.

COFFEY, Q.C.:

Q. That suggests that you weren't aware that Dr. Dalton had sent his -

DR. WILLIAMS:

A. Yes, it looks like that.

COFFEY, Q.C.:

Q. And the third bullet, you talk about the DAKO

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system and its history here, replacing the bioassay method. You say in the second sentence in this bullet, "all samples which initially tested as negative from '97 until the implementation of the Ventana system in April 2004 will be retested". So, that was the determination at that point. That was -

DR. WILLIAMS:

A. That was before the Ventana system was brought into question.

COFFEY, Q.C.:

Q. Sure, okay. And here, you say, "as the test results can affect future treatment, patients that are still living will have their testing done first before it is done on those that are deceased". And that suggests that, in your mind anyway, you were going to do the living first and then retest the deceased.

DR. WILLIAMS:

A. At that point in time, yeah.

COFFEY, Q.C.:

Q. So, you did intend to retest the deceased?

DR. WILLIAMS:

A. It was always our intention to retest everybody.

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COFFEY, Q.C.:

Q. Why was that? Why would you retest the deceased?

DR. WILLIAMS:

A. Because we feel or I felt and I guess we feel that, you know, people have the right to know, if they want to know, that the tests--if there's a change in the test, that that's a right to know that. I guess I didn't think any more it than that. You know, I felt that that was an issue that would be a reasonable thing to do, if they wanted to.

COFFEY, Q.C.:

Q. Yes, I appreciate that. So, what I'm asking or I point you to it, Doctor, is this thought process that--we'll do the living first and then we'll certainly do the deceased and then let the relatives know, if they wish.

DR. WILLIAMS:

A. Um-hm.

COFFEY, Q.C.:

Q. That was something that was your own thought.

DR. WILLIAMS:

A. Yes. I think that was my own, but I think other than--I'm not sure if it was just my own

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thought.
COFFEY, Q.C.:
Q. Yes.
DR. WILLIAMS:
A. I think it was the thoughts of the people who were working on this at the time.
COFFEY, Q.C.:
Q. Okay. And that's what I'm -
DR. WILLIAMS:
A. That's what I'm thinking.
COFFEY, Q.C.:
Q. Kind of the consensus view. I would think so, that's how we usually operate it.
THE COMMISSIONER:
Q. So, are you suggesting a question of whether to do the living first was discussed at those meetings that you had?
DR. WILLIAMS:
A. I can't--if I answered the question, I'm not sure, but I suspect it was or it was just a generally accepted thing that because the people who are living, the test results can affect them; let's do them first.
THE COMMISSIONER:
Q. I'm not suggesting there isn't great deal of

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logic in that, but I recall that a few moments ago we were talking about the first 25 and then 33 having been done and the numbers in those that converted and how they got back to Mount Sinai.
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:
Q. So, when you got to the point where you were sending to Mount Sinai, it seemed like you weren't checking whether they had already been sent to Mount Sinai. So, the checking to see whether they were dead might be more problematic.
DR. WILLIAMS:
A. Yes, we did send up a lot of patients' samples of the patients that were dead, we found out after. So, we asked Mount Sinai to defer testing of those patients until after the living were -
THE COMMISSIONER:
Q. Yes.
DR. WILLIAMS:
A. That comes up a little later.
THE COMMISSIONER:

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Q. Okay.
DR. WILLIAMS:
A. I think the thing here was we were rushing to get tests off as soon as we could at the time because we felt that there would be a quick turnaround time.
THE COMMISSIONER:
Q. Yes.
DR. WILLIAMS:
A. And if we could get them all up and the quicker we got them up, the quicker we'd get a whole batch back. And that was probably in, we didn't make the right assumption on that, that's not what happened.
COFFEY, Q.C.:
Q. If we could take a break now, Commissioner.
THE COMMISSIONER:
Q. Sure, take 15 minutes.
(BREAK)
THE COMMISSIONER:
Q. Please be seated. Mr. Coffey?
COFFEY, Q.C.:
Q. Thank you, Commissioner. Now Doctor, if we could please, just looking at this memo to Mr. Tilley, the third bullet, it refers to "extra

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resources have been identified within the lab to undertake identification and retesting". Do you recall what extra resources they were?
DR. WILLIAMS:
A. Yes, extra resources in this case would mean that we didn't bring any additional people in. That the extra resources we used were overtime on the evenings and weekends to do this process. Now, there was some discussion around that, but really you wanted to have people who had expertise and could do the work fairly quicker and had been through the mill. So, that's why, I guess, we decided we'd bring people in on an overtime basis and after hours to get it done because you didn't have to train them. If you bring somebody else in, you'd probably have to train them, you'd lose time in training.
COFFEY, Q.C.:
Q. Sure, the extra resources, it means, provision to pay the people who knew, or familiar with this -
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:

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Q. - situation, over time -
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. - in order to carry out the tasks. "The list of patients will be double checked with the names on the cancer registry to ensure none have been missed". What did that relate to?
DR. WILLIAMS:
A. Again, I think we referenced it in an earlier meeting here, July 15.
COFFEY, Q.C.:
Q. Yes.
DR. WILLIAMS:
A. Heather was going to contact the cancer registry to compare our data with their data.
COFFEY, Q.C.:
Q. And was there a concern that your data, therefore, might not be complete?
DR. WILLIAMS:
A. No, I don't think it was--I think it was just, this is another check and balance, maybe, to make sure. Now, the issue with the cancer registry, there were some difficulties there in getting the -

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COFFEY, Q.C.:
Q. Perhaps you can tell us about that because -
DR. WILLIAMS:
A. Yes. My recollection is that there was some difficulties in the cancer registry in getting information from the health boards. A few--some time around this time or maybe a year or two before there was a document sent around by Bertha Paulse from the Newfoundland Cancer Treatment and Research Foundation that was seeing if labs would sign up to transmit all their information on cancer cases to the Cancer Registry online, something like that, try to link in. So, I think our board signed up for that. I don't know what time it was, but there seemed to be some issues around them having all the information. So, -
COFFEY, Q.C.:
Q. Or not having it?
DR. WILLIAMS:
A. Not having it, yes. The not having it being the operative word, yes. So, I think that I would have known that in 2005 and so, I wouldn't be surprised if the Cancer Registry, we had more, maybe some more data than they

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did in certain years.
THE COMMISSIONER:
Q. What's intended to be on the Cancer Registry?
DR. WILLIAMS:
A. That's to be a registry of all cancer in the province--any time a case is registered and normally, a cancer is diagnosed through the laboratory, pathology laboratory. So, if you link in and provide them with the results of your testing, then they got a record of the incidents of cancer in the province, this type of thing. That's what the Registry is for.
THE COMMISSIONER:
Q. So, it's a statistical vehicle -
DR. WILLIAMS:
A. Statistical registry.
THE COMMISSIONER:
Q. - used for those kinds of -
DR. WILLIAMS:
A. So you can--yes, it's used for planning and certainly, if you know your incidents of cancer is going up over time, then you might know you got a problem and then you start to look for it. And then you look at your mortality rates from cancer and then you can

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match them with your incidents rates and see if your mortality is greater in the province than other provinces for this particular cancer, maybe there's something you should look at.
THE COMMISSIONER:
Q. Okay.
COFFEY, Q.C.:
Q. Doctor, there's a reference here to, one says "timelines required to do the retesting internally will be determined as soon as possible. If it is determined to be too time consuming, options to utilize external laboratories will be explored". Do you see that? That's -
DR. WILLIAMS:
A. Yes, I saw that, yes.
COFFEY, Q.C.:
Q. What was that all--testing internally makes sense, in the sense of figure out how long it's going to take.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And the idea though if it's too time

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consuming, you might go to external labs to do the retesting.
DR. WILLIAMS:
A. That would be, yes, would be my interpretation of that. And it's consistent with our July 14 notes here, when farm out testing outside the province, that was--remember we talked about that earlier?
COFFEY, Q.C.:
Q. Yeah.
DR. WILLIAMS:
A. As a separate bullet. So, it seems to be consistent with that comment that--you see, we only have so much capacity obviously and we have a responsibility to ongoing work as well. So, we felt we couldn't get this done on a timely basis, given our ongoing work as well, that we would look to see if there's other options.
COFFEY, Q.C.:
Q. Now, on this point, okay, because I take it the Ventana machine or machines, in fact, were used to process the ER stains.
DR. WILLIAMS:
A. Um-hm.

