

COMMISSION OF INQUIRY
ON HORMONE RECEPTOR TESTING

BEFORE THE HONOURABLE JUSTICE CAMERON - COMMISSIONER

June 10, 2008

Appearances:

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

- Rolf Pritchard/Stephen Mills Her Majesty in Right of NL

- Peter Browne/Jane Hennebury Doctors Kara Laing et al

- Daniel Simmons/Stephen Orr Eastern Regional Integrated
. Health Authority

- Darlene Russell Members of the Breast Cancer
. Testing Class Action

- Mark Pike NL Medical Association
- Jennifer Newbury Canadian Cancer Society (NL Division)
- Stacey O’Dea. Central, Western and Labrador-Grenfell
Regional Integrated Health Authorities

LIST OF EXHIBITS

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Certificate

1 COMMISSIONER:
2 Q. Mr. Coffey.
3 COFFEY, Q.C.:
4 Q. Thank you, Commissioner. The next witness is
5 Elizabeth Matthews, Registrar, please? Thank
6 you.
7 MS. ELIZABETH MATTHEWS (SWORN) EXAMINATION BY BERNARD
8 COFFEY, Q.C.
9 REGISTRAR:
10 Q. And you please state and spell your complete
11 name for the Commission?
12 MS. MATTHEWS:
13 A. Sure. It’s Elizabeth Matthews, E-L-I-Z-A-B-E-
14 T-H, M-A-T-T-H-E-W-S.
15 REGISTRAR:
16 Q. Thank you.
17 COFFEY, Q.C.:
18 Q. Ms. Matthews, would you tell us, please, give
19 us a kind of a brief outline of your
20 educational background and your professional
21 background?
22 MS. MATTHEWS:
23 A. Sure. I graduated from Memorial University in
24 2000 and--or sorry, 1994 with a Bachelor of
25 Arts Degree in Political Science and a minor
26 in History. Upon completion of my degree I
27 moved to Toronto for a few years and I worked

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1 there in the private sector. I returned to
 2 the province I guess around 1998 and I went to
 3 work with the Provincial Government and I've
 4 been with the province ever since that time
 5 working in a variety of departments, always in
 6 a communications capacity. I started in the
 7 Department of Mines and--former Mines and
 8 Energy, it's now Natural Resources.
 9 COFFEY, Q.C.:
 10 Q. Um-hm.
 11 MS. MATTHEWS:
 12 A. I worked there as a communication specialist,
 13 which is a junior position. I then moved to
 14 the Department of Tourism, Culture and
 15 Recreation, also as a communication specialist
 16 but eventually was promoted to the position of
 17 Director of Communications. I then worked in
 18 the Department of Fisheries and Aquaculture,
 19 Education, in both of those departments as a
 20 director of communications and in 2003 I went
 21 to work with Premier Williams as his director
 22 of communications in the Premier's office.
 23 COFFEY, Q.C.:
 24 Q. And so you would have been a communications
 25 director beginning when, with the departments?

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1 MS. MATTHEWS:
 2 A. Oh, gosh, I guess it probably would have been
 3 around 2001, 2002, probably 2001.
 4 COFFEY, Q.C.:
 5 Q. Okay, so your experience as a communications
 6 director then began in 2001 or '02?
 7 MS. MATTHEWS:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. In the first of those departments you've
 11 named. And then you have been a
 12 communications director in a department or the
 13 Premier's office since that time?
 14 MS. MATTHEWS:
 15 A. That's right.
 16 COFFEY, Q.C.:
 17 Q. In your time as a communications director,
 18 before you became director of communications
 19 for the Premier's office before, in a line
 20 department, could you tell the Commissioner,
 21 please, what the role at that time of the
 22 communications director was?
 23 MS. MATTHEWS:
 24 A. Prior to going to the Premier's office?
 25 COFFEY, Q.C.:

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1 Q. Yes, before the Premier's office.
 2 MS. MATTHEWS:
 3 A. Well, the position has actually evolved
 4 somewhat over time.
 5 COFFEY, Q.C.:
 6 Q. Yes. And that's what I want you to -
 7 MS. MATTHEWS:
 8 A. Yeah. More so in terms--not in terms of the
 9 pure job description, that role has not
 10 changed very much, it's more of a reporting
 11 structure that has changed. Back in--well, at
 12 the time when I started with government all of
 13 those positions were politically appointed, so
 14 they were not a part of the public service,
 15 communications directors at that time. I was
 16 never a part of the public service; it was a
 17 political appointment. So you would answer
 18 directly to your minister, you worked for the
 19 minister of the day. When we entered office
 20 in 2003, the decision was made to make those
 21 positions a part of the public service, to--so
 22 that at that point they ceased being political
 23 appointments. At that time, actually, all of
 24 the appointments lapsed because when there is
 25 a change of government, obviously, the

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1 political positions ceased to exist and then
 2 new governments hire their, obviously, their
 3 own political staff. So those positions at
 4 that time ceased to exist and we started a
 5 process with the Public Service Commission of
 6 hiring directors of communications for
 7 departments as a part of the public service.
 8 Me, personally -
 9 COFFEY, Q.C.:
 10 Q. If I could on that?
 11 MS. MATTHEWS:
 12 A. Sure.
 13 COFFEY, Q.C.:
 14 Q. Okay. In the earlier structure communications
 15 specialists, were they political staff, as
 16 well, or were they civil servants, do you
 17 recall?
 18 MS. MATTHEWS:
 19 A. The junior positions?
 20 COFFEY, Q.C.:
 21 Q. Yes.
 22 MS. MATTHEWS:
 23 A. Were political staff, as well, yes.
 24 COFFEY, Q.C.:
 25 Q. Okay. I'm sorry, go ahead. So -

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1 MS. MATTHEWS:
 2 A. I was just going to clarify that although
 3 directors of communications in departments are
 4 now public service and they have been since
 5 November of '03, I myself am still a political
 6 appointment. Obviously, you know, the staff
 7 people in the Premier's office, for obvious
 8 reasons, are politically appointed. So myself
 9 and the press secretary in our office are, we
 10 would pretty much be the only two
 11 communications people within government, with
 12 the exception of government members office,
 13 which is our government caucus, they also have
 14 communications folks; we would be the only
 15 politically appointed communications people
 16 within government.
 17 COFFEY, Q.C.:
 18 Q. And the--since 2003 then, just so I understand
 19 this, before 2003 as a political appointee, a
 20 communications director worked directly
 21 actually for a minister of the department?
 22 MS. MATTHEWS:
 23 A. That's right. They would report directly to
 24 the minister.
 25 COFFEY, Q.C.:

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1 Q. To the minister.
 2 MS. MATTHEWS:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. And at that time would they also report to any
 6 central agency?
 7 MS. MATTHEWS:
 8 A. They would report to the communications and
 9 consultation branch, which is the central
 10 communications agency within government and
 11 that structure exists still today and is, it
 12 remains largely unchanged from prior to 2003.
 13 COFFEY, Q.C.:
 14 Q. So then after or since November, 2003
 15 communications directors within departments
 16 have been civil servants hired through the
 17 public service?
 18 MS. MATTHEWS:
 19 A. Correct.
 20 COFFEY, Q.C.:
 21 Q. What is your understanding as to who they
 22 report to?
 23 MS. MATTHEWS:
 24 A. They report directly to their deputy ministers
 25 as would all employees with a department.

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1 They have somewhat of a dual reporting role
 2 because they would also be responsible to
 3 report to the head of the communications
 4 consultation branch whose title is the
 5 assistant secretary to Cabinet for
 6 communications and consultation. It's kind of
 7 a long title, but that, she would be the head
 8 of that central agency. Directors of
 9 communications would have somewhat of a dual
 10 reporting role, day-to-day operations they
 11 would report to their deputy ministers, but
 12 they would also be expected to report to the
 13 head of the communications and consultation
 14 branch.
 15 COFFEY, Q.C.:
 16 Q. And is there any expectation that they also
 17 deal with the minister?
 18 MS. MATTHEWS:
 19 A. Absolutely.
 20 COFFEY, Q.C.:
 21 Q. So they report to the deputy minister on
 22 paper, deal with the actual minister?
 23 MS. MATTHEWS:
 24 A. Right.
 25 COFFEY, Q.C.:

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1 Q. And also they'll have a reporting role, is
 2 this on paper, to the Executive Council, or
 3 Cabinet Secretariat, I'm sorry?
 4 MS. MATTHEWS:
 5 A. You mean is there a written policy?
 6 COFFEY, Q.C.:
 7 Q. Yes.
 8 MS. MATTHEWS:
 9 A. Yes, I would believe there would be a written
 10 policy on that.
 11 COFFEY, Q.C.:
 12 Q. And when you say report to, what's your
 13 understanding as to--perhaps before I leave
 14 that, is there any understanding since 2003 as
 15 to whether or not communications directors
 16 within departments are also to keep the
 17 Premier's office communication staff apprised
 18 of things?
 19 MS. MATTHEWS:
 20 A. Generally speaking, directors of
 21 communications, their first point of contact
 22 would be with the communications and
 23 consultation branch. But having said that, it
 24 would not be unusual for a communications
 25 person to call me in the Premier's office to

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1 give me a heads up on an issue. You know,
 2 there's also an issue of personality
 3 sometimes. I have worked with some of these
 4 people for many, many years and they would
 5 know me much better than perhaps some of the
 6 newer folks, so they would have a comfort
 7 level to perhaps call me directly on an issue.
 8 But generally speaking they would, you know,
 9 if they were to call me, they would certainly
 10 be expected to also call the communications
 11 and consultation branch.

12 COFFEY, Q.C.:
 13 Q. And is there any written policy that you're
 14 aware of that addresses when the--you, as part
 15 of the Premier's office, are to be contacted
 16 on a communications issue?

17 MS. MATTHEWS:
 18 A. There is no written policy, no.

19 COFFEY, Q.C.:
 20 Q. From your perspective within the Premier's
 21 office, what would be your understanding or
 22 your expectation in terms of when you should
 23 or should not be told about something?

24 MS. MATTHEWS:
 25 A. I would anticipate that I would be told if

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1 something was imminent or if it was an
 2 extremely urgent or critical matter.
 3 Sometimes I will get a call directly. If a
 4 department is dealing with an issue and
 5 perhaps the minister has done a media
 6 interview and the Premier was discussed in the
 7 interview, you know, they may just call me to
 8 give me a heads up on that. Typically, you
 9 know, it would more so be if there was an
 10 important matter that was arising or perhaps,
 11 you know, the Premier's schedule is fairly
 12 widely known, if he's going to attend an
 13 event, for example, and the director would--
 14 and this is just hypothetically speaking. The
 15 director would know the media are going to be
 16 at that event, perhaps scrum the Premier. If
 17 they felt there was perhaps something topical
 18 that day, that the Premier could be asked
 19 about, they would certainly call to give me a
 20 heads up.

21 COFFEY, Q.C.:
 22 Q. And do they have access, do the directors of
 23 communications for government have access to
 24 that kind of a schedule?

25 MS. MATTHEWS:

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1 A. They don't have access to the Premier's
 2 schedule, but if the Premier is to attend an
 3 event, we would always issue a media advisory
 4 and so the directors of communications would
 5 certainly receive those advisories and they
 6 would be generally aware if the Premier is
 7 going to participate in a public event.

8 COFFEY, Q.C.:
 9 Q. And the purpose, I take it, our your
 10 understanding of the purpose for which you
 11 would be contacted in that sort of
 12 circumstance would be what, to allow you to
 13 give the Premier a heads up as to what he may
 14 or may not be asked, I take it?

15 MS. MATTHEWS:
 16 A. Yes. They would call me to give me a heads up
 17 that this issue is percolating, you may--you
 18 know, it may be raised in the scrum, the
 19 Premier may be asked about it, perhaps there's
 20 a stakeholder that has a particular interest
 21 in something and they may approach the
 22 Premier. So it would just be a heads up so
 23 that we were prepared when the Premier--you
 24 know, obviously when the Premier goes out to
 25 an event, he has many things on his mind and

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1 is focused most particularly on the task at
 2 hand, so it's good to have other things in the
 3 back of your mind as a staff person that you
 4 can alert him to.

5 COFFEY, Q.C.:
 6 Q. You said, I think, something is imminent?

7 MS. MATTHEWS:
 8 A. Um-hm.

9 COFFEY, Q.C.:
 10 Q. Imminent in what sense?

11 MS. MATTHEWS:
 12 A. Imminent in the sense that it could--imminent
 13 in the sense, in a couple of different senses,
 14 I suppose, in that there could be a public
 15 announcement, for example, forthcoming with--
 16 in a certain period of time, probably within
 17 24 or 48 hours, or perhaps, you know, I
 18 haven't really discussed what I do on a day-
 19 to-day basis, but I don't always have the
 20 luxury, I try to every morning read the
 21 newspaper and keep myself abreast of media
 22 issues and what's in the media, and perhaps
 23 there's been something in the media that
 24 particular day and they may think, well, just
 25 in case she isn't aware of it, I'll give her a

Page 17

1 call.

2 COFFEY, Q.C.:

3 Q. And I take it imminent in the sense then does

4 cover the idea, imminent, it's going to become

5 public, a particular matter is going to become

6 public imminently?

7 MS. MATTHEWS:

8 A. Correct.

9 COFFEY, Q.C.:

10 Q. Okay. If we could, and you just alluded to it

11 then, your role as the communications director

12 in the Premier's office since late 2003, has

13 that evolved or has it been more or less the

14 same role?

15 MS. MATTHEWS:

16 A. Well, I think that when anyone starts their

17 first day in the Premier's office, they

18 probably have a certain anticipation of what

19 that job is going to be like. And you quickly

20 come to learn that it's not what you

21 anticipate, every day is different. But from

22 a perspective of what my actual defined roles

23 and responsibilities were on that day, it

24 probably evolved a little over time just

25 because it was new to everyone. Nobody had

Page 18

1 been in the Premier's office before, so you

2 know, it's a bit of a learning curve because

3 it's such an intense place to work. But

4 essentially my defined roles and

5 responsibilities have not changed

6 fundamentally.

7 COFFEY, Q.C.:

8 Q. And could you then outline them for the

9 Commissioner?

10 MS. MATTHEWS:

11 A. Sure. I guess my core responsibility is to

12 oversee communications in the Premier's office

13 and to look after all that that entails. That

14 would include briefing the Premier on

15 communications issues, issues that may be in

16 the media or in the public domain generally.

17 I also oversee preparation of the Premier's

18 speaking notes, news releases that might be

19 issued by the Premier, those sorts of things.

20 I'm also in my capacity as a senior official

21 within the office, I would advise generally on

22 government policy and that would include

23 attending Cabinet meetings and preparing for

24 Cabinet. Obviously I work closely with the

25 Communications and Consultation branch. They

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1 are, as I said, the core agency for

2 communications in Government. So I pretty

3 much have daily contact with the folks in that

4 office.

5 Some of my daily tasks would include, for

6 example, the approval of news releases that

7 are issued by Government departments. Every

8 news release that is issued by a Government

9 department is signed off by me. That's in the

10 range of approximately 900 to 1200 news

11 releases annually. So all of those have to

12 come through me personally.