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COFFEY, Q.C.:
Q. And the PR stains?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And did you have any--by this point in time, by the middle of July--any understanding as to whether or not the Ventana was used for other stains.
DR. WILLIAMS:
A. Some time around here I've had some understanding that there was other things involved as well besides ER/PR.
COFFEY, Q.C.:
Q. But the IHC stains -
DR. WILLIAMS:
A. Yes, and I had some understanding, some time in this about type one and type two stains, but I can't tell you when I had that understanding, Mr. Coffey. And when I got that understanding, whether I got that from the literature that was provided, whether somebody told me about it, but I started to learn about other stains.
COFFEY, Q.C.:

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Q. In terms of capacity, I take it that, you know, you have hundreds of blocks to be retested for ER and Pr.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Well, they're going to take up--so, each one will create a slide which will take up one slot in a machine.
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:
Q. Did you understand that the machine actually had a number of different slots for different, potentially for slides?
DR. WILLIAMS:
A. No, I didn't understand the nitty gritties of the machine. The other thing you'd have to consider, if you're going to send the testing out of the province is all the time and effort that goes into packing it up and there's a lot of front end work that you wouldn't have to do if you were retesting locally. So, you have to weigh off all those things.
COFFEY, Q.C.:

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Q. And at least you were turning your mind to it at the time in terms of thinking about it the pros and cons.
DR. WILLIAMS:
A. Yes, we're looking at a timely turnaround as best we could.
COFFEY, Q.C.:
Q. The last bullet on that page, sir, it says, "it has been determined that the positive controls were conducted every day as part of the quality assurance process within the lab. Results were read and documented daily by a pathologist. Also the processes used by Health Care Corporation of St. John's technicians were those outlined in a DAKO procedure manual". Now, where did you get this information?
DR. WILLIAMS:
A. I would say that came from Mr. Gulliver. If you're talking about the DAKO procedure manual, I suspect that information came from him.
COFFEY, Q.C.:
Q. And -
DR. WILLIAMS:

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A. I can't be certain, but I would expect.
COFFEY, Q.C.:
Q. Sure, yes. And the idea that it has been determined the positive controls were conducted every day as part of the quality assurance process within the lab, you wouldn't have known that of your own personal knowledge?
DR. WILLIAMS:
A. No, I would have asked; somebody would have told it.
COFFEY, Q.C.:
Q. "And the results were read and documented daily by a pathologist". That would be of the positive controls?
DR. WILLIAMS:
A. That's my understanding, yes.
COFFEY, Q.C.:
Q. And do you recall at this point, anyway, this would be mid July, as best you can tell, were there any reservations expressed to you at that time about whether or not they could document all those positive controls?
DR. WILLIAMS:
A. There were some reservations expressed at some

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time down the line that maybe--and it might have been--it doesn't seem like it's here, but at some time over the summer, there became, you know, whether they were documented all the time, I was told they were done, but maybe they weren't always documented. I think that came out later, but I'm not sure.
COFFEY, Q.C.:
Q. And if we could please, Commissioner, it's a reference at the top of the next page to "the current testing standards (Ventana system) are being assessed by cross referencing our results with another lab".
DR. WILLIAMS:
A. I guess this was prepared, we would have understood that something was going to be done between us and Mount Sinai. I think there was a reference earlier to that.
COFFEY, Q.C.:
Q. Yes, there was, Doctor O'Malley. So that might be a reference to that. "The public will have to be informed. Corporate communications have been involved and at least five patients are aware of this information already. Disclosure has to be made quickly.

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After meeting with the surgeons and oncologists it was decided to wait until we were able to get more information regarding retesting. The anticipated timelines and a support line established. This support line for patients will be co-ordinated through QSI. Legal counsel will review the proposed media release before it is distributed". Now, sir, the meeting with the surgeons and oncologists would have been around July 14th, I believe we looked at?
DR. WILLIAMS:
A. The 14th is the first time I think we got together, according to my notes.
COFFEY, Q.C.:
Q. The large group?
DR. WILLIAMS:
A. Yes. So this looks like it's the 14th, probably a 15th memo.
COFFEY, Q.C.:
Q. And the reference to "As at least five patients are aware of this information already."
DR. WILLIAMS:
A. In retrospect I think more patients were aware

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of it by then.
COFFEY, Q.C.:
Q. Yes, there would have been more. In the five you might have been thinking about the original -
DR. WILLIAMS:
A. That was the original tests that were done but then there was more, there was another 11 done. That's the original 16, I guess, we're talking about, 17, really, to be exact.
COFFEY, Q.C.:
Q. And the idea, the note--or the communication here is meant to convey to Mr. Tilley that, look, if these people know, it could go public?
DR. WILLIAMS:
A. Well, yeah -
COFFEY, Q.C.:
Q. At any point?
DR. WILLIAMS:
A. - that was the issue. The more people you tell, the more it could become public. Now, we wouldn't let that interfere with telling people.
COFFEY, Q.C.:

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Q. Sure.
DR. WILLIAMS:
A. Once their tests are available and if somebody goes public, so be it, then you just tell the truth, tell them what you're doing, what happened, what you're doing.
COFFEY, Q.C.:
Q. You refer in the second-last bullet here, "Once the magnitude of the problem and relevant time frames has been determined, an external technical consultation will need to be undertaking to assess standards and quality of service."
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. I take it that was to bring in some outside -
DR. WILLIAMS:
A. Yes. This -
COFFEY, Q.C.:
Q. - expertise?
DR. WILLIAMS:
A. I'm looking at this briefing note, I suspect this is probably prepared with the abbreviation QSI, I suspect Heather Predham,

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based upon the information, prepared this briefing note for me and I sent it on to Mr. Tilley.
COFFEY, Q.C.:
Q. The final bullet says, "HIROC will be contacted to determine if they are aware of any other issues with the DAKO testing system."
DR. WILLIAMS:
A. Yeah, we thought that would be a good source. They're covering, they are insurers of hospitals in many provinces across the country, so they might have some information that would help us out.
COFFEY, Q.C.:
Q. And so who was to do that?
DR. WILLIAMS:
A. That would be Heather, for sure.
COFFEY, Q.C.:
Q. I take is she dealt with the insurance company?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And she would have dealt with the insurance

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company, you understood, and the insurers' lawyers?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Exhibit P-0509, please?
COMMISSIONER:
Q. Before you move on, can I just ask one question on the top bullet there, the "Current testing standards being assessed by cross-reference."
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. With another laboratory. Was that the business of the original plan by Dr. Carter to send the -
DR. WILLIAMS:
A. Yeah, it was mentioned -
COMMISSIONER:
Q. - every tenth one or was that the--when you came to the decision that you'd better do the consult?
DR. WILLIAMS:
A. No, I think what we were going to be doing is

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sending some tests out that had been retested on the Ventana to an outside lab just to see if they could confirm our retest--our testing results.
COMMISSIONER:
Q. Yeah. The original 16, plus the 25 -
DR. WILLIAMS:
A. They were sent up as a consult -
COFFEY, Q.C.:
Q. - were sent as a consult. And that's what I'm wondering if that -
DR. WILLIAMS:
A. They were sent up for a different reason.
COFFEY, Q.C.:
Q. It was a different, yeah.
DR. WILLIAMS:
A. For a different reason.
COMMISSIONER:
Q. Okay.
COFFEY, Q.C.:
Q. If I could, Commissioner, on that point?
COMMISSIONER:
Q. Yeah, okay.
COFFEY, Q.C.:
Q. Because the documents are not here yet.

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COMMISSIONER:
Q. That relates to current testing?
COFFEY, Q.C.:
Q. Yeah. Doctor, in terms of that was Montreal or hospitals in Montreal ever utilized?
DR. WILLIAMS:
A. Yes, that's true, there was Dr. Waters, I forgot that. You'll get to it. Dr. Cook knew Dr. Waters in Montreal, he knew he had a Ventana system up there so we wanted to compare our systems, type of thing.
COFFEY, Q.C.:
Q. Okay.
COMMISSIONER:
Q. So that really has nothing to do with the past, it has to do with the ongoing current, is it?
DR. WILLIAMS:
A. It was something that Dr. Cook was going to do just to have our Ventana system checked with somebody else's Ventana system in another hospital to see if their results and our results were the same.
COMMISSIONER:
Q. Okay.