13 I liaise with my counterparts in other

14 Premier's offices. That's an important part

15 of the job. I keep in contact with them in

16 case there are issues of mutual importance or

17 concern. Those would really be--of course, I

18 also monitor the media on a daily basis and

19 interact with departments in terms of

20 communications. Those would be the more

21 defined roles and responsibilities. I also

22 would oversee coordination of major events

23 that the Premier's office would host. For

24 example, a few years back we hosted the Annual

25 Premiers' Meeting. So I would have overseen,

Page 20

1 with another colleague in our office, the

2 coordination of that event.

3 I spend a fair bit of time travelling

4 with the Premier, just by virtue of the fact

5 that he attracts, tends to attract a fair bit

6 of media attention, so I spend a fair bit of

7 time travelling, and of course, I also, one of

8 my core jobs would be to coordinate

9 interaction between the Premier and the media

10 locally, nationally and internationally. So

11 those would be, you know, the kind of--my day-

12 to-day roles and responsibilities.

13 Of course, the Premier's office is such,

14 I guess you could use the word, intense place

15 to work and it's a very dynamic atmosphere.

16 You know, I often go into work in the morning

17 with my to-do list and the best of intentions,

18 this is what my day is going to look like, and

19 typically by 9:30 in the morning, that is

20 completely off the rails. I've taken on

21 another issue that's come in. It's very much

22 an issues management atmosphere. So you spend

23 your day dealing with the issues of the day.

24 You know, we'll dealing with all of the

25 departments throughout governments and, you

Page 21

1 know, they're contacting us on different
 2 issues. So you never quite know where your
 3 day is going to take you and so you usually
 4 end up just dealing with issues and then I
 5 typically spend my evenings and weekends doing
 6 the more mundane tasks, I guess you could say,
 7 related to my job.
 8 COFFEY, Q.C.:
 9 Q. Just in the list of roles, media monitoring or
 10 monitoring the media on a daily basis, do you
 11 actually do that yourself or does someone do
 12 that for you?
 13 MS. MATTHEWS:
 14 A. Typically the press secretary in our office
 15 would--that would be a part of her core job.
 16 She would monitor every morning, the
 17 newspapers, and she would do that in
 18 conjunction with the Communications and
 19 Consultation branch. They're very much
 20 involved in monitoring local and national,
 21 international media and the press secretary in
 22 our office performs that function. She
 23 supplies me with--I obviously attempt every
 24 morning to read the local and national papers.
 25 I wake up in the morning to the morning news

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1 and you know, pretty much from that point in
 2 the morning until the night, probably the
 3 National comes on in the evening, I'm watching
 4 the media as much as I can, but I don't always
 5 have the luxury of probably paying as close
 6 attention as I should. So that's what our
 7 press secretary does and she would keep me
 8 apprised of any information or issues in the
 9 media that she thinks may be pertinent on any
 10 particular day.
 11 COFFEY, Q.C.:
 12 Q. And I'm just trying to get some sense of that.
 13 So the print media, okay. How about the
 14 electronic media, how is that--newspaper, you
 15 can summarize a story or a clipping.
 16 MS. MATTHEWS:
 17 A. Right.
 18 COFFEY, Q.C.:
 19 Q. But how about the electronic media?
 20 MS. MATTHEWS:
 21 A. I'm sorry, do you mean the -
 22 COFFEY, Q.C.:
 23 Q. How is that monitored or at least conveyed to
 24 you? If the press secretary is monitoring the
 25 electronic media -

Page 23

1 MS. MATTHEWS:
 2 A. Right.
 3 COFFEY, Q.C.:
 4 Q. - for you, how does she convey what she sees
 5 or hears or he sees or hears to you?
 6 MS. MATTHEWS:
 7 A. You mean on internet stories?
 8 COFFEY, Q.C.:
 9 Q. Communicate it to you.
 10 MS. MATTHEWS:
 11 A. Oh, she would--it depends if I'm in the office
 12 or not. She may forward them to me, stories
 13 to me electronically, or she may print them
 14 off and lay them on my desk.
 15 COFFEY, Q.C.:
 16 Q. Okay, and the choice of stories, how is that,
 17 as to what to lay on your desk or to bring to
 18 your -
 19 MS. MATTHEWS:
 20 A. Fundamentally, the very first criteria would
 21 be is the Premier mentioned in a story. That
 22 would be the number one thing that she would
 23 look for. Is the Government mentioned in the
 24 story? Is it an issue generally that would be
 25 of concern to the people of the province? You

Page 24

1 know, sometimes it's a municipal issue. You
 2 know, you kind of--we try not to--I try not to
 3 overload on too many stories, but I certainly
 4 like to keep abreast of as many issues as I
 5 possibly can because you never know when
 6 something that seems obscure could very much
 7 become an issue for you in the run of a day.
 8 So you know, she would prioritize it.
 9 Premier's mentioned, absolutely. Departments
 10 are mentioned, absolutely. Government
 11 generally, yeah, she would very likely give me
 12 that story.
 13 COFFEY, Q.C.:
 14 Q. The House of Assembly briefing book. I take
 15 it there is a House of Assembly briefing book
 16 for the Premier?
 17 MS. MATTHEWS:
 18 A. That's right.
 19 COFFEY, Q.C.:
 20 Q. Who prepares that?
 21 MS. MATTHEWS:
 22 A. The press secretary prepares it, in
 23 consultation with myself.
 24 COFFEY, Q.C.:
 25 Q. And how are decisions made about what goes in

Page 25

1 it?

2 MS. MATTHEWS:

3 A. That too has evolved a little over time.

4 Originally we would go out to each Department

5 and request their top three to five issues,

6 for example. So we would just ask

7 Departments, "what do you think are the most

8 topical issues that may come up in the House

9 of Assembly this session?" and they would send

10 them over and the press secretary would

11 compile the book, along with -

12 COFFEY, Q.C.:

13 Q. In what format would they come over?

14 MS. MATTHEWS:

15 A. A House of Assembly briefing note, which is

16 really -

17 COFFEY, Q.C.:

18 Q. Like a Departmental House of Assembly briefing

19 note?

20 MS. MATTHEWS:

21 A. Yes.

22 COFFEY, Q.C.:

23 Q. Like the Q and A?

24 MS. MATTHEWS:

25 A. It would be the same note that would be given

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1 to the minister of the department to prepare

2 him for the House of Assembly. A special note

3 wouldn't be prepared for the Premier's office.

4 They would just send us their copies of what

5 they were putting in their minister's briefing

6 book.

7 COFFEY, Q.C.:

8 Q. I'm sorry, you said that that's in the

9 beginning, there was--the Department was asked

10 to identify the top three or five, from their

11 perspective?

12 MS. MATTHEWS:

13 A. Right.

14 COFFEY, Q.C.:

15 Q. Okay.

16 MS. MATTHEWS:

17 A. So the press secretary would then compile that

18 book. We would also have perhaps some of our

19 own issues obviously that we would put in that

20 book, issues that the Premier would be the

21 lead on the file, for example, and then we

22 would present the Premier with the book. Now

23 it would never be the anticipation that the

24 Premier would read the whole book, because it

25 would be an enormous piece of work, and after

Page 27

1 a couple of years, I just determined that it

2 was an ineffective way of doing things and an

3 ineffective way of preparing the Premier for

4 the House of Assembly because we knew that if

5 that issue arose in the House of Assembly, if

6 a particular issue arose in the House of

7 Assembly, the minister would address the

8 questions. You know, the minister would be

9 the one who would answer the questions in the

10 House of Assembly.

11 So it was really--it was ineffective.

12 The Premier didn't have--you know, he's an

13 individual who likes to have as much

14 information in his head as he possibly can,

15 but you know, there's only so much information

16 that you can take in from departments at any

17 given time. So we changed the format and we

18 would just ask departments, you know, if

19 there's an issue that you think is

20 particularly pertinent, send it over, but we

21 moved away from the top three to five issues,

22 because we would have our own briefing book as

23 well for the Premier, in terms of issues that

24 could arise in the House.

25 COFFEY, Q.C.:

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1 Q. Do you recall when it was that this change in

2 approach occurred?

3 MS. MATTHEWS:

4 A. I don't recall specifically, but it likely

5 would have been within the past year, the past

6 two or three sessions of the House. So

7 perhaps around--either late '06, early '07.

8 COFFEY, Q.C.:

9 Q. So in the fall of '05, for example, or early

10 '06, there would have been the earlier

11 approach?

12 MS. MATTHEWS:

13 A. That's right, yes.

14 COFFEY, Q.C.:

15 Q. Which would be the Department would identify

16 the top three to five issues and send over the

17 briefing notes accordingly?

18 MS. MATTHEWS:

19 A. Yes.

20 COFFEY, Q.C.:

21 Q. Was there any record kept of what did and

22 didn't make it into the briefing book from

23 time to time?

24 MS. MATTHEWS:

25 A. I believe the press secretary would keep a

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1 table of contents on her--we wouldn't keep the
 2 actual briefing books because they were just
 3 enormous, and you knew the briefing notes
 4 always existed in departments, so you didn't
 5 have a need to keep hard copies in our office,
 6 but I believe -
 7 COFFEY, Q.C.:
 8 Q. Keep them after they were removed from the
 9 book?
 10 MS. MATTHEWS:
 11 A. Sorry, yes, after the session of the House
 12 closed. So I believe she would keep a table
 13 of contents, mainly for comparative purposes,
 14 just to see what we had had in the Premier's
 15 briefing book the session before.
 16 COFFEY, Q.C.:
 17 Q. And that would be the press secretary in your
 18 office?
 19 MS. MATTHEWS:
 20 A. Correct, yes.
 21 COFFEY, Q.C.:
 22 Q. Okay. Do you know if that still exists, those
 23 sorts of indexes?
 24 MS. MATTHEWS:
 25 A. The table of contents?

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1 COFFEY, Q.C.:
 2 Q. Contents, yes.
 3 MS. MATTHEWS:
 4 A. I believe they do, but I couldn't say with
 5 certainty.
 6 COFFEY, Q.C.:
 7 Q. And the press secretary throughout this time
 8 in your office was whom, the time since '03,
 9 who has been your press secretary?
 10 MS. MATTHEWS:
 11 A. Initially it was Stephanie Power. That was
 12 only for a very brief period of time. It was
 13 then Ken Morrissey and in actual fact, back
 14 when Stephanie and Ken were in the office, the
 15 title was communications specialist. It's
 16 only recently that that position has changed
 17 to formally be known as a press secretary, and
 18 today, that individual is Andrea Nolan.
 19 COFFEY, Q.C.:
 20 Q. Andrea Nolan. How long has Ms. Nolan been
 21 there?
 22 MS. MATTHEWS:
 23 A. Oh gosh, I should know that. Andrea has been
 24 with us for perhaps a year, year or more.
 25 COFFEY, Q.C.:

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1 Q. So -
 2 MS. MATTHEWS:
 3 A. And I have to say it may be a little bit more
 4 than that. I just can't recall the specific
 5 date she started with the office.
 6 COFFEY, Q.C.:
 7 Q. And her predecessor though in the position,
 8 defacto predecessor in the position was Mr.
 9 Morrissey?
 10 MS. MATTHEWS:
 11 A. That's correct, yes.
 12 COFFEY, Q.C.:
 13 Q. So would Mr. Morrissey have been there in
 14 2005, do you think?
 15 MS. MATTHEWS:
 16 A. I believe Mr. Morrissey was there in 2005,
 17 yes.
 18 COFFEY, Q.C.:
 19 Q. Are there any structured meetings or scheduled
 20 meetings involving communications directors
 21 throughout Government?
 22 MS. MATTHEWS:
 23 A. That would be coordinated by the
 24 Communications and Consultation branch, just
 25 by virtue of the fact that they are part of

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1 the public service. So that would be
 2 coordinated by that agency. I believe they
 3 make every attempt to meet monthly. I don't
 4 often make it to those meetings. In fact, I
 5 rarely do, and if I can't--if I make it, I
 6 attend. If I can't make it, then the press
 7 secretary in our office attends. It's a
 8 little more difficulty when the House of
 9 Assembly is open, just because it's such an
 10 incredibly busy time. The House of Assembly
 11 being open obviously adds a workload that
 12 otherwise you wouldn't have to your day. When
 13 the House of Assembly is open, I believe the
 14 directors of communications do actually meet
 15 weekly, but my understanding is that that
 16 would be with the House leader, just in terms
 17 of the legislative agenda.
 18 COFFEY, Q.C.:
 19 Q. And these meetings involving the
 20 communications directors, either monthly or
 21 weekly?
 22 MS. MATTHEWS:
 23 A. Um-hm.
 24 COFFEY, Q.C.:
 25 Q. For example, the monthly ones anyway -

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1 MS. MATTHEWS:
 2 A. Right.
 3 COFFEY, Q.C.:
 4 Q. - who organizes those meetings?
 5 MS. MATTHEWS:
 6 A. The assistant secretary to Cabinet for
 7 Communications and Consultation.
 8 COFFEY, Q.C.:
 9 Q. And that is currently?
 10 MS. MATTHEWS:
 11 A. Josephine Cheeseman.
 12 COFFEY, Q.C.:
 13 Q. So either Ms. Cheeseman or her predecessor
 14 from time to time?
 15 MS. MATTHEWS:
 16 A. Correct, yes.
 17 COFFEY, Q.C.:
 18 Q. And in those meetings that you have attended,
 19 what sorts of things are discussed?
 20 MS. MATTHEWS:
 21 A. Oh gosh, I would actually harken back to my
 22 days as a director of communications, because
 23 I would have attended them much more
 24 frequently then, obviously. Sometimes they
 25 discuss professional development. They often

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1 have or they--I know they attempt to have
 2 yearly retreat for communications directors.
 3 They would discuss operational issues. You
 4 know, we often have new directors coming in,
 5 so you know, you may have a bit of an
 6 orientation in terms of the protocol for
 7 having news releases approved, for example.
 8 Again, I don't attend a lot of the meetings,
 9 so I can't give a real clear picture of what
 10 they talk about, but I would imagine they
 11 probably--you know, if there's a very topical
 12 issue in Government at that time, they may
 13 discuss that issue. I know sometimes they
 14 have presentations. For example, when the new
 15 Access to Information legislation was passed,
 16 I believe they had a presentation on the new
 17 legislation and how it would impact them in
 18 their positions.
 19 COFFEY, Q.C.:
 20 Q. A topical issue in the sense that you just
 21 used that phrase, the ER/PR matter, certainly
 22 since May of 2007, is that the sort of topical
 23 issue that might have come up in such a
 24 meeting?
 25 MS. MATTHEWS:

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1 A. It may have, yes.
 2 COFFEY, Q.C.:
 3 Q. And with respect to your role as
 4 communications director for the Premier's
 5 office, are there routinely scheduled
 6 briefings of the Premier by yourself, in that
 7 capacity?
 8 MS. MATTHEWS:
 9 A. I wouldn't call them routine, but I would
 10 brief the Premier every day.
 11 COFFEY, Q.C.:
 12 Q. And what criteria do you use to determine what
 13 to tell him and what not to tell him?
 14 MS. MATTHEWS:
 15 A. Well, I'll go back, if I can, just to give you
 16 a little bit of context and background. Every
 17 day in our office, we would have a senior
 18 executive meeting at 9:00 in the morning,
 19 because the Premier's office, you know, we
 20 have several support staff who are -
 21 COFFEY, Q.C.:
 22 Q. If I could then, this is perhaps the best way,
 23 because I was going to ask you about the
 24 interaction within the executive of the
 25 Premier's office.