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COFFEY, Q.C.:
Q. And there will be more forthcoming on this.
COMMISSIONER:
Q. All right. Thank you.
COFFEY, Q.C.:
Q. From the actual technical staff.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And clinical staff involved. And looking at P-0509, please? If I could, please, page 2? And there's an e-mail here from Heather Predham July 19th, 2005 at 8:22 a.m., it's to yourself, Dr. Cook, Mr. Gulliver, Susan Bonnell and Deborah Thomas, copied to Denise Dunn and Patricia Pilgrim. So I take it is Ms. Pilgrim now involved at this point? I don't -
DR. WILLIAMS:
A. It would seem so, yes, it would seem so.
COFFEY, Q.C.:
Q. I don't see, I don't recall seeing her name on the list of those meetings earlier.
DR. WILLIAMS:
A. At that stage I think Ms. Pilgrim would still be Ms. Predham's person who she would report to.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. My recollection is that we didn't make the transfer of responsibility official until probably August, September, Octoberish type of time frame. I don't know if it's written down anywhere, but that's my understanding.
COFFEY, Q.C.:
Q. She writes, "Hi, I had a long conversation with the representatives from HIROC yesterday evening. As a bit of background, they are currently defending a class action lawsuit against Health Labrador re the reprocessing of equipment. Apparently the aspect of this lawsuit in which they are most vulnerable"-- sorry, "vulnerable, was the method that people were informed. Ches Crosbie has alleged in the lawsuit that the people suffered significant mental anguish from the way they were told and that the risk of disease from their exposure did not warrant the stress and anxiety they suffered by being told. The

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organization felt the need to disclose publicly, ran it by their legal counsel and then wrote letters to every person affected and sent out a news release (sound familiar)??? Their vulnerability comes from the lack of weighing out the risk from the exposure versus the anxiety of being told about it. In this case the risk from the exposure was very small. This leads us to our situation. It's not that they don't want us to disclose, they just don't want us to disclose until we are sure of our facts. I've had a quick voice mail from Dan after my chat with HIROC, they contacted him after they hung up from me reiterating this and that they will be in touch again in the morning. So I guess we will have to reevaluate where we are before we plan to send those letters, etcetera. Should we chat about this face to face?" Signed "Heather." Now, you would have received this on the morning of July 19th?
DR. WILLIAMS:
A. Um-hm.
COFFEY, Q.C.:
Q. Tuesday. And looking above this, there's an

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e-mail from Ms. Bonnell at 8:44 that morning. She responds effectively to everybody who got the earlier e-mail, including yourself saying, "It would be very appropriate for us to discuss this as quickly as possible. Can we set up a face to face today? I'm going to see what I can pull from the Health Labrador crisis. I'm not sure how much of this I would have kept, but I'll see what I can find." And then another e-mail minutes later, at 8:46 from Ms. Predham to everybody involved. "Do you want me to see if I can get Dan there? He and I are meeting with a family at 2 p.m. at corporate office. Any time before that." And then there's an e-mail from Ms. Predham again a couple of minutes later. She left a voice mail for Mr. Boone to check his availability and how available are the rest of you before 2 p.m. And finally, I'm sorry, at the top of the page, there's a reference at 8:59 from Susan Bonnell in an e-mail to all of you, "This is fine for us. I've got a couple of calls out re getting the initial labrador reaction. In speaking with Carolyn Chaplin of the department, she seems to recall that one

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of the main issues in Lab was that the women were sent registered letters which destroyed their anonymity in small communities. Secondary to that key medical spokespeople were not out front and had to be coached into speaking. The organization simply sent out a press release and then sort of refused to talk about it. Obviously this is not the approach we would take here. It is essential that we put forward our key medical people and make an oncologist available who will also instill confidence and reassure patients. We can talk more later. I'll see what--I'll bring in what I can." Now, sir, was there a meeting on July 19th?

DR. WILLIAMS:

A. Well, according to my notes there was.

COFFEY, Q.C.:

Q. Okay. If we could look, please, at Exhibit P-0521?

DR. WILLIAMS:

A. Unfortunately, there's not a lot in those notes.

COFFEY, Q.C.:

Q. Yes.

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DR. WILLIAMS:

A. To reference this issue. But it looks like players that we're talking about are around the table.

COFFEY, Q.C.:

Q. In those e-mails we just looked at?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And this is--this page has a note for two days, the 19th and 20th of July. But July 19th the attendees are Heather Predham, Terry Gulliver, Dan Boone, Don Cook, Bob Williams, Susan Bonnell and Deborah Thomas. And it simply reads, "Background, Dr. Cook, Mr. Gulliver, 650 patients, 1997 to 2004, ER/PR negative. Total test about 380 per year. 32 of 2003 reviewed, 24 are positive. 2002" is "- results, 2003," and you've got some question marks after it. "2001 - may."

DR. WILLIAMS:

A. Yes, that's what it says.

COFFEY, Q.C.:

Q. Okay. And that's the sum total. Now, about this, where was this meeting held, do you

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know?

DR. WILLIAMS:

A. I would expect it was probably over around my office there. I would expect, but I can't be sure.

COFFEY, Q.C.:

Q. Because the last e-mail from Ms. Bonnell here and P-0509, her last comment is, "I'll bring in what I can." Suggesting that it was--she was coming into the city, in the main part of the city.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Which I'll refer to it that way with no offence to anybody. Maybe tells you something about my own background. But she would be coming in to the Health Sciences Centre?

DR. WILLIAMS:

A. It sounds that way.

COFFEY, Q.C.:

Q. Sounds like it?

DR. WILLIAMS:

A. Yes. And it sounds, looking at this, that what we did, just looking at it, it all seems

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to relate to how much--how many tests we'd done, how much we knew about the conversions at the time seems to fit in with what knowledge base do you have about what's happened so far.

COFFEY, Q.C.:

Q. Sure.

DR. WILLIAMS:

A. That's what it seems here, but I didn't take -

COFFEY, Q.C.:

Q. Copious notes?

DR. WILLIAMS:

A. - good notes, no, at that time. I probably was trying to keep up with the conversation that was going on.

COFFEY, Q.C.:

Q. Now, Doctor, Ms. Predham's e-mail that started this chain of e-mails or the series of e-mails here at 8:22 that morning when she says, "I had a long conversation with representatives from HIROC."

DR. WILLIAMS:

A. Um-hm.

COFFEY, Q.C.:

Q. That would be consistent with the earlier

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reference we just looked at to -

DR. WILLIAMS:

A. Yes. She was going to try to find out if they had any information for us.

COFFEY, Q.C.:

Q. And apparently they got off on the conversation about the Labrador West issue?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. In the July 19th meeting what was Mr. Boone doing there?

DR. WILLIAMS:

A. Well, I was presuming, just again, that he was HIROC's representative and lawyer here and we were contemplating sending out a letter and HIROC said, well, make sure you got enough--send out a letter but make sure you got, you know, enough information or good information before you send it out. So I presume he was there from that perspective just to-because it was referenced that somebody, I don't know who, suggested bringing him along.

COFFEY, Q.C.:

Q. Was it your suggestion?

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DR. WILLIAMS:

A. I doubt it.

COFFEY, Q.C.:

Q. There's no suggestion in the e-mails that it was yours and we just looked at it.

DR. WILLIAMS:

A. No, I doubt it.

COFFEY, Q.C.:

Q. No. Based upon those who were there at the meeting, listed there in your--P-0521, please? That list of people, looking at that list, from your perspective, if you didn't invite Mr. Boone, I take it the person who would have most contact with Mr. Boone would be Ms. Predham?

DR. WILLIAMS:

A. I would suspect, yes.

COFFEY, Q.C.:

Q. So was the idea of sending a letter discussed at that meeting?

DR. WILLIAMS:

A. It doesn't say anything in the minutes, so I can't answer your question because I can't remember. It looks like we discussed a lot about how much we knew and probably the issue

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of a letter came up in reference. I don't know, though. If I answered your question, I wouldn't be able to confirm it, so I can only attest to who was there and what the note said.

COFFEY, Q.C.:

Q. Who was the senior person at that meeting?

DR. WILLIAMS:

A. That would be me.

COFFEY, Q.C.:

Q. So if there was any decision about letters to be made at that point -

DR. WILLIAMS:

A. I would have put it down there, I suspect. I was trying to capture what we discussed but I was trying to capture in most meetings decision points so I could refer back to them at some later date. I'll have some comments as we go along further about--this may become a little clearer, I think.

COFFEY, Q.C.:

Q. Yes. And certainly then as of July 19th the time the meeting--or do you know what the meeting was?

DR. WILLIAMS:

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A. No, I wouldn't know that, sorry. A lot of our meetings took place late in the afternoon, but I don't know if that's true in this case.

COFFEY, Q.C.:

Q. Now, coming out of that meeting, do you recall if you contacted Mr. Tilley?

DR. WILLIAMS:

A. I'm not sure, but his name appears at our meeting the next day.

COFFEY, Q.C.:

Q. Yes. And if we could, please, though, Exhibit P-0329? Now, this is a, it's described as being from George Tilley's notes and there's a date of July 19th and there's a reference to Susan B. And then below that there's 3 p.m.

DR. WILLIAMS:

A. Yeah.

COFFEY, Q.C.:

Q. Bob W.

DR. WILLIAMS:

A. That sounds like me.

COFFEY, Q.C.:

Q. And then there's fairly detailed, I'm going to suggest fairly detailed notes, "2002, Bev Carter, 154 cases. 80 negative. 58 retested.

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20 outstanding. 41 positive." And then it's written "Legal counsel cautions release pending full results. Bev Carter, remaining 2002, apparent problem. Benchmark 50 to 80 percent positive for all types cancers. 100 percent of positive of lobular cancers. '97 to '04. Partly manual control sample known positive." I'm sorry, "heat for 30 minutes to separate antigen, lab" something "said process followed. File review 380 average cases per year, Terry, 2003, interim report 32 cases, 24 positive, approximately 75 percent positive, 374 cases (year)" and then "Mary, 2001" Now sir, does that help you in any way to recall, you know -

DR. WILLIAMS:

A. Well, if he says--there's a note there that I phoned him, I phoned him. I mean, I just can't remember phoning him. It's a lot of detail I provided him, by the looks of it, right.

COFFEY, Q.C.:

Q. Yes.

DR. WILLIAMS:

A. So I would have to say that he wrote a note

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contiguous with a phone call he received from me and it looks like I covered a lot of ground in that phone call.

COFFEY, Q.C.:

Q. And -

DR. WILLIAMS:

A. It looks like what we knew at the time, pretty well, because it's consistent with some other notes.

COFFEY, Q.C.:

Q. And any decision to release the information, either publicly or to individual patients, at this point, was in whose hands, from your perspective?

DR. WILLIAMS:

A. I think that was in--I wouldn't go--I would consult with the CEO before we did that.

COFFEY, Q.C.:

Q. So it was in Mr. Tilley's hands?

DR. WILLIAMS:

A. In a sense, the final sign off would be on it, yes. I wouldn't go off and send out a letter. Well, we weren't in a position to send out a letter anyway at that time, but we were in a position to make a public announcement. We

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could have made a public announcement.

COFFEY, Q.C.:

Q. Could have?

DR. WILLIAMS:

A. Yes, but we wouldn't have the names of people to send out a letter to at that time. It would take some time to get the names.

COFFEY, Q.C.:

Q. Was the legal counsel cautioning "caution release pending for results," was that raised in the July 19th meeting? I appreciate you don't have a note there, but -

DR. WILLIAMS:

A. I don't have a note, no. Sounds like either it came from -

COFFEY, Q.C.:

Q. During the meeting -

DR. WILLIAMS:

A. I think there was an e-mail that might have referenced that, I'm not sure, from Heather Predham, saying he was--I might have got it from the e-mail or it might have came out in the July 19th meeting, but it didn't--I didn't, for some reason, the notes of the July 19th meeting are pretty scanty, so I must have

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been trying to keep up mentally with what was being said.

COFFEY, Q.C.:

Q. Now looking at this, it suggests--there's a reference here "2002 Bev Carter, 154 cases, 80 negative, 58 retested" that would be presumably "58 retested, 41 positive" and out of the 80 that are negative, 20 outstanding, and well, the arithmetic would be, and in fact that seems to be written over, actually, if you look at what's there?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. So by this point in July, had you been made aware of the results of what Dr. Carter had found so far?

DR. WILLIAMS:

A. I'd really have to go back and look at the record and documents. I can't really answer that question. Like I say, there was--days were just melding together. Information was coming in on a daily basis. I think we just have to trace through.

COFFEY, Q.C.:

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Q. At the time, Doctor, who was tasked with keeping track of all this? Because as you say, there are many people involved. People attending some meetings, not attending others because they're unavailable and people are being added and they come in--they go in and out of the documents here. Who, if any--was there anyone tasked with actually keeping track of it?

DR. WILLIAMS:

A. I would expect the lab people would keep track of their lab data and lab records, yes, so that we could get it when we needed it. And I was trying to bring things together, bring people together to discuss the main issues, but that's one of the things, you know, in looking at in retrospect, I have some comments about if we had to do it again, how we might handle it.

COFFEY, Q.C.:

Q. And on that point, while we're on the topic, you know, looking back on it, bearing in mind the--what lessons have you learned from it?

DR. WILLIAMS:

A. The lesson I learned was that if you're going

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to try to--this is such a big issue, that you almost need to create a task force with the only role is to deal with this issue. It's almost--it's that big, in retrospect, and so you'd have somebody who's at a senior level who'd be charged, their only job would be to deal with this, putting it together, and then other people would probably be freed up a little bit of their time to concentrate on this area. Whereas, from my perspective, I had lots of other things -

COFFEY, Q.C.:

Q. Sure.

DR. WILLIAMS:

A. - that I had to do, not that I could choose to do or not do. I had to do them, and this had to be done as well. So that's one lesson. If we would have to do this again, we should get somebody who would be at a senior level enough in the organization, or bring in somebody who might have some experience to just--and that's the only thing they would do, sit down and deal with this on a day-to-day basis as things were evolving. That's one lesson I've learned, and by the time the end of September

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rolled around, early October, I was running out of steam on the whole--all the issues we were dealing with at the time, unfortunately.

COFFEY, Q.C.:

Q. And I'll come to that, but in terms of from an organizational perspective, you would need--there's certain types of personnel, I take it, looking back on it now, that you need people with certain administrative skills, perhaps IT skills, you know, a whole bunch of different skill mixes, depending on the problem, that you needed. Doctor, just to help the Commissioner put it in perspective, is it possible, Doctor, that you were so busy that, in fact, you just didn't have time to think about how busy you were and the ramifications that might have for how organized this would be?

DR. WILLIAMS:

A. I guess the problem you run into is that you're here dealing with this as an important issue at one stage and then you know that there's somebody outside the door or some other issue you got to get onto that day, because it's an important issue that you got

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to deal with, which would--and it was, I guess, more problematic when you're trying to bring Eastern Health together, a large multi-sited, multi-focused or non--you know, broad perspective, all over the Avalon, Burin and Bonavista Peninsula, with 700 of the province's 1,000 doctors, trying to deal with all that, and you had issues such as--I know that summer, our hematologist/oncologist who was responsible for the transplant program in the province for patients with leukemias and this type of thing, left to go to Calgary, and when you only have five people in the program, one of the five who's semi-retired, and the other four are working in the program and one of those four leaves, and one of those four is vital to your transplant program, then you're trying to keep that together with the people that are left and bring that together. There's other issues. I could go through them, but there are issues such as that all the time coming up and then we had Eastern Health, which means that if they had a problem in Burin that they couldn't resolve, I'll either get a call from the chief operating

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officer for Clarenville/Burin or the medical person out there to try to work with them. So there was new challenges and new issues at the same time as the old challenges and old issues that you would have with the Health Care Corporation. So I'm looking back at that with a retrospectoscope now.

THE COMMISSIONER:

Q. I'm sorry, but now that we're going down this road. Can you look at this in terms of lessons learned from two different perspectives?

DR. WILLIAMS:

A. Um-hm.

THE COMMISSIONER:

Q. And one is, if you had not had the merger -

DR. WILLIAMS:

A. Yes.

THE COMMISSIONER:

Q. - kind of problem, and you were sort of, say, you know, in the situation you would have been five or six years into Health Corp -

DR. WILLIAMS:

A. Yes.

THE COMMISSIONER:

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Q. - when you would have effectively had your policies mapped out, your organization fairly well mapped out, and everybody knew what they were supposed to do and in what level spot they were supposed to do it. It seems to me that you still would have had the problem, you know, -

DR. WILLIAMS:

A. Regardless, maybe -

THE COMMISSIONER:

Q. - that because--not you were--because you were putting these things together, had no influence on how big that problem was going to be coming out of that though. I mean, the size of the problem -

DR. WILLIAMS:

A. No, the size of the problem in the lab wouldn't have been any different.

THE COMMISSIONER:

Q. Okay, but how, if anyway, would you have handled it differently if you had had that--you hadn't had to worry about the merger issue?

DR. WILLIAMS:

A. I may have had more time to deal with it.

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THE COMMISSIONER:

Q. Okay.

DR. WILLIAMS:

A. Number one, because I wouldn't have to deal with some of the new things we had to deal with, and there are issues that you have to deal with when you're bringing an organization together. Although even with the Health Care Corporation of St. John's and the mandate that we had and when you're trying to run an academic Health Sciences Centre with high level specialists and things like that, and sometimes low numbers of people, things happen, and so we might have still been in the same boat, in terms of it would have been difficult for the person who's responsible for that to manage this major issue as well. Maybe not to the degree, but to some degree probably.