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1 MS. MATTHEWS:
 2 A. Okay.
 3 COFFEY, Q.C.:
 4 Q. And with the Cabinet Secretariat anyway. So
 5 perhaps you could explain, first of all, the
 6 Premier's office's interaction with Cabinet
 7 Secretariat.
 8 MS. MATTHEWS:
 9 A. With Cabinet Secretariat, okay. Essentially,
 10 you know, the Premier's department, you know,
 11 it's not--the Premier is not seen as
 12 necessarily having a department, but Executive
 13 Council would be, theoretically considered the
 14 Premier's department, if you want to put it
 15 that way. Cabinet Secretariat is a part of
 16 Executive Council. Communications
 17 consultation branch is a part of Executive
 18 Council. They all report to the clerk of
 19 Executive Council. The main communication
 20 between the Premier's office and Executive
 21 Council or Cabinet Secretariat by extension,
 22 would be the clerk, the chief of staff would
 23 likely have daily meetings or, you know, if
 24 not daily, then very frequent meetings with
 25 the clerk of Executive Council. I would deal

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1 with primarily the communications and
 2 consultation branch, the assistant secretary
 3 to Cabinet. Cabinet Secretariat is the funnel
 4 through which the Premier's office received
 5 information from the departments. They
 6 prepare Cabinet documents, they organize
 7 Cabinet meetings, Cabinet retreats, those
 8 sorts of things. So, you know, the main
 9 connection between Cabinet Secretariat and the
 10 Premier's office would be between the clerk
 11 and the chief of staff.

12 COFFEY, Q.C.:

13 Q. And in the context the Commission is dealing
 14 with here, the time period for example, 2005
 15 onward, I take it that's Mr. Robert Thompson,
 16 the clerk.

17 MS. MATTHEWS:

18 A. Yes, that's right.

19 COFFEY, Q.C.:

20 Q. And Brian Crawley would be the chief of staff?

21 MS. MATTHEWS:

22 A. Brian Crawley, yes, that's right.

23 COFFEY, Q.C.:

24 Q. I'm sorry, you were about to tell us about the
 25 executive meetings, daily.

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1 MS. MATTHEWS:

2 A. Yes.

3 COFFEY, Q.C.:

4 Q. Perhaps you could just explain first of all to
 5 the Commissioner, though, what the structure
 6 is in the Premier's office itself? Who is
 7 who?

8 MS. MATTHEWS:

9 A. In the Premier's office, you have the chief of
 10 staff who is Mr. Crawley; then you have
 11 myself, who is the director of communications;
 12 press secretary who would report to me
 13 directly would be Andrew Nolan. I'm assuming
 14 you want me to identify -

15 COFFEY, Q.C.:

16 Q. Oh yes.

17 MS. MATTHEWS:

18 A. Okay. Underneath--well not underneath, yeah,
 19 underneath the chief of staff you would have
 20 the deputy chief of staff who is Stephen Dinn;
 21 then you have the director of operations, his
 22 name is Brian Taylor; special assistant to the
 23 Premier is Derrick Rideout; then the Premier
 24 has an executive assistant in his district, he
 25 also has an executive assistant in Labrador;

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1 and then you have support staff who are
 2 absolutely critical in running our office
 3 because it's such a hectic place to work and,
 4 you know, you have somebody in the registry,
 5 you have a personal assistant to the Premier;
 6 and administrative assistants.

7 COFFEY, Q.C.:

8 Q. Okay, and you were about to tell the
 9 Commissioner about the daily meetings.

10 MS. MATTHEWS:

11 A. Yes. Every morning at 9:00 we have a senior
 12 staff meeting that would involve myself, the
 13 chief of staff; the deputy chief of staff;
 14 director of operations; and the special
 15 assistant to the Premier.

16 COFFEY, Q.C.:

17 Q. And the purpose of those daily meetings is
 18 what?

19 MS. MATTHEWS:

20 A. It's really just a grouping together in the
 21 morning to gather your thoughts to identify
 22 issues that are percolating; to talk about
 23 perhaps if there's an event coming up that
 24 day, you know, to make sure the Premier is
 25 well prepared and we know what's going on at

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1 the event and to discuss the Premier's
 2 schedule, we have an absolutely enormous list
 3 of speaking engagement requests and
 4 invitations to attend events, an enormous list
 5 of meeting requests, individuals wishing to
 6 meet with the Premier, so we review those in
 7 the morning as well. And we generally just
 8 talk about the day, how the day is going to
 9 unfold, what's on the Premier's schedule, is
 10 there anything particularly topical that we
 11 should, you know, discuss today. We'd go
 12 around the run and everyone has their say.
 13 It's--we try to keep the meetings as short as
 14 possible just because our time is fairly
 15 precious in the office and that's pretty much
 16 the essence of the meetings.

17 COFFEY, Q.C.:

18 Q. And you refer to identify issues that are
 19 "percolating".

20 MS. MATTHEWS:

21 A. Yes.

22 COFFEY, Q.C.:

23 Q. To use your word. What--or when is an issue
 24 considered to be percolating?

25 MS. MATTHEWS:

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1 A. I guess if there's an issue in the media that,
 2 you know, we'll talk about what was in the
 3 paper that morning, perhaps, or you know, if
 4 something had been on the news the night
 5 before and during the House of Assembly, it's
 6 especially important to talk about those
 7 issues because you have to deal with Question
 8 Period every day, so you never know what may
 9 come up in Question Period and obviously you
 10 want to prepare the Premier for Question
 11 Period and for the House of Assembly. You
 12 know, somebody may have gotten a call, more
 13 than likely it would be the chief of staff
 14 from a minister that, you know, a particular
 15 issue was percolating within their department,
 16 those types of things.

17 COFFEY, Q.C.:

18 Q. So I take it that would be, you could discuss,
 19 of course, something that had been in the
 20 media and something that was anticipated was
 21 to be in the media or would shortly be in the
 22 media?

23 MS. MATTHEWS:

24 A. Or could potentially be in the media, yes.
 25 And not even, I should clarify, not even

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1 particularly in the media, but just, you know,
 2 perhaps it was an individual within the
 3 province who had an issue that perhaps they
 4 had contacted the Premier's office on or
 5 contacted a particular department on.

6 COFFEY, Q.C.:

7 Q. Ms. Matthews, in respect of those daily
 8 meetings, I was going to ask, before I forget
 9 to, is there any--and I appreciate there are
 10 daily meetings, I take it that's Monday to
 11 Friday.

12 MS. MATTHEWS:

13 A. Yes, that's correct.

14 COFFEY, Q.C.:

15 Q. Are there any other kind of more widely spaced
 16 meetings, in the sense of monthly or
 17 quarterly?

18 MS. MATTHEWS:

19 A. Within our office?

20 COFFEY, Q.C.:

21 Q. Yes.

22 MS. MATTHEWS:

23 A. No, we meet every single day, so there
 24 wouldn't particularly be a need for a monthly
 25 meeting.

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1 COFFEY, Q.C.:

2 Q. The matters that are discussed in those
 3 meetings, you know, as they arise, is there
 4 any effort made to keep track of them in any
 5 kind of formal or semi-formal system, after
 6 something is first raised in a meeting?

7 MS. MATTHEWS:

8 A. Sure. The formal tracking system would be
 9 through Cabinet Secretariat. Obviously we
 10 anticipate that department's--in particular
 11 deputy ministers keep Cabinet Secretariat
 12 apprised of any issues that may be happening
 13 with their department. So that would be the
 14 primary means by which we would ensure that,
 15 for example, issues were addressed, they were
 16 followed up, they were being dealt with
 17 appropriately. Within our office, you know, I
 18 personally keep in my head and probably a
 19 scratch pad by my desk, issues that are
 20 happening and media calls that may be coming
 21 in. I can't really speak to how others may
 22 organize themselves in that manner, but
 23 formally the Cabinet Secretariat would be
 24 expected to keep track of issues.

25 COFFEY, Q.C.:

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1 Q. So this daily meeting, who chairs that
 2 meeting?

3 MS. MATTHEWS:

4 A. The chief of staff.

5 COFFEY, Q.C.:

6 Q. The chief of staff. So Mr. Crawley, I take
 7 it, is responsible for, if he's chairing it,
 8 from your perspective keeping track of what
 9 goes on and if something is raised, if it
 10 comes up again, or is to come up again.

11 MS. MATTHEWS:

12 A. Yes, well I say yes, but if it's particularly
 13 related to the media, for example, that's my
 14 job and he would expect me to, he would
 15 delegate that to me and he would fully
 16 anticipate that if there were issues in the
 17 media that needed to be tracked, that I would
 18 do that. And, for example, if there were
 19 constituency related issues, he would
 20 anticipate that executive assistants would
 21 keep track of those issues as well.

22 COFFEY, Q.C.:

23 Q. Now these meetings, are there any minutes kept
 24 of them?

25 MS. MATTHEWS:

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1 A. No, I don't believe there are.
 2 COFFEY, Q.C.:
 3 Q. And trying to get some sense of, so there's a
 4 group of you, you meet every morning, if there
 5 are no minutes kept, there's no agenda I take
 6 it?
 7 MS. MATTHEWS:
 8 A. No.
 9 COFFEY, Q.C.:
 10 Q. Is there any administrative staff that's
 11 responsible for keeping track of action items
 12 or anything like that?
 13 MS. MATTHEWS:
 14 A. I can't speak for others in the office, I can
 15 only speak for how I operate my -
 16 COFFEY, Q.C.:
 17 Q. That's what I'm asking, I ask yourself, okay.
 18 MS. MATTHEWS:
 19 A. Yes.
 20 COFFEY, Q.C.:
 21 Q. And you've explained you use a scratch pad and
 22 your memory.
 23 MS. MATTHEWS:
 24 A. And I should say the press secretary also, I
 25 mean, she keeps track of every day what's in

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1 the news and she would do up a list of, you
 2 know, what's in the news today.
 3 COFFEY, Q.C.:
 4 Q. Within the Premier's office group that meets
 5 daily, like kind of looking around the room,
 6 is there anyone who, from your perspective,
 7 you know, if you had to ask well what came up
 8 last Thursday -
 9 MS. MATTHEWS:
 10 A. Uh-hm.
 11 COFFEY, Q.C.:
 12 Q. - at that meeting, who would -
 13 MS. MATTHEWS:
 14 A. Well the chief of staff chairs the meeting, so
 15 we would probably more so talk amongst
 16 ourselves. I guess, you know, the context of
 17 those meetings and the context of working in
 18 the Premier's office is such that it is
 19 probably hard to imagine the intensity and the
 20 pace of that office. It's, as I said before,
 21 it's incredibly dynamic and it's, you take
 22 your moments where you can get them and those
 23 meetings in the morning are meant to be as
 24 brief as they could possibly be to, you know,
 25 quickly discuss issues. But in terms of

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1 keeping track of particular issues and what
 2 we've discussed, the chief of staff would be
 3 responsible for that, but he would rely
 4 heavily upon the Cabinet Secretariat to
 5 provide support in that regard.
 6 COFFEY, Q.C.:
 7 Q. Does the Cabinet Secretariat have anybody
 8 attend those meetings?
 9 MS. MATTHEWS:
 10 A. No, they do not.
 11 COFFEY, Q.C.:
 12 Q. If something is raised in a meeting, one of
 13 those meetings, for the Cabinet Secretariat to
 14 be involved or to be apprised of it, that's
 15 Mr. Crawley's responsibility to let them know?
 16 MS. MATTHEWS:
 17 A. He would typically let them know or he may ask
 18 for a briefing note on an issue.
 19 COFFEY, Q.C.:
 20 Q. Now having attended the morning meeting, when
 21 does the Premier get briefed by yourself?
 22 MS. MATTHEWS:
 23 A. That--there's no real defined time, you know,
 24 I don't have the time every day in my calendar
 25 where I briefed the Premier just because the

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1 Premier's office is always, you know, it's--
 2 you never know what's going to happen on a
 3 particular day. The Premier has meetings, he
 4 may have briefings, he may have outside
 5 events. Typically when the House of Assembly
 6 is open, for example, I will brief the Premier
 7 in an hour of advance of Question Period and
 8 will spend that time just preparing for
 9 Question Period. If the Premier has a media
 10 interview, for example, I will spend, you
 11 know, I will prepare materials for him in
 12 advance, if it's been set up in advance and if
 13 we've had that luxury, and I will chat with
 14 him probably half an hour before the media
 15 interview. If he's to do a scrum, same
 16 situation, we'll chat for a half an hour
 17 before he's to do the scrum. But I guess
 18 there's no formal time set every day for me to
 19 brief the Premier. And, you know, the other
 20 thing is the Premier keeps very much abreast
 21 of the issues anyway. He's a voracious
 22 reader, he reads the papers, he listens to the
 23 news, so he makes my job a little easier in
 24 that regard.
 25 COFFEY, Q.C.:

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1 Q. If an issue falls into the category, a
 2 departmental category, falls into the category
 3 of percolating, a percolating issue, when
 4 would the Premier be told about that if the
 5 House was not in session?
 6 MS. MATTHEWS:
 7 A. It would depend on where he was at any given
 8 point during the day. you know, in the
 9 Premier's office the reality of life in that
 10 office is that, you know, if I may just put
 11 some context around it, we have 15, 16
 12 departments out there. You have the
 13 Department of Environment, for example, who
 14 are dealing with environmental issues and
 15 lands and parks, and you have the Department
 16 of Education that's dealing with the school
 17 system, dealing with curriculum, post
 18 secondary; you have the Department of Health,
 19 obviously, who has just an enormous amount of
 20 issues that could fall under their purview,
 21 social issues, health care issues, so all of
 22 those departments are overseen by Cabinet
 23 Secretariat, but they also feed into the
 24 Premier's office. So on any given day, we
 25 could receive a call from any of those

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1 departments on any particular issue. Often,
 2 not daily, but often we will get a call, "this
 3 issue is happening, it's a crisis, we need to
 4 bring it to your attention" and within an
 5 hour, new information comes to light. It's
 6 actually not that--it's not what they thought
 7 it to be and the issue is significantly
 8 diminished. So we tend not to run to the
 9 Premier's office every time somebody calls
 10 with an issue. We will -
 11 COFFEY, Q.C.:
 12 Q. When you say to "his office" you mean
 13 literally his office?
 14 MS. MATTHEWS:
 15 A. Literally his office, right. We would wait
 16 until he's--he comes out probably to chat with
 17 us or until after he's finished with a
 18 meeting. Sometimes he's not in the office, so
 19 if he isn't in the office on a particular day,
 20 we would wait for him to call in. Now, if it
 21 was an issue that was, an eminent issue, life
 22 safety issue, something was happening at that
 23 very moment, then we would pick up the phone
 24 and call the Premier. But if it was not an
 25 eminent life safety issue, it would not be

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1 typical for us to go immediately to him to
 2 inform him of something.
 3 COFFEY, Q.C.:
 4 Q. When something has made it as far as the
 5 media, being discussed in the media, what, if
 6 any, system does your office have in place to
 7 keep track of the matter, as it develops in
 8 the media?
 9 MS. MATTHEWS:
 10 A. Well, as I said previously, the communications
 11 consultation branch, they keep pretty
 12 extensive files in terms of media clippings,
 13 whether that be from print media or the
 14 evening news, radio, what have you. So, they,
 15 daily, send to us media clippings that they
 16 think are pertinent to our office and they
 17 keep those issues on file. Generally
 18 speaking, we would depend upon departments to
 19 follow their own issues, issues that are
 20 specific to that department. And we would
 21 generally follow stories that are in the
 22 media, in our office.
 23 COFFEY, Q.C.:
 24 Q. Okay. And so the communications and
 25 consultation branch would, after something

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1 made it into the media, would send them
 2 clippings, to yourself.
 3 MS. MATTHEWS:
 4 A. Yes.
 5 COFFEY, Q.C.:
 6 Q. And what does your office do then to keep
 7 track of that?
 8 MS. MATTHEWS:
 9 A. To keep track of -
 10 COFFEY, Q.C.:
 11 Q. I mean, after it comes in, you get the first
 12 wave of material.
 13 MS. MATTHEWS:
 14 A. Right.
 15 COFFEY, Q.C.:
 16 Q. If there's another wave of material the
 17 following week and then the following week,
 18 how do you keep track of--for example, here's
 19 what I'm asking you, if you wanted to know how
 20 or what had been done or said in the media
 21 about a particular issue -
 22 MS. MATTHEWS:
 23 A. Um-hm.
 24 COFFEY, Q.C.:
 25 Q. - four weeks after the time it was first

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1 spoken of in the media -
 2 MS. MATTHEWS:
 3 A. Right.
 4 COFFEY, Q.C.:
 5 Q. - how would you go about doing it?
 6 MS. MATTHEWS:
 7 A. I guess if you're asking particularly would I
 8 have a filing system, for example, -
 9 COFFEY, Q.C.:
 10 Q. Yes, or your offices.
 11 MS. MATTHEWS:
 12 A. - in our office.
 13 COFFEY, Q.C.:
 14 Q. Yes.
 15 MS. MATTHEWS:
 16 A. I don't, myself I don't keep files on media
 17 clippings and the reason is simply that I have
 18 a very small office and very limited space.
 19 And I know that if I need a file or a media
 20 clipping on a particular issue, that it is
 21 housed two floors up and it is within a phone
 22 call away from me.
 23 COFFEY, Q.C.:
 24 Q. That's in the -
 25 MS. MATTHEWS:

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1 A. In the communications, sorry, yes, in the
 2 communications and consultation branch. If it
 3 is an issue for which the premier is the lead
 4 on a particular file--for example, the
 5 Atlantic Accord or the Lower Churchill which,
 6 you know, although we work closely with the
 7 department, the premier is very much involved
 8 in that file, I would keep a file, I wouldn't
 9 necessarily keep all of the media clippings
 10 because the sheer volume of those media
 11 clippings would just be enormous. And it's
 12 just not a file that I would keep because I
 13 know that it's housed moments away.
 14 COFFEY, Q.C.:
 15 Q. And what, if any, process is place for the
 16 communications and consultation branch to
 17 begin to keep a file on a particular issue?
 18 MS. MATTHEWS:
 19 A. I'm fairly certain that they keep files by
 20 department, departmentally. I would
 21 anticipate that all directors within
 22 departments also keep files, keep their media
 23 clippings and their files. And we have a
 24 media--contracted out services for media
 25 monitoring. So, you know, I guess in the

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1 world we live in today with electronic records
 2 and what not, it's pretty easy to access a
 3 file, if you can recall generally when a media
 4 story appeared. For example, you would just
 5 call up and say, can I get a copy of this file
 6 and that would be very easily accessible.
 7 COFFEY, Q.C.:
 8 Q. Ma'am, how about electronic files, does your
 9 office keep track of--have any system in place
 10 to keep track of those?
 11 MS. MATTHEWS:
 12 A. As it relates to media stories?
 13 COFFEY, Q.C.:
 14 Q. Yes.
 15 MS. MATTHEWS:
 16 A. We would just receive them. We don't keep
 17 them on our system. I shouldn't say the press
 18 secretary doesn't. She doesn't, to my
 19 knowledge. I don't keep them on my system.
 20 COFFEY, Q.C.:
 21 Q. How about, for example, a file for--and I'll
 22 just use what we're here about, ER/PR--would
 23 you have any electronic filing system in
 24 relation to that?
 25 MS. MATTHEWS:

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1 A. To media stories particularly or -
 2 COFFEY, Q.C.:
 3 Q. Or general, or both.
 4 MS. MATTHEWS:
 5 A. Back in 2005 I would not have kept, that's not
 6 something I would have kept a file on because
 7 I would have seen it as a departmental and
 8 more so an Eastern Health issue. So, I would
 9 not have kept a file on ER/PR back at that
 10 time. And even today, you know, in terms of
 11 briefing notes because I receive all of the
 12 briefing notes that come into the premier's
 13 office. Again, it's not something--I don't
 14 file those away and it's simply a space issue
 15 for me. I know that they're filed one floor
 16 up, the Cabinet Secretariat, so if I ever need
 17 a briefing note, I can just call them.
 18 COFFEY, Q.C.:
 19 Q. Did, at some point, the ER/PR matter become a
 20 file in your office?
 21 MS. MATTHEWS:
 22 A. In my office particularly?
 23 COFFEY, Q.C.:
 24 Q. Yes.
 25 MS. MATTHEWS:

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1 A. I've never -
 2 COFFEY, Q.C.:
 3 Q. Electronic or otherwise, electronic or paper
 4 for that matter.
 5 MS. MATTHEWS:
 6 A. Electronic--no, it did not. And again, it's
 7 just because all of the files that, all of the
 8 documents that I would have put in a file are
 9 housed moments away from me. So, I just,
 10 because of space reasons, would not have kept
 11 a file on that particular issue.
 12 COFFEY, Q.C.:
 13 Q. Now Ma'am, you did refer to this, in 2005 you
 14 would have seen the ER/PR matter as a
 15 departmental and perhaps even more so, an
 16 Eastern Health issue. Could you tell us
 17 please what, if any system, is in place, to
 18 your knowledge, within the communications and
 19 consultation branch or the premier's office to
 20 bring to your attention--I'll put it this way--
 21 -public concern or concern being expressed
 22 publicly in the media about the way a
 23 particular matter is being handled?
 24 MS. MATTHEWS:
 25 A. What filing system is in place -

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1 COFFEY, Q.C.:
 2 Q. No, what system is in place.
 3 MS. MATTHEWS:
 4 A. System, I would rely -
 5 COFFEY, Q.C.:
 6 Q. Here's an example, concrete example here, and
 7 the Commissioner has heard and seen a lot of
 8 this, after October 2, 2005 there is an awful
 9 lot of media coverage relating to ER/PR and
 10 dissatisfaction being expressed.
 11 MS. MATTHEWS:
 12 A. Right.
 13 COFFEY, Q.C.:
 14 Q. Okay. What, if any, system exists to your
 15 knowledge to bring the existence of that
 16 dissatisfaction to the attention of yourself?
 17 MS. MATTHEWS:
 18 A. The director of communications for the
 19 Department of Health would relay that
 20 information directly to the communications and
 21 consultation branch and may also come to me
 22 directly. I would assume that Cabinet
 23 Secretariat, at that point, would have been
 24 apprised of the issue by the deputy minister
 25 for the department and would have created a

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1 briefing note on the issue.
 2 COFFEY, Q.C.:
 3 Q. I appreciate it, once the briefing note, we
 4 got the October 5 briefing note, but I'm
 5 asking you in a more general way, is there any
 6 system in place to bring to your attention the
 7 fact that on a particular issue, members of
 8 the public are not happy -
 9 MS. MATTHEWS:
 10 A. Well, I would have -
 11 COFFEY, Q.C.:
 12 Q. - concerning the way it's being handled.
 13 MS. MATTHEWS:
 14 A. I would have read it in the media and I
 15 anticipate I would have received either a call
 16 from the director in the department of she
 17 would have called or e-mailed the
 18 communications consultation branch and that
 19 information would have flowed to me and the
 20 premier's office.
 21 COFFEY, Q.C.:
 22 Q. And once it had come to your attention, is
 23 there any system in place within your office
 24 to keep track of, well, how is this being
 25 addressed? Is it being addressed

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1 satisfactorily?
 2 MS. MATTHEWS:
 3 A. Not particularly at that point. I would have
 4 relied upon the department who were working
 5 with Eastern Health to ensure that the issue
 6 was being properly managed. And from our
 7 perspective at that time, it was very much an
 8 operational issue for Eastern Health. The
 9 department seemed to be fully engaged and
 10 aware of the issue. It was in the public
 11 domain. Back in October of 2005, Eastern
 12 Health had placed ads right across the
 13 province. So, there was a fair amount of
 14 information in the public domain. So, I
 15 actually would have taken comfort in that, in
 16 that Eastern Health were out talking about,
 17 doctors were out talking about it.
 18 COFFEY, Q.C.:
 19 Q. So, I take it that there's not actually any
 20 system in place to address -
 21 MS. MATTHEWS:
 22 A. The system in place would be that the
 23 departments would be managing the issue and
 24 that they would be, they would have full
 25 control over the file in conjunction with

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1 Eastern Health, who really had ownership of
 2 the issue.
 3 COFFEY, Q.C.:
 4 Q. To your knowledge, were there any criteria in
 5 place or protocols in place which would be
 6 used to determine that the premier's office
 7 should intervene in a particular matter?
 8 MS. MATTHEWS:
 9 A. Generally speaking or particularly in the -
 10 COFFEY, Q.C.:
 11 Q. Generally speaking, first of all.
 12 MS. MATTHEWS:
 13 A. Generally speaking, the premier's office would
 14 intervene in a particular matter primarily if
 15 we were asked by the department, perhaps we
 16 were being asked for advice. Perhaps it was a
 17 circumstance where somebody in the premier's
 18 office or myself had a particular expertise in
 19 an area, they may ask us for intervention.
 20 COFFEY, Q.C.:
 21 Q. And if they done that?
 22 MS. MATTHEWS:
 23 A. Or if we felt that an issue was not being
 24 appropriately managed, then the premier's
 25 office would intervene at that point.

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1 COFFEY, Q.C.:
 2 Q. And what criteria come into play there?
 3 MS. MATTHEWS:
 4 A. To determine if an event is not being
 5 appropriately managed?
 6 COFFEY, Q.C.:
 7 Q. Yes.
 8 MS. MATTHEWS:
 9 A. I guess if you want to jump ahead to 2007, -
 10 COFFEY, Q.C.:
 11 Q. And I will be doing that, just in a general
 12 way. I'm more -
 13 MS. MATTHEWS:
 14 A. In a general way, well, I guess it's just a
 15 judgment call and it's intuition. You listen
 16 to what's happening out in the public, you
 17 watch the media, you listen to what department
 18 officials are saying and it's really just
 19 intuitive. If you feel like an issue is not
 20 being handled appropriately, there's something
 21 in your gut that tells you, maybe we need to
 22 get more involved in this.
 23 COFFEY, Q.C.:
 24 Q. Well, if, for example, members of the public
 25 or members, representatives or a

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1 representative of an advocacy group, over a
 2 period of time, complained publicly about the
 3 way that something is being handled -
 4 MS. MATTHEWS:
 5 A. Um-hm.
 6 COFFEY, Q.C.:
 7 Q. - what, if any, criteria would come into play
 8 in determining or causing the premier's office
 9 not to intervene, despite and I'll refer to it
 10 as noise, complaints.
 11 MS. MATTHEWS:
 12 A. Sure. I guess rule of thumb would be, the
 13 intervention of the premier's office would be
 14 the exception rather than the rule. We very
 15 much depend upon and I'll go back my
 16 statements about the number of departments,
 17 the number of issues, the volume, the sheer
 18 volume of work in the premier's office. I,
 19 for example, like I said before, I receive up
 20 to 140 e-mails every single day and that can
 21 be on any number of issues. And on the ER/PR
 22 issue in particular, that the premier's office
 23 didn't get involved in 2005, I don't think
 24 should be confused with the premier's office
 25 not being concerned about the issue. I don't

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1 think there was a person involved at that time
 2 who, didn't sit back and say, gosh--you know,
 3 especially from my perspective and being a
 4 woman and having a mother and nieces and
 5 sisters, how horrible a situation that must
 6 have been for the patients and the families
 7 who are impacted. But from our perspective in
 8 the premier's office, we very much relied upon
 9 professionals, particularly, health care
 10 professionals at Eastern Health to deal with
 11 the issue appropriately and we very much
 12 relied up departments and the deputies and the
 13 communications people, the ministers in those
 14 departments. They're all very competent
 15 individuals. We did not rush into every
 16 issue--and again, I don't want to minimize the
 17 issue, because nobody for a moment every
 18 minimized the seriousness of the issue, but by
 19 the same token, we had Eastern Health who were
 20 handling it and we also had health care
 21 professionals involved and we had a department
 22 who were monitoring it. So, it's not a
 23 situation where the premier's office, at that
 24 point in time--in hindsight, if we knew
 25 everything today that we knew--if we knew

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1 everything back then that we know today, you
 2 know, perhaps it would have been different,
 3 but that's just not, it's not really
 4 reasonable to put that lens on it right now.
 5 And so, the premier's office would not have
 6 had reason, at that point in time to intervene
 7 in that issue because we saw it as being
 8 appropriately handled by Eastern Health.
 9 COFFEY, Q.C.:
 10 Q. Okay. What would have to happen for it to be
 11 perceived not being properly handled? What
 12 sort of thing would have to happen?
 13 MS. MATTHEWS:
 14 A. That particular issue?
 15 COFFEY, Q.C.:
 16 Q. Or any issue really, what would have happen?
 17 Here's an example now, okay.
 18 MS. MATTHEWS:
 19 A. Sure.
 20 COFFEY, Q.C.:
 21 Q. We will see, I'll be showing you some media
 22 clippings in the fall of 2005, early winter,
 23 Christmas 2005 into early '06 -
 24 MS. MATTHEWS:
 25 A. Right.