THE COMMISSIONER:

Q. So your suggestion, for example, that you might need to create a task force and assign a large adverse incident to a person who may want to create a team of persons, I assume -

DR. WILLIAMS:

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A. Yes, and that would be -
THE COMMISSIONER:
Q. - that would work no matter which of those situations you were in?
DR. WILLIAMS:
A. Yes, I think, because that person, if you had a person at a senior level who you could just second into that, without any other operational day-to-day responsibilities, they could focus on this, think about this and move forward on this. So that's one lesson, I think, that happened again, that we should take note of.
THE COMMISSIONER:
Q. All right.
COFFEY, Q.C.:
Q. On this point, Doctor, did you ever ask for any additional resources?
DR. WILLIAMS:
A. The only time I would have broached the subject of the issue was when I talked to Mr. Tilley late in September and told him that I was having trouble doing this and doing everything else I had to do.
COFFEY, Q.C.:

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Q. And what happened at that time?
DR. WILLIAMS:
A. Well, you know, he talked to me and said "look, carry on. You're doing--you know, you're doing the best you can. Continue to do the best you can" and he was leading by example, because he was working--he had to work very, very hard, so you just carry on and do your best.
COFFEY, Q.C.:
Q. Were you ever offered any additional resources, whether or not you asked for them?
DR. WILLIAMS:
A. Well, we had the people there, Pat Pilgrim was helping a lot or became heavily involved and other people from the Cancer program were helping us too as well.
COFFEY, Q.C.:
Q. But other than those who did get involved, and I appreciate that?
DR. WILLIAMS:
A. No, I don't think it came to that, I said to Mr. Tilley "I've got to have somebody else," and you got to replace me or I got to be seconded or something, maybe something, in

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retrospect, I should have suggested, but I didn't go that far.
COFFEY, Q.C.:
Q. But by the end of September, certainly, you--what was the word you used, you were -
DR. WILLIAMS:
A. I felt under a lot of pressure.
COFFEY, Q.C.:
Q. Yes. You were running out of steam, I believe was the word you used.
DR. WILLIAMS:
A. Yes, yeah.
COFFEY, Q.C.:
Q. And you recognized that in yourself at the time?
DR. WILLIAMS:
A. Yes, but you--you know, you sort of bear down a bit and carry on.
COFFEY, Q.C.:
Q. And you spoke to him about it and he--having explained that to him, he didn't--he encouraged you to go on, but didn't offer you anything else?
DR. WILLIAMS:
A. No, I mean, we talked about it and I wasn't

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saying to Mr. Tilley, you got to do this, you got to do that.
COFFEY, Q.C.:
Q. I can't do it.
DR. WILLIAMS:
A. I can't do it. I just expressed that I was having difficulty meeting the challenges of the new job and trying to do this at the same time.
COFFEY, Q.C.:
Q. If we could, please, Exhibit P-0800? This is a--well, actually it's two e-mails. One is on July 19th 2005 at 1:57 p.m. from John Abbott to Mr. Tilley, and he says "George, we would like for you and the appropriate staff to brief the Minister on Thursday at 9 a.m. respecting the testing issue affecting breast cancer patients at Eastern Health. It would be appreciated that you forward a briefing note to me on Wednesday prior to the briefing. Thank you. Please call if you have any questions." And then at 2:23 that day, Mr. Tilley forwarded this to you with the note, "for discussion, George." See that?
DR. WILLIAMS:

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A. Yeah.
COFFEY, Q.C.:
Q. Okay. What happened in relation to this? This is a Tuesday, you're being told that now you're going to get to brief the Minister. Do you recall what -
DR. WILLIAMS:
A. No, in all honesty, I can't. I know we met with Mr. Tilley on the 20th.
COFFEY, Q.C.:
Q. Yes.
DR. WILLIAMS:
A. Maybe that was in preparation for meeting with the Minister.
COFFEY, Q.C.:
Q. And that, in fact, I believe--I apologize, one minute. If we could, please, Exhibit P-0072? And this, Doctor, a letter of July 19th 2005. It's a letter from Dr. Cook copied to yourself. It's from Dr. Cook to Dr. Carter, copied to yourself.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Acknowledging receipt of her letter of July

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14th, which is the one with the action plan, as it were.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Investigation plan. "Certainly accept" he says "what's being stated in your letter and will ensure that you obtain the necessary resources to carry out your suggestions." So Dr. Cook had checked with you before he sent this?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Did Dr. Carter, at any point, ever bring to your attention any concern or complaint that she did not receive the necessary resources?
DR. WILLIAMS:
A. I don't recall that, Mr. Coffey, no. I would suspect that if she had a problem, she would go through Dr. Cook, because they had an excellent working relationship.
COFFEY, Q.C.:
Q. Was that ever brought to your attention at all?

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DR. WILLIAMS:
A. No.
COFFEY, Q.C.:
Q. I'm not suggesting it was, I'm just -
DR. WILLIAMS:
A. No, I'm don't remember it. Because I think then -
COFFEY, Q.C.:
Q. You would have addressed it in some way, shape or form, if she -
DR. WILLIAMS:
A. I would have attempted to address it. We wanted to support Dr. Carter because we valued her input, and she was helping the organization, and Dr. Cook in particular, deal with this. That's my take on it.
COFFEY, Q.C.:
Q. Exhibit P-0521, please? It's already opened. This you just referred to, notes of a meeting of July 20th. Attendees, Mr. T, which would be Tilley, yourself, Dr. W., Mr. Gulliver, Dr. Cook, Ms. Predham and Ms. Thomas, and the notes are "data from 2000 to 2004/05 review, cut off rate decreased from 30 percent to 10 percent, 1997 -

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DR. WILLIAMS:
A. And that would be -
COFFEY, Q.C.:
Q. - to 2002/03.
DR. WILLIAMS:
A. I think that would be an error, the 2002/2003.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. I'm not--it was December, I think, 2000, but around that time. I don't think that's important, but it did decrease.
COFFEY, Q.C.:
Q. And the third bullet is "many factors go into treatment other than ER/PR, example metastasis.
DR. WILLIAMS:
A. Metastasis, yes.
COFFEY, Q.C.:
Q. Size of lesion, etcetera. Now introducing issue of Herceptin. No national standards on ER/PR receptors. Mount Sinai 75 percent, pathology text 52-85 percent. Our organization gave reports as they were not just negative or positive. Technical

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consultant from Mount Sinai coming in on September 12th 2005. No issues brought up at tumour board rounds." So I take it this was a meeting to brief Mr. Tilley or bring him up to speed?

DR. WILLIAMS:

A. It sounds like that. We were looking at what--you know, what information we had and this type of thing, and how this fitted into the scheme of things.

COFFEY, Q.C.:

Q. And you'd be briefing the Minister the next morning?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. Who provided the data, do you know?

DR. WILLIAMS:

A. What the "no national standards" or the -

COFFEY, Q.C.:

Q. Well, the data from 2000 to 2004/05 review. See that? It's the first bullet.

DR. WILLIAMS:

A. Yes, yeah. If it's what I think it is, I would have--Mr. Gulliver was preparing some

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sheets which would lay out the number of tests each year and the positivity rate.

COFFEY, Q.C.:

Q. If we could, Exhibit P-0514?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. That's the sheet you're talking about?

DR. WILLIAMS:

A. Yes. It looks like--yes, it's dated the same day.

COFFEY, Q.C.:

Q. It's from Terry Gulliver for Terry Gulliver, July 20th 2005, 11:53 a.m.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. And it's a review of ER/PR status from 2000-2004/05.

DR. WILLIAMS:

A. Um-hm.

COFFEY, Q.C.:

Q. Review of ER/PR status from 2000-2004/05, and these are then broken by the year, 2000, 2001, 2002, 2003 and 2004/05, and then there's total

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tests, out of town, total HCCSJ tests, number of positive, percentage positive, number of weak positive, percentage weak positive, number of negative, percentage negative, total positivity, total percentage positivity and total percent negative. What was the purpose of this?

DR. WILLIAMS:

A. Well, the purpose of this was to get information, but the other purpose of it was that we were going to retest people and, you know, we were going to go back and look and get all the data together, in terms of year by year and to do that, this is the kind of information you'll get out of it anyway. You had to go back by name, by date and pull all the tests.

COFFEY, Q.C.:

Q. Now looking at this, these two total positivity, of total positivity, total percent positivity and total percent negative -

DR. WILLIAMS:

A. Yeah.

COFFEY, Q.C.:

Q. - those particular figures, I take it, were

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the Health Sciences Centre's figures?

DR. WILLIAMS:

A. They were only the figures from St. John's.

COFFEY, Q.C.:

Q. St. John's.

DR. WILLIAMS:

A. Because we would not know what the other centres' rates were, that's correct.

COFFEY, Q.C.:

Q. How they had reported them in Grand Falls and Gander, at that point?

DR. WILLIAMS:

A. Yes, correct.

COFFEY, Q.C.:

Q. And if we just look across the years, 2000 is reported as percent--total percent positivity is 62 percent. 2001 is 77 percent. 2002 is 68 percent. 2003 is 83 percent, and 2004/05 is 90 percent.