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1 COFFEY, Q.C.:
 2 Q. - where people are complaining -
 3 MS. MATTHEWS:
 4 A. Um-hm.
 5 COFFEY, Q.C.:
 6 Q. - I won't say it longly, but certainly loudly
 7 and sharply about lack of appropriate response
 8 by Eastern Health.
 9 MS. MATTHEWS:
 10 A. Right.
 11 COFFEY, Q.C.:
 12 Q. A lack of being told why the problem had
 13 happened.
 14 MS. MATTHEWS:
 15 A. Um-hm.
 16 COFFEY, Q.C.:
 17 Q. Complaints from the patients' perspective of
 18 tardiness in getting the test results done,
 19 retest results done and communicated.
 20 MS. MATTHEWS:
 21 A. Right.
 22 COFFEY, Q.C.:
 23 Q. What, if anything, more had to happen before
 24 the premier's office would intervene?
 25 MS. MATTHEWS:

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1 A. Well, I guess if I could for a moment, just to
 2 go back to 2005 and again, it's a long time
 3 ago. So, you try to recollect to the best of
 4 your ability, but I know how I operate and I
 5 know what my instincts would have told me at
 6 the time. And I know that my concerns, back
 7 in 2005 would have been around, are the issues
 8 in the lab being resolved and they were. Are
 9 the patients being dealt with appropriately
 10 and in a timely manner? And from my
 11 perspective at that time I was assured that
 12 they absolutely were. And as I said again,
 13 the ads that were run by Eastern Health in of
 14 October of '05, you know, that would have
 15 given me comfort. It was out there, it was
 16 widely discussed and known that there were
 17 issues. It was a tragedy and it was
 18 incredibly unfortunate and I can't fathom how
 19 the patients and their families must have felt
 20 about it, but from my perspective, from
 21 communications in the premier's office, my
 22 concern was always are the patients being
 23 appropriately dealt with?
 24 So then we move into 2006 and we never,
 25 you know, it wasn't broadly discussed,

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1 publicly in 2006. I think the next briefing
 2 note the premier's office would have received
 3 would have been in August, an updated briefing
 4 note. Towards the end of 2006 clearly the
 5 public and the media, in particular, were
 6 experiencing a great of frustration with
 7 Eastern Health in how they were communicating
 8 the events surrounding ER/PR. At that point
 9 in, and again, we would have relied very much
 10 so, in the early days particularly, on advice
 11 from health care professionals in terms of how
 12 to disclose this information. And again,
 13 patients were being, to the best of our
 14 knowledge and we were assured repeatedly that
 15 patient were being informed in a timely manner
 16 and they were being appropriately followed up
 17 with their positions. At the end of 2006 we
 18 can to the point in time where Eastern Health
 19 did a technical briefing and again, not
 20 everyone was happy in the media and in the
 21 public generally, but that's -
 22 COFFEY, Q.C.:
 23 Q. I'm going to suggest to you, Ma'am, that quite
 24 a number of people were unhappy when you look
 25 at the media coverage at that point.

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1 MS. MATTHEWS:
 2 A. That's right.
 3 COFFEY, Q.C.:
 4 Q. So, I'm just asking you in terms of, from your
 5 perspective as the director of communications
 6 for the premier's office, you would have been
 7 aware to a certain extent of the expressions
 8 of dissatisfaction.
 9 MS. MATTHEWS:
 10 A. That's right.
 11 COFFEY, Q.C.:
 12 Q. There was no intervention by the premier's
 13 office at the time, at least that we're aware
 14 of -
 15 MS. MATTHEWS:
 16 A. That's right.
 17 COFFEY, Q.C.:
 18 Q. - in December of '06.
 19 MS. MATTHEWS:
 20 A. Um-hm.
 21 COFFEY, Q.C.:
 22 Q. The question arises, why not? What more had
 23 to happen?
 24 MS. MATTHEWS:
 25 A. I guess again I would go back to, and I always

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1 have to preface this by saying that I'm not
 2 diminishing the issue because there is, you
 3 know, it was a health care issue that was of
 4 great concern and we were always concerned,
 5 very much so about the patients and they were
 6 a priority. It's not unusual in the premier's
 7 office or in government generally to have
 8 people unhappy with you. It's not unusual for
 9 the media to be unhappy with you. It's not
 10 unusual to have people complaining about
 11 policies or programs. It's not preferable
 12 and, you know, it's not widespread, but it's,
 13 by the same token, it's not unusual. So,
 14 while this issue was obviously incredibly
 15 unfortunate, we still would have seen it as an
 16 operational issue for Eastern Health. In
 17 particular, because it was a Health Care
 18 issue, you know, there were confidentiality
 19 issues; there were patient/doctor care issues.
 20 So, we really would have just seen it as
 21 something that Eastern Health were handling
 22 and the department were very much involved in
 23 as well.
 24 COFFEY, Q.C.:
 25 Q. Well then, what then happened in--I supposed

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1 to come at this another way, what happened in
 2 May of '07 to cause the intervention?
 3 MS. MATTHEWS:
 4 A. I think in May of '07 and I'll go back for one
 5 moment. The director of communications, at
 6 the time, in the Department of Health, Ms.
 7 Mundon, she had begun expressing to me, late
 8 in 2006 that she was feeling a fair amount of
 9 frustration with Eastern Health in terms of
 10 getting information from them and their
 11 willingness to share information. And again,
 12 it's a while ago, so they were more so
 13 conversations passing in the hallway. And
 14 again, I've never spoken with the communications
 15 folks at Eastern Health. I've never dealt
 16 with them directly. So, I'm just passing on
 17 some of the sentiment at that time. I guess
 18 it felt largely resolved to a point with the
 19 technical briefing that they had had with the
 20 media. From my expectation, when you do a
 21 technical briefing with the media, you give
 22 them as much information as you can. That's
 23 the purpose. You want them to walk away, you
 24 want them to be happy and to be fully informed
 25 because if they aren't fully informed on an

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1 issue and you know that there are facts that
 2 you haven't told them about that are going to
 3 be in the public domain, it makes no sense to
 4 me from a communications perspective. I would
 5 never advocate or understanding holding
 6 something back from the media that you know
 7 that they are going to find out about it
 8 because it destroys confidence. And I would
 9 suggest that by, I think it was May of 2007,
 10 it became evident through a story that came
 11 out, I believe it was CBC radio, at the time,
 12 that Eastern Health, in my opinion, had
 13 purposely kept information from the media in
 14 that technical briefing. Now, I think at the
 15 time there may have been some discussion
 16 around that back in December, but the
 17 magnitude of the information that was kept at
 18 that time was such that government lost
 19 confidence in Eastern Health's ability to
 20 manage the issue. And more so, the public
 21 lost confidence in Eastern Health's ability to
 22 manage the issue. And to be honest, at that
 23 time, also, it was the first time, to my
 24 knowledge or to my recollection, that a
 25 minister within the department actually called

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1 the premier's office and said, look, here's
 2 what's going on, it's not acceptable to me,
 3 something has to be done. And that was at the
 4 point of which the premier's office officer
 5 intervened.
 6 COFFEY, Q.C.:
 7 Q. So, I take it then from what you've told us
 8 that the factor that kind of tipped the
 9 balance in terms of intervention by the
 10 premier's office in the ER/PR matter was the
 11 fact that it had become publicly known, on May
 12 15, publicly known that in December of '06,
 13 Eastern Health had refused to give out certain
 14 numbers. And now it was publicly known what
 15 those numbers were.
 16 MS. MATTHEWS:
 17 A. Yeah, I think back in December--and I'm just
 18 trying to recall it, I vaguely recall it.
 19 There may have been some discussion in the
 20 media back in December that they hadn't gotten
 21 all of the numbers, but in May it was the
 22 magnitude of those numbers, you know, the
 23 magnitude of the numbers that change the
 24 conversion rates, had been revealed through
 25 the court process, I believe it was. And it

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1 just, at that point, became very evident that
 2 the public had lost confidence and really the
 3 government had lost confidence in Eastern
 4 Health's ability to communicate this issue.
 5 COFFEY, Q.C.:
 6 Q. Okay. If we could, please, then--if we could,
 7 I have to enter some exhibits please,
 8 Commissioner, if I could.
 9 THE COMMISSIONER:
 10 Q. Yes.
 11 COFFEY, Q.C.:
 12 Q. Exhibits P-0614, 0618, 0619--I apologize,
 13 1614, 1618, 1619, 1620, 1621, 1630, 1631, 1632
 14 and 1633, please.
 15 THE COMMISSIONER:
 16 Q. Entered.
 17 EXHIBIT P-1614 MARKED AND ENTERED
 18 EXHIBITS P-1618 TO P-1621 INCLUSIVE, MARKED AND ENTERED
 19 EXHIBITS P-1630 TO P-1633 INCLUSIVE, MARKED AND ENTERED
 20 COFFEY, Q.C.:
 21 Q. I hope I've listed all those off correctly.
 22 THE COMMISSIONER:
 23 Q. Well, you've listed the ones that are on the
 24 list that was just recently given to me.
 25 COFFEY, Q.C.:

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1 Q. Yes.
 2 THE COMMISSIONER:
 3 Q. Okay. Now, did you want one of those brought
 4 up?
 5 COFFEY, Q.C.:
 6 Q. No, Commissioner. I'm going to go to, exhibit
 7 P-0312 please. Ms. Matthews, I'm going to ask
 8 you, when you first heard the term ER/PR or
 9 estrogen receptor/progesterone receptor?
 10 MS. MATTHEWS:
 11 A. That would have been on July 19 of '05.
 12 COFFEY, Q.C.:
 13 Q. Okay. Could you tell the Commissioner,
 14 please, in your own words, what happened?
 15 MS. MATTHEWS:
 16 A. I recall vaguely a conversation between myself
 17 and Carolyn Chaplin on the day. I'm fairly
 18 certain that Mr. Crawley was there as well. I
 19 can't recall specifics of the conversation,
 20 just by virtue of the fact that it's some time
 21 ago, but I do recall a conversation. Carolyn
 22 had called to give a heads up that there was
 23 an issue percolating now in Eastern Health
 24 that could become public very soon and it was
 25 regarding some inaccurate testing for breast

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1 cancer patients in the province. I anticipate
 2 that I would have said to her, okay, you know,
 3 are the issues in the lab, I assume, that's
 4 being handled by professionals in the lab and
 5 the physicians and whatnot. And I would have
 6 received that assurance and I would asked how
 7 patients were being handled and were they
 8 being notified in an appropriate and timely
 9 manner. And I would have thanked her for the
 10 information and asked her to keep me updated
 11 as things evolved.
 12 COFFEY, Q.C.:
 13 Q. And did she talk about any numbers, do you
 14 recall, at the time?
 15 MS. MATTHEWS:
 16 A. I don't recall specifically her talking about
 17 numbers. She may have, I just don't recollect
 18 that specifically.
 19 COFFEY, Q.C.:
 20 Q. Receiving such a phone call, would you keep
 21 any notes on it?
 22 MS. MATTHEWS:
 23 A. I likely would not have, no.
 24 COFFEY, Q.C.:
 25 Q. And would you expect to receive anything in

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1 writing?

2 MS. MATTHEWS:

3 A. Based up on that first phone call, I would

4 have anticipated that Cabinet Secretariat

5 would have been apprised of the situation by

6 the deputy minister or by somebody in the

7 department and that likely, a briefing note

8 would be forthcoming.

9 COFFEY, Q.C.:

10 Q. What's your next memory of this? So, you're

11 on the phone talking to her.

12 MS. MATTHEWS:

13 A. Um-hm.

14 COFFEY, Q.C.:

15 Q. What happens then?

16 MS. MATTHEWS:

17 A. From my perspective, what would have happened,

18 was I would have gone about other business in

19 the office. I don't have any specific

20 recollections of talking about the issues

21 again until September when the issue broke in

22 the media.

23 COFFEY, Q.C.:

24 Q. Now, did you have any--I take it then from

25 what you've told us earlier this morning, you

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1 have no system other than a scratch pad to

2 keep track of the fact that you've been told

3 this and what the status of it is that day or

4 the next or the following.

5 MS. MATTHEWS:

6 A. Well, I would have relied upon Cabinet

7 Secretariat because I do receive the briefing

8 notes that they prepare. So, an issue of that

9 magnitude at that time, we know that later

10 obviously in the day, new information came,

11 but at that particular time, I would have

12 relied upon Cabinet Secretariat to potentially

13 provide a briefing note depending upon the

14 facts surrounding the issue. It was very

15 fresh at that time, so.

16 COFFEY, Q.C.:

17 Q. And do you recall taking a phone call from Ms.

18 Chaplin--did you know Ms. Chaplin before this?

19 MS. MATTHEWS:

20 A. Yes, I did, yes.

21 COFFEY, Q.C.:

22 Q. In what context did you know her?

23 MS. MATTHEWS:

24 A. I knew her vaguely back from our university

25 days, but not--I wouldn't say I knew her very

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1 well at all. I just knew of her more and I

2 had known her since she had starting working

3 with government back in, I guess it was 2003

4 when she had first come to work with

5 government.

6 COFFEY, Q.C.:

7 Q. So, you received a phone call from her and you

8 understood the purpose of your receiving a

9 phone call was what?

10 MS. MATTHEWS:

11 A. The purpose of that phone call would have been

12 to provide a heads up to the premier's office.

13 She wouldn't have been looking for direction

14 or asking advice. Carolyn was a very

15 conscientious directors of communications.

16 And I knew her, I had gotten to know her

17 personally over her tenure with government.

18 So, it would not have been unusual for Carolyn

19 to call and give me a heads up. As I said,

20 she is very conscientious and she wouldn't

21 have been looking for advice or direction in

22 particular, but at that point, it was

23 anticipated the issue was going to appear on

24 the media within the next couple of days. So,

25 it would have been a heads up.

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1 COFFEY, Q.C.:

2 Q. So, if it was going to appear within the next

3 couple of days, what did you anticipate would

4 happen?

5 MS. MATTHEWS:

6 A. I would anticipate that I would see a story

7 within the next couple of days from Eastern

8 Health explaining the situation.

9 COFFEY, Q.C.:

10 Q. How about anything internally, within

11 government?

12 MS. MATTHEWS:

13 A. I would have anticipated if--I can't recall

14 specifically what I would have anticipated,

15 but knowing how our government operates and

16 how our office operates, you know, one of our

17 main tenets as a government, I think, is

18 openness and accountability and, you know, we

19 would have advocated, based upon the facts at

20 the time, we probably would have anticipated

21 that it would become known to the public.

22 Now, having said that, the more we talked

23 about it and I guess, as the issue evolved,

24 the main concern was really making the issue

25 known to patients and that's where we would

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1 have taken advice from the health care
 2 professionals in terms of when the patients
 3 would know versus when the public would know.
 4 And I guess over the course of the next couple
 5 of days, those conversations were held between
 6 officials and Eastern Health and the
 7 Department of Health. And there was, you
 8 know, a debate -
 9 COFFEY, Q.C.:
 10 Q. Well -
 11 MS. MATTHEWS:
 12 A. - over whether or not -
 13 COFFEY, Q.C.:
 14 Q. Were you privy to those conversations?
 15 MS. MATTHEWS:
 16 A. No, I would not have been.
 17 COFFEY, Q.C.:
 18 Q. So, from your own perspective, you get this
 19 phone call from Ms. Chaplin, she's talking
 20 about errors in breast cancer testing.
 21 MS. MATTHEWS:
 22 A. Correct.
 23 COFFEY, Q.C.:
 24 Q. And if she did mention numbers, you don't
 25 recall what -

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1 MS. MATTHEWS:
 2 A. I don't recall specifically, but I wouldn't be
 3 surprised if she had mentioned--if she knew
 4 the numbers at that time, I fully anticipate
 5 she would have mentioned the numbers.
 6 COFFEY, Q.C.:
 7 Q. And would you have expected then to, before
 8 the media actually or the story went into the
 9 media -
 10 MS. MATTHEWS:
 11 A. Um-hm.
 12 COFFEY, Q.C.:
 13 Q. - before the media reported it, would you have
 14 expected to have received any briefing notes
 15 yourself?
 16 MS. MATTHEWS:
 17 A. Well, a briefing note perhaps, but it was an
 18 issue for Eastern Health and they were dealing
 19 with it. It was their issue. By virtue of
 20 the fact though that it was such a significant
 21 issue in terms of what we now know the numbers
 22 were and what they originally thought the
 23 numbers were that morning, I would have
 24 anticipated that the deputy would have alerted
 25 Cabinet Secretariat and a briefing note very

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1 well could have been prepared.
 2 COFFEY, Q.C.:
 3 Q. And that would have ended up on your desk?
 4 MS. MATTHEWS:
 5 A. Yes, it would have. I -
 6 COFFEY, Q.C.:
 7 Q. And distributed -
 8 MS. MATTHEWS:
 9 A. Yes, I'm on the circulation list for those
 10 briefing notes.
 11 COFFEY, Q.C.:
 12 Q. So, was it your responsibility then to, having
 13 been told about this, your responsibility to
 14 bring this to Mr. Williams' attention?
 15 MS. MATTHEWS:
 16 A. It would have been either the responsibility
 17 of myself or Mr. Crawley, at that time, based
 18 upon the information we had in the morning.
 19 COFFEY, Q.C.:
 20 Q. Okay.
 21 MS. MATTHEWS:
 22 A. That may have changed based upon the
 23 information that came later in the day.
 24 COFFEY, Q.C.:
 25 Q. Okay, so, with respect to this, do you recall-

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1 -I think you told us that Mr. Crawley may have
 2 been there when you took the phone call from
 3 Ms. Chaplin.
 4 MS. MATTHEWS:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. Do you recall, were you on the speaker phone,
 8 could Mr. Crawley hear this?
 9 MS. MATTHEWS:
 10 A. If he was there, likely we could have been on
 11 the speaker phone. I can't say that with
 12 certainty, but it's likely we could have been.
 13 COFFEY, Q.C.:
 14 Q. Do you recall if this was before the executive
 15 meeting that morning?
 16 MS. MATTHEWS:
 17 A. I cannot recall specifically when it was that
 18 day. I do know that on that particular day we
 19 had an event at Government House, in the
 20 morning, one of our--there had been a by-
 21 election and we had a new member and he was
 22 being sworn in at Government House. So, I
 23 would have been tied up preparing for that.
 24 So, I'm not altogether certain that I had
 25 spoken with--that that conversation happened

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1 before or after the event at Government House.
 2 COFFEY, Q.C.:
 3 Q. And what time was the event at Government
 4 House, do you know?
 5 MS. MATTHEWS:
 6 A. I believe it was 11:00 in the morning.
 7 COFFEY, Q.C.:
 8 Q. Well, we do have Exhibit P-0312, an e-mail
 9 from Mr. Cake, at 10:32 a.m. on July 19 to Mr.
 10 Thompson and he concludes by saying, "Carolyn
 11 has also alerted Elizabeth to this matter"
 12 suggesting that your phone with Carolyn was
 13 before 10:30.
 14 MS. MATTHEWS:
 15 A. Well, I believe Carolyn has testified. I
 16 didn't have the luxury of seeing her whole
 17 testimony, but I believe she testified that
 18 she left me a voice mail that morning. So
 19 that may be referring to the voice mail that
 20 she left me at that time. The call may have
 21 occurred before then. I don't discount that,
 22 but I just honestly cannot recollect that.
 23 COFFEY, Q.C.:
 24 Q. So she left you a voice mail. Do you recall
 25 what she said to you in the voice mail?

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1 MS. MATTHEWS:
 2 A. I don't recall the details of the voice mail.
 3 COFFEY, Q.C.:
 4 Q. Okay. So did you receive or listen to the
 5 voice mail before you had the conversation
 6 with her?
 7 MS. MATTHEWS:
 8 A. Again, it was--you know, it's something that
 9 happened three years ago and I really can't
 10 recall specifically when, in that day, I would
 11 have listened to the voice mail or I would
 12 have spoken directly with Carolyn.
 13 COFFEY, Q.C.:
 14 Q. And when you went to Government House, who was
 15 there, do you recall? Who would have attended
 16 the -
 17 MS. MATTHEWS:
 18 A. Oh gosh, I don't recall specifically. I know
 19 the new member would have been there,
 20 obviously, with his family. The Premier was
 21 certainly there. Often, Government MHAS or
 22 ministers may attend, depending upon their
 23 availability, and the media are typically
 24 usually in attendance as well.
 25 COFFEY, Q.C.:

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1 Q. Looking at Exhibit P-0312, Mr. Cake certainly
 2 writes here that he's been told by Ms.
 3 Chaplin, he describes it as "a major story
 4 break from Eastern Health Board as early as
 5 Thursday," which would be then two days hence,
 6 "more likely the following Monday. Errors in
 7 breast cancer testing."
 8 MS. MATTHEWS:
 9 A. Um-hm.
 10 COFFEY, Q.C.:
 11 Q. "1997 to April 2004." Do you recall Ms.
 12 Chaplin speaking to you about a time frame?
 13 MS. MATTHEWS:
 14 A. Again, specific -
 15 COFFEY, Q.C.:
 16 Q. Is that the sort of thing you'd want to know?
 17 MS. MATTHEWS:
 18 A. - specific details, I don't recall, but I
 19 would imagine that she would have discussed--
 20 if she had that information, I imagine she
 21 would have passed it on to me, because as I
 22 said, Carolyn was very conscientious and
 23 thorough, so I would imagine she would have
 24 shared those details with me.
 25 COFFEY, Q.C.:

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1 Q. And I'm going to suggest to you that
 2 conversely from your end, being conscientious,
 3 you would have asked about the time frame
 4 likely? If it was known, you'd want to know
 5 what the time frame was?
 6 MS. MATTHEWS:
 7 A. Yes.
 8 COFFEY, Q.C.:
 9 Q. Sure.
 10 MS. MATTHEWS:
 11 A. Again, I don't--without really recalling
 12 specifics of the conversation, I don't know
 13 what she was passing on to me. So it's
 14 difficult to say what I may or may not have
 15 asked, but I would anticipate fully that if
 16 Carolyn had that information, she would have
 17 passed that on to me.
 18 COFFEY, Q.C.:
 19 Q. And 1200 to 1500--well, Mr. Cake refers to it
 20 as clients, but I gather that Ms. Chaplin says
 21 she would have used the word, patients will
 22 need to be retested. The idea that "Eastern
 23 Health is currently working on a strategy for
 24 communicating this news to affected clients
 25 and the public at large." I take it that

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1 would be "a strategy for communicating" would
 2 fall into your bailiwick and to your world,
 3 that idea of -
 4 MS. MATTHEWS:
 5 A. Sure.
 6 COFFEY, Q.C.:
 7 Q. And do you recall whether or not the idea of
 8 legal advice came up in the conversation you
 9 had with her? Did she talk to you about legal
 10 advice?
 11 MS. MATTHEWS:
 12 A. I don't recall that being part of the
 13 conversation, no.
 14 COFFEY, Q.C.:
 15 Q. There's a reference here to "a briefing note
 16 is currently being prepared." At this time,
 17 do you recall, on July 19th, in speaking with
 18 Ms. Chaplin, whether you had the sense that
 19 look, there is going to be a briefing note
 20 along?
 21 MS. MATTHEWS:
 22 A. I would have, again -
 23 COFFEY, Q.C.:
 24 Q. If it's going to break in two days time.
 25 MS. MATTHEWS:

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1 A. Yeah, again, I don't specifically recall
 2 details, but I would anticipate that yes, a
 3 briefing note would have been prepared.
 4 That's the normal course of business and
 5 that's how things usually happen. So I have
 6 no reason to believe otherwise.
 7 COFFEY, Q.C.:
 8 Q. Okay, and so you had a conversation with Ms.
 9 Chaplin. You believe Mr. Crawley was probably
 10 there at the time?
 11 MS. MATTHEWS:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. You, from your perspective, view Ms. Chaplin
 15 as a conscientious sort?
 16 MS. MATTHEWS:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. And if she had the information, and apparently
 20 she had it to pass on to Mr. Cake by 10:30, so
 21 she had the information at the time, you would
 22 not take issue with her having passed that
 23 information on to you?
 24 MS. MATTHEWS:
 25 A. No, not at all. As a matter of fact, based

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1 upon the information that's in this e-mail, I
 2 would have fully anticipated that she had
 3 contacted the Premier's office on an issue of
 4 this magnitude.
 5 COFFEY, Q.C.:
 6 Q. So did you then discuss it with anybody? I
 7 appreciate Mr. Crawley is there and if he's
 8 listening on the speaker phone, well, he knows
 9 as much as you do about it at that point.
 10 MS. MATTHEWS:
 11 A. Right.
 12 COFFEY, Q.C.:
 13 Q. Did you discuss it then with anybody else?
 14 Mr. Crawley and yourself know. Did you tell
 15 Mr. Williams?
 16 MS. MATTHEWS:
 17 A. I don't recall specifically if I told the
 18 Premier on that day, and I guess I'd like to
 19 move to talk about the e-mail that came later
 20 in the day, which was--because I can't answer
 21 that question without talking about that e-
 22 mail.
 23 COFFEY, Q.C.:
 24 Q. Well, first of all, would you--Ms. Matthews,
 25 would you have--I appreciate, you know, that a

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1 subsequent e-mail comes in and it may change,
 2 from your perspective, your perception of it.
 3 MS. MATTHEWS:
 4 A. Um-hm.
 5 COFFEY, Q.C.:
 6 Q. Or your understanding of it, but is this the
 7 sort of matter, 1200 to 1500 people, breast
 8 cancer testing errors.
 9 MS. MATTHEWS:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. It's almost a seven-year period.
 13 MS. MATTHEWS:
 14 A. Right.
 15 COFFEY, Q.C.:
 16 Q. Public announcement in two days. That's the
 17 sort of thing that Mr. Williams would want to
 18 know, isn't it?
 19 MS. MATTHEWS:
 20 A. Absolutely, and in the course of a normal
 21 business day, in the absence of the subsequent
 22 e-mail and, you know, if he was in the office
 23 indeed that morning, I would have--that is
 24 something that I would have shared with him.
 25 COFFEY, Q.C.:

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1 Q. And would you attend to Government House?
 2 MS. MATTHEWS:
 3 A. Yes, I would have, yes.
 4 COFFEY, Q.C.:
 5 Q. And Mr. Williams would have been there?
 6 MS. MATTHEWS:
 7 A. Yes, he would have.
 8 COFFEY, Q.C.:
 9 Q. And would you have--yourself, Mr.--would Mr.
 10 Crawley have attended Government House, do you
 11 know?
 12 MS. MATTHEWS:
 13 A. I'm not certain. Sometimes he attends,
 14 sometimes he's not. It just depends on what
 15 his schedule allows.
 16 COFFEY, Q.C.:
 17 Q. Okay. Would Mr.--is that the sort of thing
 18 Mr. Thompson would go to, as clerk?
 19 MS. MATTHEWS:
 20 A. Yes, I believe the clerk would be involved in
 21 the swearing in process.
 22 COFFEY, Q.C.:
 23 Q. Swearing in, yes.
 24 MS. MATTHEWS:
 25 A. So he would have attended, yes.

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1 COFFEY, Q.C.:
 2 Q. So, and in terms of travelling down there,
 3 from the Confederation Building to Government
 4 House -
 5 MS. MATTHEWS:
 6 A. Sure.
 7 COFFEY, Q.C.:
 8 Q. - would yourself and Mr. Williams travel
 9 together?
 10 MS. MATTHEWS:
 11 A. Typically we would unless he was coming from
 12 home or perhaps coming from another event, but
 13 we may have travelled down together. I don't
 14 recall specifically if we did or not.
 15 COFFEY, Q.C.:
 16 Q. And that event was at 11:00. That would take
 17 what, half an hour or so?
 18 MS. MATTHEWS:
 19 A. Yeah, the swearing in would probably take 20
 20 minutes, but then there's a reception
 21 afterwards for the member and his family
 22 members at Government House. So all tolled,
 23 the event probably would have been in the
 24 range of an hour.
 25 COFFEY, Q.C.:

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1 Q. And do you recall then what happened that
 2 afternoon, in terms of the Premier's schedule?
 3 Do you remember that?
 4 MS. MATTHEWS:
 5 A. There's nothing--I don't believe there was
 6 anything else on the Premier's schedule. As a
 7 matter of fact, I think the Premier may have
 8 booked some time off that week because I do
 9 know that his assistant was off that week and
 10 I know that--I know personally her style is
 11 that she will not book time off unless she
 12 knows the Premier is booking some time off as
 13 well.
 14 COFFEY, Q.C.:
 15 Q. And in terms of that particular day, I take it
 16 he was working that day?
 17 MS. MATTHEWS:
 18 A. I don't know that for certain. He was working
 19 at Government House, but I don't know if he
 20 returned to the office after that event or
 21 not.
 22 COFFEY, Q.C.:
 23 Q. So do you know whether or not you spoke to Mr.
 24 Williams about this event that day?
 25 MS. MATTHEWS:

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1 A. I can't say that with certainty. I know -
 2 COFFEY, Q.C.:
 3 Q. You can't say you did or didn't?
 4 MS. MATTHEWS:
 5 A. I can't say I did or I didn't. Like I said,
 6 in a perfect world in the course of a normal
 7 day in the office, I most certainly would have
 8 told him about the issue. But again, we have--
 9 -you know, I have to put that into context and
 10 I assume you're going to talk about that, the
 11 -
 12 COFFEY, Q.C.:
 13 Q. Yes, I am. I'm going to go to it.
 14 MS. MATTHEWS:
 15 A. - the subsequent e-mail later that afternoon.
 16 COFFEY, Q.C.:
 17 Q. So having taking Ms. Chaplin's phone call, do
 18 you recall then, did you--well, as I said, Mr.
 19 Crawley was there. Did you discuss it with
 20 Mr. Thompson or Mr. Cake or anybody else as to
 21 -
 22 MS. MATTHEWS:
 23 A. Very doubtful I would have discussed it with
 24 Mr. Cake. I don't have much interaction with
 25 the folks on that floor, in that particular

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1 role.

2 COFFEY, Q.C.:

3 Q. How about Mr. Thompson?

4 MS. MATTHEWS:

5 A. Mr. Thompson, again, it's highly unlikely,

6 just because--you know, if Robert had been

7 down on the floor, perhaps I may have, but it

8 wouldn't have been typical for me, for

9 example, to pick up the phone and call him.

10 At Government House, I very likely would not

11 have had an opportunity, because it's a very

12 formalized, structured event and my focus is

13 more so on, you know, the media at that time

14 and helping the--doing what I can to

15 facilitate the swearing in of the new member.

16 COFFEY, Q.C.:

17 Q. Now do you have any recollection of ever

18 discussing this with Robert Thompson?

19 MS. MATTHEWS:

20 A. I do now, since May of last year, for example,

21 but at that time, no, I have no--it doesn't

22 resonate with me at all that I would have

23 discussed it with Mr. Thompson.

24 COFFEY, Q.C.:

25 Q. Okay. So if we could, please, look at Exhibit

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1 P-0312, page five? This is the e-mail of 2:37

2 p.m. from Ms. Chaplin to Mr. Cake, copied to

3 John Abbott, and this is the one where she has

4 typed "no action is required at this time,

5 further to this morning and incoming

6 information this afternoon. We have arranged

7 a briefing with the health authority for the

8 latter part of this week. We'll be in a

9 better position to forward relevant briefing

10 materials at that time. No public

11 announcement will be forthcoming this week,

12 and there is a possibility that the

13 significance of any announcement will be

14 minimized."