DR. WILLIAMS:

A. Yeah, and the 90 percent changed. It was--it included some other ER/PR issues. You'll see later on, in some of the documents, that that 90 percent was really 82.5 percent or something.

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COFFEY, Q.C.:
Q. 82.5, yes.
DR. WILLIAMS:
A. It included about six or seven--what they included in there was ER/PRs done for other reasons. So the numerator and the denominator in those cases would be the same, so you'd have 100 percent positivity in those cases, because you wouldn't include the true denominator. I can explain that to you later, if you want to.
COFFEY, Q.C.:
Q. But in terms of the 2005/05, at this point, because I appreciate this is early on -
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. - that figure for '04 and part of '05 -
DR. WILLIAMS:
A. It was considered high, a little high.
COFFEY, Q.C.:
Q. - was considered high, and when it was checked subsequently -
DR. WILLIAMS:
A. It became 82 percent.

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COFFEY, Q.C.:
Q. - yes, it included more than breast cancers?
DR. WILLIAMS:
A. Yes, which shouldn't have been included.
COFFEY, Q.C.:
Q. How about the other figures for the other years, were they just breast cancer?
DR. WILLIAMS:
A. They were supposed to be just primary breast cancer.
COFFEY, Q.C.:
Q. Do you recall when it was it became apparent that the '04/05 figure was--the 90 percent was--I don't like to use the word inflated, but it was higher than, in fact, the 82 or 83 percent subsequently ascertained.
DR. WILLIAMS:
A. Well, when we saw those figures, we would have said that looks a little bit high, but I don't think, at that time, it was checked. In the spring of 2006, Mr. Gulliver reviewed it and sent a report in that said here's what happened in that particular year.
COFFEY, Q.C.:
Q. So that was eight or nine months later?

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DR. WILLIAMS:
A. It was, yeah. It might have been eight or nine months later.
COFFEY, Q.C.:
Q. Spring of '06. If we could, please, go back to P-0521, please? I believe the second bullet here, on July 20th, the reference to 30 to 10 percent, and I stand to be corrected, but this is one of the first references we've seen in the documents in time to those percentages.
DR. WILLIAMS:
A. Okay.
COFFEY, Q.C.:
Q. And like the ones we've looked at earlier today even, with you, they're not--there's no reference to percentages. When did you first become aware of this percentage issue?
DR. WILLIAMS:
A. Maybe when it was noted here in the minutes. I'm not sure.
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. It could have been then, yes.

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COFFEY, Q.C.:
Q. And in this context, in terms of who's in attendance, you certainly wouldn't have been bringing that percentage -
DR. WILLIAMS:
A. No, I wouldn't have been bringing it to the table.
COFFEY, Q.C.:
Q. This would be--in the people there, that would be Dr. Cook?
DR. WILLIAMS:
A. He might have brought it to the table, yes. I'm not sure. I would think it would be an oncologist brought it to the table, but Don Cook was in discussions with the oncologists, so he may have got that from them.
COFFEY, Q.C.:
Q. Okay, and the reference in the fourth bullet to "now introducing issue of Herceptin."
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. What was that about?
DR. WILLIAMS:
A. Well, there was contemplated that Herceptin

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was starting to become an issue nationally. That was a new protein that you would tend to find more commonly in patients whose ER and PR status was negative, and it had some prognostic significance and there was a drug called Rituximab, I think it's Rituximab, that may have some benefit in people with Her2/neu. It wasn't--my understanding, it wasn't--it was something that was going--I think we were using a kit or something at one time, but it wasn't funded. There was no treatment funded. It became, later in the year or in the budget or some time, I think the oncologists were lobbying government to get that funded. It comes up later.

COFFEY, Q.C.:

Q. Yes, and it does come up later. So when did this, you know, the idea of this as an issue, first come to your attention?

DR. WILLIAMS:

A. Well, it would be here.

COFFEY, Q.C.:

Q. At this time?

DR. WILLIAMS:

A. Yeah, that we're going to be--there's going to

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be another test being offered. We're going to be having to do that test.

COFFEY, Q.C.:

Q. Which is the HER2/neu test?

DR. WILLIAMS:

A. Yes, and although it's not funded yet, there's going to be some lobbying. Now I don't know if I was told that at the time.

COFFEY, Q.C.:

Q. Amongst the attendees, do you recall who raised the issue and now introducing issue of Herceptin?

DR. WILLIAMS:

A. No, I'm not sure.

THE COMMISSIONER:

Q. So Herceptin is raised in the context of another test coming down the pipe, which would have to be done by the same division?

DR. WILLIAMS:

A. That's my recollection of it, yes. It's going to be something that--and the oncologists are going to try to get it funded. It hadn't--it's not funded in Ontario yet.

COFFEY, Q.C.:

Q. Was it getting the test funded or the drug

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funded?

DR. WILLIAMS:

A. No, the drug funded, the drug that's used.

COFFEY, Q.C.:

Q. Okay.

DR. WILLIAMS:

A. You would have some treatment available to people.

COFFEY, Q.C.:

Q. The actual test itself, did you know whether or not HER2/neu was already being done in the lab?

DR. WILLIAMS:

A. I'm not sure at that time. I know we had a kit and then when we shipped things out, I think, to Mount Sinai, Mount Sinai was asked to do the test for us. That's my understanding.

COFFEY, Q.C.:

Q. Okay.

DR. WILLIAMS:

A. That would be a question that probably Dr. Cook would know better than me.

COFFEY, Q.C.:

Q. And amongst those in attendance again here, at

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that meeting, Dr. Cook is the one with the--would have been, you would expect, the most knowledge about that sort of thing?

DR. WILLIAMS:

A. I would expect, yes.

COFFEY, Q.C.:

Q. Okay. Now the briefing of the Minister on July 20th -

DR. WILLIAMS:

A. I think it was the 21st.

COFFEY, Q.C.:

Q. 21st, I apologize. It was the 21st, yes. Did you attend that?

DR. WILLIAMS:

A. Yes, I attended that. Unfortunately I didn't take any notes at that meeting.

COFFEY, Q.C.:

Q. And if we could just look at, please, exhibit P-0075. Now this is a briefing, Eastern Health briefing note, ER/PR Receptors. Somebody has written "meet with Minister, July 21, '05. Prepared July 20th, 2005." This particular document, sir, is three pages long. Did you play any part in the preparation of this?

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DR. WILLIAMS:
A. I'm not sure if I would have seen it at some stage. I would suspect it came from quality, I would expect looking at it, but I'm not sure or it might have come from communications.
COFFEY, Q.C.:
Q. In terms of yourself, do you have any recollection of yourself having any input into it?
DR. WILLIAMS:
A. I don't recollect--I don't remember sitting down and writing briefing notes.
COFFEY, Q.C.:
Q. And what about in terms of editing it or vetting it?
DR. WILLIAMS:
A. I may not have, I might have seen it, but I may not have done anything with it.
COFFEY, Q.C.:
Q. Now the meeting with the Minister occurred, I gather, on July 21, 2005, early that morning, about 9 a.m., apparently the e-mail -
THE COMMISSIONER:
Q. July 22?
COFFEY, Q.C.:

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Q. July 21, I apologize, 2005.
THE COMMISSIONER:
Q. No, no, I thought--21, Okay.
COFFEY, Q.C.:
Q. July 21, meeting with the Minister. The e-mail that John Abbott had sent George Tilley had said the 21st, which is July 21, and he was suggesting 9 a.m. Where was that meeting held, do you know?
DR. WILLIAMS:
A. It would be in the Minister's boardroom, I'm suspecting in the suite that the Minister has. I don't think it was in his office, I think it was in the boardroom.
COFFEY, Q.C.:
Q. And what, if anything, do you recall about the meeting?
DR. WILLIAMS:
A. I didn't take any notes of that meeting, so I think it was just a--I know Dr. Cook would have been there and I would have been there just to introduce the subject. Dr. Cook would have given probably a detailed presentation from the lab perspective. But I didn't take any notes on--it would be better for me not to

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make any comments other than that I was there and I expect that there was a presentation on the issues and the discussion and the Minister gave his perspective.
COFFEY, Q.C.:
Q. Do you recall what the Minister said, his perspective on what?
DR. WILLIAMS:
A. On the whole situation and what he felt we should do. Now I had the Minister's perspective in detail when we met in August, so if it didn't change, it was probably the same perspective as he gave in August.
COFFEY, Q.C.:
Q. In terms of your recollection of what it was on July 21st, what was he concerned about, do you recall?
DR. WILLIAMS:
A. Yes, he was concerned about notification, disclosure, this type of thing.
COFFEY, Q.C.:
Q. Of patients?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:

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Q. And do you recall what his position was, his view?
DR. WILLIAMS:
A. I think he was concerned that we should get something out on the issue, yes.
COFFEY, Q.C.:
Q. And leaving that meeting, okay, what, if anything, was your understanding was to happen in that regard?
DR. WILLIAMS:
A. We were going to move forward on things that we talked about before, about maybe something public and maybe some letters. That's my understanding, I may have it wrong, but -
COFFEY, Q.C.:
Q. Sure. Making something public, which is certainly your own view and you expressed that some time before to Mr. Tilley.
DR. WILLIAMS:
A. Uh-hm.
COFFEY, Q.C.:
Q. And perhaps some letters to the patients? Because we'd looked at drafts even of a letter before and a draft, okay. Exhibit P-0515 please? Now these are your notes of a meeting

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of July 21, '05 at 10:30 a.m.?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Attendees are Bev Carter, Donald Cook and yourself, doctors. So I take it the purpose of this was for Dr. Carter and Cook to brief you?
DR. WILLIAMS:
A. Yes, I since have some information that it occurred when we went back to Dr. Cook's and Dr. Carter's office after the briefing of the Minister.
COFFEY, Q.C.:
Q. Sure. This would be 10:30--you've noted 10:30 a.m. in your own handwriting, so -
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. It says, "In past, didn't seem to be a clear picture. Sentinel case reviewed all slides, program would not always run a control. Clear test didn't work. Dr. Carter feels there was a problem in 2002, some runs on retrospect were not normal, inconsistency from one batch

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to another. Current Ventana test is picking up too much, have sent out a"--
DR. WILLIAMS:
A. Gradation, I suspect, that's probably "a gradation of results", I would expect that's what it is.
COFFEY, Q.C.:
Q. --"and sent to Mount Sinai. Dr. Carter also doing some work on quality control and use them as controls. Important for Dr. Carter to have all reports for ER/PR for each year. Techs may need to be retained in immunoperoxidase and need controlled access to the room. Training of techs in immunohistochemistry needs separate service, need QA"--which would be quality assurance.
DR. WILLIAMS:
A. These are noting what Dr. Cook noted earlier, yes.
COFFEY, Q.C.:
Q. Yes, and "Proficiency testing, need to have an external consultant to come to the lab and do QA."
DR. WILLIAMS:
A. Yes.

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COFFEY, Q.C.:
Q. Quality assurance. So based upon what we've looked at so far, this is one of your first face-to-face meetings with Dr. Carter involving this.
DR. WILLIAMS:
A. Uh-hm.
COFFEY, Q.C.:
Q. And she had, up to this point you understood actually been doing the nitty gritty of looking at the retests and the old slides?
DR. WILLIAMS:
A. Yeah, my understanding is she was doing that and helping Dr. Cook really in dealing with the situation, that's my understanding.
COFFEY, Q.C.:
Q. The reference to "Program would not always run a control"?
DR. WILLIAMS:
A. That's the first time I had heard that, yes.
COFFEY, Q.C.:
Q. And who are you hearing that from?
DR. WILLIAMS:
A. Who have I heard that from now? I presume I heard it from somebody at the meeting.

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COFFEY, Q.C.:
Q. Okay, so that would be Drs. Cook or Carter?
DR. WILLIAMS:
A. Or Carter, probably, yes. I would have been told that they always run a control, but it may not have always been documented by that stage. That's when I probably followed up, I'm not sure.
COFFEY, Q.C.:
Q. And here, though, you've being told program would not always run a control.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. One of these two physicians or both of them are telling you that.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Did you follow up on that?
DR. WILLIAMS:
A. I would have, you know, asked about that again and I'd never been told that they never ran a control, I was told that maybe sometimes they didn't document, but they always ran controls.

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COFFEY, Q.C.:
Q. Who told you that then?
DR. WILLIAMS:
A. I would say it was Mr. Gulliver, but I would have, you'd have to maybe ask Dr. Cook in more detail about that, he may know a little bit more about that.
COFFEY, Q.C.:
Q. It says here, you've noted "clear test didn't work", so I take it Dr. Cook or Carter, both of them are telling you on July 21 -
DR. WILLIAMS:
A. It was clear that in that year, based upon the retesting, some of the test didn't work, yes.
COFFEY, Q.C.:
Q. That's the original test?
DR. WILLIAMS:
A. Yes, we knew we had a problem by that stage.
COFFEY, Q.C.:
Q. And you've noted here, "Dr. Carter feels there was a problem in 2002".
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. You've particularized it to her.

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DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. "Some runs on retrospect were not normal." What does that mean?
DR. WILLIAMS:
A. I think it just means that in some batches they didn't get good results. That's what I would take it to mean, Mr. Coffey.
COFFEY, Q.C.:
Q. Okay, these are notes that you made of what you were being told, I gather, at the time.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Did you make any inquiries about what that meant?
DR. WILLIAMS:
A. I think I might have--that's my take on it, so I probably would have asked at the time. I mean, I had the people--I had Dr. Cook there to deal with this, right.
COFFEY, Q.C.:
Q. And the reference to "current Ventana test is picking up too much"?

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DR. WILLIAMS:
A. That was Dr. Carter's concern. I knew that at some stage when they were doing the Ventana, they noticed that a lot of the results were not just positive, but strongly positive. It was, I think in that context, was something that they hadn't seen, so many tests being so strongly positive. That's my recollection that in a sense, that how come there's not a gradation of results, most of them are positive. Now we see in the article of 2006 that maybe that's a, like a byproduct of some of these newer automated detection systems. At least that's what the articles say. So you don't have the gradation, you have a bimodal, which would have been something new in our experience.
COFFEY, Q.C.:
Q. And the reference to "Dr. Carter also doing some work on quality control and use them as controls", do you recall what that was about?
DR. WILLIAMS:
A. I would think that that was just we'd get some results that we knew were this much positive or that much positive and validate those and

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then use them in the future for controls when we ran into future tests, that would be my take on that.
COFFEY, Q.C.:
Q. So then the reference to "techs may need to be retrained in immunoperoxidase and need controlled access to the room and the training of techs in immunohistochemistry" I take it the Drs. Carter and Cook or both were advocating more training for the pathologists?
DR. WILLIAMS:
A. Yeah, that's consistent with Dr. Cook's document on the 24th of May and it's consistent with the consultant's report.
COFFEY, Q.C.:
Q. And "needs separate service" that is for IHC, I take it?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And "external consultant"--well, we talked about that.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:

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Q. If we could please, exhibit P-0516, these are your notes of July 21, '05.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Meeting at 3:30 p.m. and it's Mr. Gulliver, Dr. Cook and yourself.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And here--why would you meet with them separately? Why wouldn't you meet with all four of them together?
DR. WILLIAMS:
A. Well we went over -
COFFEY, Q.C.:
Q. All three of the others together.
DR. WILLIAMS:
A. Yeah, we went over to see Mr. Gulliver to make--Don Cook and myself, Dr. Carter was over there and she was, I presume busy, so we'd go over and talk to Mr. Gulliver and tell him we had a meeting with Dr. Carter and here's what we need to put in place. It was a follow up, I think, to her letter that she wrote earlier.

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So the purpose of it was to advise Mr. Gulliver and to make sure that this was followed up on and the resources were given. Now we had some, I guess, discussion here by the sound of it, that this is the kind of resources we're going to free up for Dr. Carter to do her work.
COFFEY, Q.C.:
Q. Yes, because you agreed to get Dr. Carter the information she needs, which is her July 14th letter, I take it.
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Dr. Carter to do only this service, you advised Mr. Gulliver of this.
DR. WILLIAMS:
A. Yes, she wouldn't do her general pathology work, and that's more of a decision that Dr. Cook would make, it's not--nothing for Mr. Gulliver to make any decisions there.
COFFEY, Q.C.:
Q. "Mary Butler to report and take direction from Dr. Carter." So that would be important to Mr. Gulliver to know that.