15 Now ma'am, and this is, I take it, the e-

16 mail you were just referring to?

17 MS. MATTHEWS:

18 A. Yes, that's correct.

19 COFFEY, Q.C.:

20 Q. You had not seen this e-mail?

21 MS. MATTHEWS:

22 A. It did not come directly to me, no.

23 COFFEY, Q.C.:

24 Q. Did you ever see it until this year?

25 MS. MATTHEWS:

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1 A. I don't recollect seeing it until this year,

2 no, I do not.

3 COFFEY, Q.C.:

4 Q. That day, on the 19th, do you have any other

5 recollection of breast cancer testing

6 problems?

7 MS. MATTHEWS:

8 A. I actually don't have any recollection beyond

9 what I've already discussed with you.

10 COFFEY, Q.C.:

11 Q. How about the next day?

12 MS. MATTHEWS:

13 A. No.

14 COFFEY, Q.C.:

15 Q. Like at the executive meeting the next day,

16 which would be the 20th.

17 MS. MATTHEWS:

18 A. The 20th.

19 COFFEY, Q.C.:

20 Q. Would be a Wednesday.

21 MS. MATTHEWS:

22 A. Right.

23 COFFEY, Q.C.:

24 Q. The 21st would be a Thursday.

25 MS. MATTHEWS:

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1 A. I don't have any recollection, and if I may, I

2 would put it in the context of, again, how the

3 Premier's office operates, and when we would

4 have--though I didn't get this e-mail

5 directly, I fully anticipate--in fact, I'm

6 quite confident that Mr. Thompson would have

7 told Brian Crawley, the chief of staff, that

8 the issue is not what they thought it to be.

9 It's substantially minimized. There will be

10 no announcement forthcoming or if there is

11 one, it'll be, you know, substantially

12 minimized compared to what the original

13 analysis of this situation was. So from my

14 perspective, that issue would have moved off

15 of my radar at that point. So that's probably

16 why I don't particularly have any further

17 recollection of it throughout the course of

18 the week that followed.

19 COFFEY, Q.C.:

20 Q. I take it then that you have no--you're

21 telling the Commissioner you have no

22 recollection of a subsequent phone call or

23 communication from Ms. Chaplin about this?

24 MS. MATTHEWS:

25 A. No. I believe she has testified that she

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1 called me, but I don't recall the conversation
 2 specifically. Again, I get, you know, quite a
 3 number of phone calls and e-mails in the
 4 course of a day, so--you know, and that's not
 5 to excuse not remembering it. I just don't
 6 have a--and not to say that she didn't call.
 7 She very may well have. I just don't
 8 recollect it.
 9 COFFEY, Q.C.:
 10 Q. So we don't know whether or not Mr. Thompson
 11 did or did not speak to Mr. Crawley about that
 12 e-mail, but do you have any recollection of
 13 you being spoken to about it, after the--like
 14 on the 19th? I mean, you get told there's
 15 1200 to 1500 women -
 16 MS. MATTHEWS:
 17 A. Right.
 18 COFFEY, Q.C.:
 19 Q. - who may have a very significant problem.
 20 MS. MATTHEWS:
 21 A. Right.
 22 COFFEY, Q.C.:
 23 Q. Your next recollection of this is September?
 24 MS. MATTHEWS:
 25 A. Correct.

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1 COFFEY, Q.C.:
 2 Q. And your office, I take it, has no system in
 3 place to keep track of what happened to what I
 4 was told like yesterday? On Tuesday, I'm told
 5 there's a big problem potentially and an
 6 announcement is imminent.
 7 MS. MATTHEWS:
 8 A. Cabinet Secretariat would keep track in terms
 9 of preparing briefing notes and I would assume
 10 monitoring issues. I don't know what specific
 11 protocols or processes they have in place in
 12 Cabinet Secretariat, but generally we would
 13 rely upon Cabinet Secretariat to keep us
 14 abreast of issues that are in the public
 15 domain or happening within departments.
 16 COFFEY, Q.C.:
 17 Q. So that if Cabinet Secretariat does not raise
 18 it again, then it just disappears?
 19 MS. MATTHEWS:
 20 A. If Cabinet Secretariat didn't raise it and the
 21 Department did not come back to us and if the
 22 Minister did not, in particular, come back to
 23 us, it would not necessarily stay at the
 24 forefront of my radar because I would just
 25 have so many other issues that I would be

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1 dealing with at any given point in time in
 2 that office.
 3 COFFEY, Q.C.:
 4 Q. And based upon what you're telling the
 5 Commissioner, I gather based upon your memory,
 6 is that it did disappear at the time?
 7 MS. MATTHEWS:
 8 A. That's correct, yes.
 9 COFFEY, Q.C.:
 10 Q. The idea that--just back up a bit. So from
 11 your perspective, I take it then you're
 12 telling the Commissioner that look, you don't
 13 even know if you were told that the
 14 significance of the--or possible significance
 15 of the matter or the announcement could be
 16 less?
 17 MS. MATTHEWS:
 18 A. I can't say I recall a specific conversation,
 19 but I would be shocked if I wasn't told that.
 20 It would be completely abnormal and unusual if
 21 Cabinet Secretariat, Robert in particular, had
 22 not passed that information on to Brian, and
 23 he most definitely would have passed that
 24 information on to me.
 25 COFFEY, Q.C.:

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1 Q. Was this the sort of thing looked at overall
 2 that you--you've pointed out, I gather, that
 3 certainly the contents of that initial e-mail,
 4 that 10:32 a.m. e-mail, if you were told that
 5 sort of information that morning by Ms.
 6 Chaplin, that's the sort of thing you'd pass
 7 on to Mr. Williams?
 8 MS. MATTHEWS:
 9 A. Correct, yes.
 10 COFFEY, Q.C.:
 11 Q. But you have no memory of whether or not you
 12 were ever told about the minimization e-mail?
 13 MS. MATTHEWS:
 14 A. I have no specific memory of it, no.
 15 COFFEY, Q.C.:
 16 Q. So you wouldn't know then whether or not you
 17 ever would then--if you did tell Mr. Williams
 18 about the first e-mail, you have no memory of
 19 whether or not you told him about the contents
 20 of what's reflected in the second e-mail at
 21 2:37?
 22 MS. MATTHEWS:
 23 A. That's right.
 24 COFFEY, Q.C.:
 25 Q. So you don't know?

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1 MS. MATTHEWS:
 2 A. That's right.
 3 COFFEY, Q.C.:
 4 Q. From your perspective, Ms. Matthews, whose
 5 responsibility is it to ensure--leaving aside
 6 the communications part of it -
 7 MS. MATTHEWS:
 8 A. Sure.
 9 COFFEY, Q.C.:
 10 Q. - from your perspective, looking at the
 11 government structure, whose responsibility
 12 would it be to ensure or try to ensure that
 13 the matter was, in practice, being handled
 14 properly?
 15 MS. MATTHEWS:
 16 A. I would -
 17 COFFEY, Q.C.:
 18 Q. That the problem was actually being addressed,
 19 leaving aside the--and I appreciate the
 20 communications with the patients is part of
 21 the problem here, but -
 22 MS. MATTHEWS:
 23 A. Right.
 24 COFFEY, Q.C.:
 25 Q. - the actual matter involving the lab itself,

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1 the technological and clinical end of it -
 2 MS. MATTHEWS:
 3 A. Right.
 4 COFFEY, Q.C.:
 5 Q. - whose responsibility is that?
 6 MS. MATTHEWS:
 7 A. Eastern Health's.
 8 COFFEY, Q.C.:
 9 Q. And how about within Government?
 10 MS. MATTHEWS:
 11 A. The Minister of Health and Community Services.
 12 COFFEY, Q.C.:
 13 Q. Was there any understanding, in 2005/2006, as
 14 to what a minister was supposed to bring to
 15 the Premier's office's attention?
 16 MS. MATTHEWS:
 17 A. I don't think there's ever been a written
 18 policy. I think it's very much a judgment
 19 call and intuition. You know when an issue is
 20 important. You have a certain sense of what
 21 would be important enough to bring to the
 22 Premier's attention.
 23 COFFEY, Q.C.:
 24 Q. And what, if anything, is the understanding
 25 concerning any failure to do so?

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1 MS. MATTHEWS:
 2 A. In terms of repercussions or -
 3 COFFEY, Q.C.:
 4 Q. Yes.
 5 MS. MATTHEWS:
 6 A. I would imagine that if there was a very
 7 serious issue that wasn't brought to the
 8 Premier's attention, that he would not be very
 9 happy.
 10 COFFEY, Q.C.:
 11 Q. Do you think that that perception is generally
 12 known throughout, for example, his Cabinet?
 13 MS. MATTHEWS:
 14 A. Yes, I would assume.
 15 COFFEY, Q.C.:
 16 Q. And do you know Mr. Ottenheimer?
 17 MS. MATTHEWS:
 18 A. Yes, I do.
 19 COFFEY, Q.C.:
 20 Q. And how, from your perspective, how
 21 conscientious a sort of person is Mr.
 22 Ottenheimer?
 23 MS. MATTHEWS:
 24 A. In the time that I worked with Mr.
 25 Ottenheimer, he appeared to be very

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1 consciences to me.
 2 COFFEY, Q.C.:
 3 Q. The Exhibit P-0075, please? And this is a
 4 briefing note, I'm going to show it to you,
 5 because it's dated July 20th, 2005, it's on
 6 Eastern Health letterhead. Now, I appreciate
 7 you would have seen this before coming here
 8 today. But had you ever seen this back in
 9 2005?
 10 MS. MATTHEWS:
 11 A. No, I didn't.
 12 COFFEY, Q.C.:
 13 Q. If we could look, please, at Exhibit P-0313?
 14 I take it Ms. Chaplin changed positions in
 15 government between July and September?
 16 MS. MATTHEWS:
 17 A. Yes, that's right.
 18 COFFEY, Q.C.:
 19 Q. And could you tell us what you know about
 20 that?
 21 MS. MATTHEWS:
 22 A. Back in, I guess, well, in around that time
 23 frame, anyway, the assistant secretary to
 24 Cabinet for communications and consultation
 25 left that position. That position is an

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1 appointment by the Premier much like a deputy
 2 minister position or other senior officials
 3 within government, and the Premier appointed
 4 Ms. Cheeseman to that position, which left Ms.
 5 Cheeseman's position open, which was a senior
 6 director within that agency. At that time
 7 that is typically a position that you would--
 8 you'd go through a process to fill the
 9 position, but it was a circumstance whereby it
 10 needed to be filled quickly, so Josephine, at
 11 that time, had the discussion with me and it
 12 was decided that we would put someone in the
 13 position. Josephine wanted to put someone in
 14 the position for a fixed period of time until
 15 there was an opportunity to do a competition,
 16 and she discussed with me potential candidates
 17 and her recommendation was Carolyn and I was
 18 quite content with that recommendation and she
 19 was put into that position at that time.
 20 COFFEY, Q.C.:
 21 Q. And you would have discussed, I take it, that
 22 recruitment with Carolyn, the fact that you
 23 were recruiting, you wanted her to come to
 24 work?
 25 MS. MATTHEWS:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. Okay. Do you recall--I take it, I gather she
 4 arrived around the beginning of September,
 5 2005?
 6 MS. MATTHEWS:
 7 A. Yes, I think that's accurate, yeah.
 8 COFFEY, Q.C.:
 9 Q. Do you recall between July 19th, 2005 and the
 10 time of her arrival in the department where
 11 you were, I'm sorry, where the communications
 12 and consultation branch is.
 13 MS. MATTHEWS:
 14 A. Right.
 15 COFFEY, Q.C.:
 16 Q. Whether you discussed the breast cancer
 17 testing issue with her?
 18 MS. MATTHEWS:
 19 A. No.
 20 COFFEY, Q.C.:
 21 Q. What about then during her first month there,
 22 September, 2005?
 23 MS. MATTHEWS:
 24 A. Until September 30th when she had sent me an
 25 e-mail about the media story, no, I had not

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1 discussed it with her.
 2 COFFEY, Q.C.:
 3 Q. Looking at this Exhibit P-0313, September
 4 30th, 2005, 4:42 p.m., the people listed, Mr.
 5 Cooper, Bruce Cooper, Elizabeth Matthews,
 6 Josephine Cheeseman, Robert Thompson, Sheree
 7 MacDonald, copied to Tansy Mundon. This says,
 8 "Eastern Health authority has contacted us to
 9 advise that an issue that had been ongoing
 10 throughout the summer concerning ER/PR testing
 11 of breast cancer patients is about to hit the
 12 media."
 13 MS. MATTHEWS:
 14 A. Um-hm.
 15 COFFEY, Q.C.:
 16 Q. "Late this afternoon Eastern Health was
 17 contacted by The Independent inquiring whether
 18 the health authority had an issue with
 19 mammogram screening." And it goes on then to
 20 inform you further. The people listed here as
 21 the recipients, from your perspective is that
 22 any particular category of people?
 23 MS. MATTHEWS:
 24 A. Well obviously myself and Josephine from the
 25 perspective of informing the Premier's office

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1 and Josephine, who was Carolyn's, she reported
 2 direct--Carolyn reported directly to
 3 Josephine. Robert, Bruce Cooper and Sheree
 4 MacDonald were both officers within the
 5 Cabinet Secretariat. I don't particularly
 6 know why they would have been copied. I guess
 7 I assumed she just wanted to give them a heads
 8 up. And Tansy, obviously, was the director of
 9 communications in the Department of Health at
 10 that time.
 11 COFFEY, Q.C.:
 12 Q. Now, this refers to Eastern Health having
 13 contacted us, us being the communications and
 14 consultation branch. Did you find anything
 15 strange about the fact that Eastern Health had
 16 done that as opposed to the department?
 17 MS. MATTHEWS:
 18 A. I don't recall--it doesn't resonate with me
 19 that it stood out at that time, but I
 20 anticipate I probably would have thought,
 21 well, perhaps they called Carolyn because of
 22 their former relationship with her. It
 23 wouldn't be typical for Eastern Health to
 24 contact the communications and consultation
 25 branch, I can say that. But I probably likely

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1 would have assumed at the time that they had a
 2 relationship with Carolyn so perhaps they
 3 called her. I can't really speculate beyond
 4 that.
 5 COFFEY, Q.C.:
 6 Q. Did you receive this e-mail on September 30th?
 7 MS. MATTHEWS:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. And open it?
 11 MS. MATTHEWS:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. And what, if anything, did you associate it
 15 with?
 16 MS. MATTHEWS:
 17 A. I would have seen it as a heads up that there
 18 was going to be an issue in the media, exactly
 19 what it says, regarding Eastern Health and the
 20 breast cancer testing. It wouldn't be unusual
 21 for a director of communications or for
 22 someone in the communications and consultation
 23 branch to give me a heads up that something
 24 was going to be in the media.
 25 COFFEY, Q.C.:

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1 Q. And there's not a whole lot of particulars
 2 here as to what's going to be in the media, is
 3 there?
 4 MS. MATTHEWS:
 5 A. No.
 6 COFFEY, Q.C.:
 7 Q. Even compared to that 10:32 a.m. e-mail we
 8 looked at involving July 19th?
 9 MS. MATTHEWS:
 10 A. That's right.
 11 COFFEY, Q.C.:
 12 Q. A lot more particulars in that. So did you do
 13 anything, make any inquiries here?
 14 MS. MATTHEWS:
 15 A. I don't particularly recall making an inquiry.
 16 Again, it would have been, to me it would have
 17 been a heads up on an issue that Eastern
 18 Health was dealing with. At that time, again,
 19 you know, from my perspective, this would have
 20 been an Eastern Health issue, an operational
 21 issue for them that they were dealing with and
 22 the Department of Health was overseeing that
 23 issue. The fact that it was going to be in
 24 the media, I guess I would have, at the time,
 25 once I read the story, I probably would have

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1 thought, preferable for a patient to have to
 2 go to the media, definitely not. I probably
 3 would have wished that Eastern Health had
 4 handled it differently in terms of how the
 5 information got into the public domain. But
 6 from my perspective at that time, again, I
 7 would have been more concerned about patient
 8 contact and patient care and ensuring that the
 9 patients who were impacted were being
 10 appropriately dealt with and in a timely
 11 manner.
 12 COFFEY, Q.C.:
 13 Q. Well, ma'am, with respect to this, when you
 14 got this e-mail that Friday, did you
 15 understand and relate this to what you'd been
 16 told by Ms. Chaplin back in July 19th?
 17 MS. MATTHEWS:
 18 A. I likely would have. I don't recall that
 19 specific in my mind right now, but I imagine I
 20 would have.
 21 COFFEY, Q.C.:
 22 Q. And so then if you did, then one of two things
 23 was possible. You still were thinking 12 to
 24 15 hundred, seven years breast cancer testing
 25 errors?