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DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. She was in effect being seconded to do this?
DR. WILLIAMS:
A. Yes. "Judy Quinlan to report to Dr. Carter." Who is Judy Quinlan?
DR. WILLIAMS:
A. I'm not sure. Judy Quinlan may be somebody who was in a secretarial role. I don't think she's a technologist, as far as I know.
COFFEY, Q.C.:
Q. And there's a note here on the 6th, "we have proficiency testing and micro hematology and biochemistry need to have proficiency testing in QA program for immunopathology." Which is--that's the island you referred to earlier, that there was no such QA -
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. The idea of moving immunohistochemistry into a separate space?
DR. WILLIAMS:
A. I may be wrong on that, I think it's in its

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space, there needs to be, I understand, some work to have some new benches and things put in, but I--it's in the old hormone assay lab space, I think that's where it's intended to stay. Now facilities have to do some renovations and some work, but that's -
COFFEY, Q.C.:
Q. And number nine here refers to "when Barry Dyer and Dr. Ejeckam return, they will work with Dr. Cook and Mr. Gulliver to develop QA and proficiency testing program."
DR. WILLIAMS:
A. Uh-hm.
COFFEY, Q.C.:
Q. Can you recall what that -
DR. WILLIAMS:
A. Well, this is before the consultant came in, we were going to start looking at that, but then the consultant came in and we, as you know, we registered in the Canadian--College of American Pathologist's Program and the External National Assurance Quality Program in Great Britain. The Great Britain program would be a program that would deal more with the staining, the staining qualities of your

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lab and the College of American Pathologists would deal with the staining qualities, but also deal with the interpretation side as well, so you would have to enrole in both to have all the bases covered.

COFFEY, Q.C.:

Q. Sir, if we could, please, Exhibit P-0304? Page 3, please? Now this is a memo July 22nd, 2005 "Re: ER and PR testing, public disclosure." It's to George Tilley, it's copied to yourself, it's from Susan Bonnell and it's two pages long, single spaced.

DR. WILLIAMS:

A. Um-hm.

COFFEY, Q.C.:

Q. You would have received this, I take it?

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. At some point. What, if anything, did you understand the purpose was in sending it to you?

DR. WILLIAMS:

A. Just because I was involved, and keeping me in the loop and obviously to see, might be to see

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what my perspective was on it, I'm not sure.

COFFEY, Q.C.:

Q. Did you offer any input when you received this?

DR. WILLIAMS:

A. I'm not sure, Mr. Coffey, I'm not sure what input I offered. I'm sure there was some discussion, but I don't think I have any documented minutes of that, any follow up. It may have been on the phone with Ms. Bonnell, I'm not sure.

COFFEY, Q.C.:

Q. And in the main here, just looking at the second page of the memo, in the middle of the page she says, "A full public disclosure with a press conference, a 1-800 information line, letters to all impacted patients and supportive ministerial comment is not recommended. Legal counsel and risk management advise against such a disclosure, particularly before the impacted patients have had the opportunity to hear about this from us." Okay?

DR. WILLIAMS:

A. Um-hm.

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COFFEY, Q.C.:

Q. So I take it Ms. Bonnell's considered opinion here was don't go with a public announcement?

DR. WILLIAMS:

A. Um-hm. Yes, that's what it looks like, yes.

COFFEY, Q.C.:

Q. Did you agree with her view?

DR. WILLIAMS:

A. I mean, I guess my view would probably be, because if we're going with anything, it would be awhile before we could go out to people, to get names, addresses and contact people.

COFFEY, Q.C.:

Q. Sure.

DR. WILLIAMS:

A. So but, you know, I'm not an expert. That's only my, that's only my feelings, right.

COFFEY, Q.C.:

Q. Yes. Well, Ms. Bonnell is a communications person, too.

DR. WILLIAMS:

A. Yes.

COFFEY, Q.C.:

Q. But in terms of did you agree with her view that "A full public disclosure with a press

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conference, 1-800 information line and supportive ministerial comment is not recommended." I appreciate your caution about the letter, you understood that it couldn't go out immediately -

DR. WILLIAMS:

A. Yeah.

COFFEY, Q.C.:

Q. - but did you agree with her advice?

DR. WILLIAMS:

A. I'm not sure I strongly expressed anything to her, no, but -

COFFEY, Q.C.:

Q. Not with her. I'm asking, first of all, did you agree with her?

DR. WILLIAMS:

A. I had a gut feeling that maybe we needed to do something, that was my feeling.

COFFEY, Q.C.:

Q. And did you pass that on to anybody, leaving aside you don't recall having spoken to her.

DR. WILLIAMS:

A. I don't recall if I passed that on to anybody, no, Mr. Coffey.

COFFEY, Q.C.:

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Q. In terms of going to Mr. Tilley and saying, look, I've read Susan's -
DR. WILLIAMS:
A. Yeah. I don't recall doing that for Mr. Tilley.
COFFEY, Q.C.:
Q. So what she wrote her sat, you read it and didn't take it any further with that aspect of the matter.
DR. WILLIAMS:
A. I don't remember -
COFFEY, Q.C.:
Q. That you can recall?
DR. WILLIAMS:
A. - taking it any further at the time and then some other events -
COFFEY, Q.C.:
Q. Sure.
DR. WILLIAMS:
A. - came into play that caused us to make a consensus decision to go a different route.
COFFEY, Q.C.:
Q. Yeah. If we could -
COMMISSIONER:
Q. Mr. Coffey, when you're ready, we'll break for

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the day.
COFFEY, Q.C.:
Q. Sure. If we could, please, Registrar, if I could just look at one more document, please, Commissioner, today, P-0520, page 3. Now this is a meeting of July 24th. I take it, these your are notes, first of all?
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. On the pages before, at page 1 of this exhibit, 2 is the actual handwritten notes. This is a typed portion you've provided or typed account.
DR. WILLIAMS:
A. Sure.
COFFEY, Q.C.:
Q. You've added your name in brackets at the bottom of the attendees. It's Mr. Tilley, Dr. Gardiner, Dr. Laing, Dr. Cook, Mr. Gulliver, Ms. Bonnell, Dr. Kwan, Ms. Predham, Ms. Thomas, Mr. Boone. And here indicates there's an update on the current status and what we know from other centres. And the testing for

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patients for 2002 and there's a breakdown, 16 of 24, 25 of 32 and 22 or 23 to come. That would be the local St. John's negatives.
DR. WILLIAMS:
A. Correct.
COFFEY, Q.C.:
Q. From '02. "There may be a problem with methodology or with the lab." What did that mean?
DR. WILLIAMS:
A. I expect it's just an expression that the testing didn't work, it may have been in--I'd be--I guess with the techniques that were used or the antigen retrieval just didn't work, I expect. I don't know. It's not laid out sufficiently for me to say to you.
COFFEY, Q.C.:
Q. You can't recall what -
DR. WILLIAMS:
A. No.
COFFEY, Q.C.:
Q. What the meaning, what it was that you were -
DR. WILLIAMS:
A. If I didn't have these notes, I wouldn't recall that we had a meeting even, so it's

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very difficult to remember.
COFFEY, Q.C.:
Q. And in reference to Dr. Laing not being--not worried about weakly positives?
DR. WILLIAMS:
A. That's W-E-A-K.
COFFEY, Q.C.:
Q. It should be E-A-K?
DR. WILLIAMS:
A. Yeah, that's right.
COFFEY, Q.C.:
Q. What was that about, do you recall?
DR. WILLIAMS:
A. No, I'm not sure whether it was in reference to we're getting some weakly positive, they're not ones that we would treat, anyway. But -
COFFEY, Q.C.:
Q. Okay.
DR. WILLIAMS:
A. You'd have to ask her.
COFFEY, Q.C.:
Q. I'll ask her, okay. So ultimately then there is a reference here to Dr. Laing wanting to make sure the new system is accurate and not overly sensitive.

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DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. Which you referred to earlier.
DR. WILLIAMS:
A. That's in follow up to the previous discussion we had.
COFFEY, Q.C.:
Q. Yes. And the reference to "Pathologist reporting is an issue." Was this the first you heard of this?
DR. WILLIAMS:
A. Yes, I would expect because I noted it there. Now, I'm not sure in what context that was but it may be in the context--it could be in a couple of context. But that would be the first I heard of it and I don't know who would have brought it up.
COFFEY, Q.C.:
Q. And the third-last bullet here does record "Need to check new Ventana system out."
DR. WILLIAMS:
A. Yes.
COFFEY, Q.C.:
Q. And the reference to "Take some of our

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conversions and send to Montreal General to confirm our results."
DR. WILLIAMS:
A. Montreal Jewish I should have put there.
COFFEY, Q.C.:
Q. Jewish, yeah.
DR. WILLIAMS:
A. It's General there, but it's the Montreal Jewish, I think, where Dr. Waters worked.
COFFEY, Q.C.:
Q. And, Commissioner, thank you, very much.
COMMISSIONER:
Q. 9:30 in the morning. Thank you.
Upon conclusion.

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CERTIFICATE

I, Judy Moss, hereby certify that the foregoing is a true and correct transcript in the matter of the Commission of Inquiry on Hormone Receptor Testing, heard on the 15th day of May, A.D., 2008 before the Honourable Justice Margaret A. Cameron, Commissioner, at the Commission of Inquiry, St. John's, Newfoundland and Labrador and was transcribed by me to the best of my ability by means of a sound apparatus.
Dated at St. John's, Newfoundland and Labrador this 15th day of May, A.D., 2008
Judy Moss

-Q-