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1 MS. MATTHEWS:
 2 A. Um-hm.
 3 COFFEY, Q.C.:
 4 Q. Or the same thing and somehow something
 5 connected with significance minimized?
 6 MS. MATTHEWS:
 7 A. I imagine that -
 8 COFFEY, Q.C.:
 9 Q. Because that's if you were -
 10 MS. MATTHEWS:
 11 A. Yes. I -
 12 COFFEY, Q.C.:
 13 Q. So here looking at this.
 14 MS. MATTHEWS:
 15 A. Right.
 16 COFFEY, Q.C.:
 17 Q. What, if anything, would you have done then,
 18 you know, this is a Friday, if it's going to
 19 be--and The Independent publishes on a Sunday.
 20 MS. MATTHEWS:
 21 A. Right.
 22 COFFEY, Q.C.:
 23 Q. You would have been aware of that?
 24 MS. MATTHEWS:
 25 A. Right.

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1 COFFEY, Q.C.:

2 Q. What, if anything, did you or would you have

3 done to become better informed as to what

4 actually was going to happen here, what was

5 going on and what was going to be printed?

6 MS. MATTHEWS:

7 A. It's likely that I would not have made a phone

8 call at that point because it would have been

9 an issue that Eastern Health was dealing with.

10 It's something that the department was dealing

11 with, Eastern Health was dealing with. And

12 again, not to minimize my concern about the

13 issue or how it would be impacting patients,

14 but from a sheer volume of workload on the

15 Premier's office floor, we don't necessarily

16 follow up every time somebody gives us a heads

17 up on an issue.

18 COFFEY, Q.C.:

19 Q. Well, here, just looking at this, who amongst

20 the group of recipients here would be

21 responsible for asking for a briefing note?

22 MS. MATTHEWS:

23 A. I would imagine Cabinet Secretariat would be

24 responsible for asking for a briefing note and

25 Carolyn and Josephine in their capacities at

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1 the communications, consultation branch would

2 have followed up with the department directly.

3 COMMISSIONER:

4 Q. Mr. Coffey, wherever you can find a convenient

5 spot, I'll take the morning break.

6 COFFEY, Q.C.:

7 Q. Ma'am, when this happened on September 30th, I

8 mean, as the communications director for the

9 Premier's office, as this was going to

10 actually hit the media before Monday.

11 MS. MATTHEWS:

12 A. Right.

13 COFFEY, Q.C.:

14 Q. Before opening of business again on Monday.

15 Would you have checked to see whether there

16 was any actual briefing note within the

17 Cabinet Secretariat or within the department

18 about this?

19 MS. MATTHEWS:

20 A. Not necessarily, because again, I would have

21 seen this as an issue that the department was

22 handling and overseeing from the perspective

23 that it was an Eastern Health issue, so we,

24 the Premier's office was very much on the

25 periphery of the issue. It was, you know,

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1 nobody was asking us for direction or advice

2 and so we--I likely would not have asked for a

3 briefing note on the issue. I would have left

4 it -

5 COFFEY, Q.C.:

6 Q. No, I appreciate that you, yourself. What I'm

7 getting at is is this, is that you got an e-

8 mail, you relate it more likely than not to

9 mid July, phone call?

10 MS. MATTHEWS:

11 A. Right.

12 COFFEY, Q.C.:

13 Q. Large numbers, long period?

14 MS. MATTHEWS:

15 A. Um-hm.

16 COFFEY, Q.C.:

17 Q. Haven't heard anything since?

18 MS. MATTHEWS:

19 A. Right.

20 COFFEY, Q.C.:

21 Q. At least as best you can recall now. Haven't

22 heard anything about it since, other than

23 perhaps that afternoon something about an e-

24 mail significance minimized, then it goes

25 silent, as best as you can recall as what's

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1 happened.

2 MS. MATTHEWS:

3 A. Well, if I -

4 COFFEY, Q.C.:

5 Q. And what I'm going to ask you is this, is on

6 September 30th when you get this e-mail and

7 it's going to be in the media significantly

8 before Monday, would you have checked to see

9 did we have a department briefing note, is

10 there a departmental briefing note, does the

11 Cabinet Secretariat have one?

12 MS. MATTHEWS:

13 A. From my perspective, and again, I have to go

14 back to that e-mail, "No action required" and

15 I really don't think we should diminish that

16 e-mail because it's very significant to me.

17 If--you know, and again, I go back, there can

18 be, on any given day there can be a department

19 call the Premier's office and say, "We have a

20 crisis. This issue is happening, it's about

21 to hit the media." More often than not those

22 issues over the course of a very short period

23 of time become diminished because new

24 information comes to light. And, you know, I

25 could give you examples, but it happens often.

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1 So on that day in July when that e-mail was
 2 circulated and without doubt passed on to me
 3 that information that the issue was not what
 4 it seemed, the numbers were not as large, they
 5 may not have an issue at all, that is what
 6 would have--for me, that's the context in
 7 which I would have read this e-mail.
 8 COFFEY, Q.C.:
 9 Q. Well, the e-mail itself doesn't say they don't
 10 have an issue, may not have an issue at all.
 11 The only -
 12 MS. MATTHEWS:
 13 A. No.
 14 COFFEY, Q.C.:
 15 Q. - thing the actual e-mail says is the
 16 significance of any announcement may be
 17 minimized?
 18 MS. MATTHEWS:
 19 A. Correct.
 20 COFFEY, Q.C.:
 21 Q. And leaving aside the issue of, you know,
 22 whether or not it's going to hit the media the
 23 next day or the day after.
 24 MS. MATTHEWS:
 25 A. Right.

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1 COFFEY, Q.C.:
 2 Q. The underlying issue, whether it becomes
 3 public or not, is still there?
 4 MS. MATTHEWS:
 5 A. Right.
 6 COFFEY, Q.C.:
 7 Q. And you would agree, would you, that 1200 to
 8 1500 people with potential errors in their
 9 testing over seven years is an issue, a
 10 serious issue?
 11 MS. MATTHEWS:
 12 A. But that's not what--at the end of that day,
 13 in July, that was the initial information that
 14 came into our office. At the end of the day
 15 the issue was--the information was different.
 16 And, you know, I know other people have
 17 testified what the--you know, that they had
 18 discussed with Eastern Health that--you know,
 19 and again, it's a long time ago so it's
 20 difficult for me to recall specific details,
 21 but I do know that discussions were had with
 22 Eastern Health. They didn't--and there was
 23 talk that perhaps there was the--you know, not
 24 necessarily there wasn't an issue at all, but
 25 that it was substantially minimized, there may

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1 not be -
 2 COFFEY, Q.C.:
 3 Q. Wait now. Who's saying substantially, the
 4 actual issue is substantially minimized--
 5 substantially less significant?
 6 MS. MATTHEWS:
 7 A. Well, I would -
 8 COFFEY, Q.C.:
 9 Q. When did that happen?
 10 MS. MATTHEWS:
 11 A. - taken that from the e-mail, the issue will
 12 be--I can't recall the specific wording, but
 13 it said that it will be minimized -
 14 COFFEY, Q.C.:
 15 Q. No -
 16 MS. MATTHEWS:
 17 A. - substantially is probably the word that I'm
 18 using.
 19 COFFEY, Q.C.:
 20 Q. "No public announcement will be forthcoming
 21 this week."
 22 MS. MATTHEWS:
 23 A. Um-hm.
 24 COFFEY, Q.C.:
 25 Q. "And there is a possibility that the

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1 significance of any announcement will be
 2 minimized."
 3 MS. MATTHEWS:
 4 A. Right. So substantially is a probably a word
 5 that I would use but -
 6 COFFEY, Q.C.:
 7 Q. No, no, that's -
 8 MS. MATTHEWS:
 9 A. - I have been made aware, through the course
 10 of preparing for this Commission that the
 11 discussions between the department and Eastern
 12 Health were that we don't really know the
 13 magnitude of the issue, the magnitude is not
 14 what we probably anticipated that it was going
 15 to be, there won't be an announcement
 16 immediately. And regardless of whether or not
 17 there was a public announcement at that time,
 18 I still would have had my main concerns and
 19 priorities addressed, which were are the
 20 issues in the lab being resolved and are
 21 patients being appropriately dealt with.
 22 COFFEY, Q.C.:
 23 Q. Well, in terms of that and that's what I want
 24 to ask you about before we break,
 25 Commissioner, if we could just bring up 0312,

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1 please, P-0312, page 5? What, if anything, is
 2 there in that e-mail that addresses that
 3 aspect of the matter, the fact that patients
 4 are actually being properly attended to?
 5 MS. MATTHEWS:
 6 A. There's nothing in that e-mail, but I would
 7 have had that conversation with Carolyn
 8 because I know full well, just based upon how
 9 I operate and what my questions would have
 10 been when Carolyn had contacted me in the
 11 morning, that my main concern would have been
 12 patient care and obviously dealing with
 13 ensuring that the issues in the lab were being
 14 looked after or addressed. I just know
 15 intuitively that I would have asked her those
 16 questions, I have no doubt in my mind.
 17 COFFEY, Q.C.:
 18 Q. And what, if anything, causes you to believe
 19 that she was in a position to tell you that
 20 such matters were actually being properly
 21 addressed?
 22 MS. MATTHEWS:
 23 A. Because she was a director in the department,
 24 she was dealing with Eastern Health and there
 25 would have been a level of trust in both

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1 Eastern Health and in the department and in
 2 the competencies of the people who were
 3 dealing with the issue.
 4 COFFEY, Q.C.:
 5 Q. Ma'am, on this point, I mean the whole of the
 6 evidence we've heard, I believe so far
 7 generally, is that as of July 19th, the
 8 pathologists at least were going around asking
 9 why--what happened?
 10 MS. MATTHEWS:
 11 A. Uh-hm.
 12 COFFEY, Q.C.:
 13 Q. Why has it happened, with no real answer.
 14 MS. MATTHEWS:
 15 A. I don't think that I'm saying -
 16 COFFEY, Q.C.:
 17 Q. So in terms of that, in terms of being able to
 18 address, any assurance being given to, for
 19 example yourself, that things were being
 20 properly addressed from a clinical
 21 technological perspective -
 22 MS. MATTHEWS:
 23 A. Uh-hm.
 24 COFFEY, Q.C.:
 25 Q. Is there anything that you can point us to -

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1 MS. MATTHEWS:
 2 A. I should clarify, I don't mean I was asking do
 3 you know exactly what happened in that lab and
 4 can you tell me those problems have been
 5 fixed, I'm not a health care professional, I
 6 don't profess to have any knowledge of how
 7 pathology reports are read. My concern would
 8 have been is someone working to address those
 9 issues, and obviously if those issues had been
 10 found in a lab, I would have had little doubt
 11 that the professionals within Eastern Health
 12 would have been working vigorously to resolve
 13 those issues.
 14 COFFEY, Q.C.:
 15 Q. But in terms of whether or not they had a
 16 handle on it, you had no way of knowing.
 17 MS. MATTHEWS:
 18 A. I wouldn't have known if they had a handle on
 19 it right at that very moment, but I certainly
 20 had the understanding that they were working
 21 vigorously to resolve the issues.
 22 COFFEY, Q.C.:
 23 Q. Thank you, Commissioner.
 24 THE COMMISSIONER:
 25 Q. Take fifteen minutes.

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1 (RECESS)
 2 THE COMMISSIONER:
 3 Q. Please be seated. Mr. Coffey.
 4 COFFEY, Q.C.:
 5 Q. Thank you, Commissioner. Ms. Matthews, in
 6 days following July 19th, you've told the
 7 Commissioner you have no recollection of
 8 whether or not you--this topic of breast
 9 cancer testing came up or not, okay?
 10 MS. MATTHEWS:
 11 A. Right.
 12 COFFEY, Q.C.:
 13 Q. So if Ms. Chaplin says or recollects having
 14 contacted you on July 21st -
 15 MS. MATTHEWS:
 16 A. Uh-hm.
 17 COFFEY, Q.C.:
 18 Q. You would not contradict that?
 19 MS. MATTHEWS:
 20 A. I wouldn't contradict it, it doesn't resonate
 21 with me, but I wouldn't contradict me, it
 22 wouldn't surprise me if she had contacted me.
 23 COFFEY, Q.C.:
 24 Q. And the, I gather that at that July 21st
 25 briefing of the Minister of Health, that those

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1 in the room were informed through P-0075, if
 2 we could bring that up please? And this is
 3 this July 20th, 2005 briefing note that
 4 Eastern Health apparently provided just before
 5 or at that meeting on the morning of July
 6 21st. And the other means we have of
 7 understanding what was said or talked about in
 8 that meeting is, of course, the notes kept by
 9 some of the people who attended it. And I
 10 gather it is probably fair to say that
 11 whatever else is true, on July 21st it was
 12 understood that there were hundreds of people
 13 potentially impacted by this?
 14 MS. MATTHEWS:
 15 A. I wouldn't be able to say that with certainty.
 16 COFFEY, Q.C.:
 17 Q. I appreciate you wouldn't because you can't
 18 recall, but certainly based upon the notes and
 19 -
 20 MS. MATTHEWS:
 21 A. Oh, okay, sorry.
 22 COFFEY, Q.C.:
 23 Q. - when you kind of combine with what people
 24 have told the Commissioner about what they
 25 recall and based upon their notes and the

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1 briefing note, the formal briefing note of
 2 July 21st or July 20th, given on July 21st, P-
 3 0075, that the problem was still significant,
 4 as of July 21st it was perceived to be
 5 significant?
 6 MS. MATTHEWS:
 7 A. Right.
 8 COFFEY, Q.C.:
 9 Q. So if that is so and if Ms. Chaplin did
 10 contact you on July 21st about what she had
 11 learned, prior to the briefing and during the
 12 briefing -
 13 MS. MATTHEWS:
 14 A. Right.
 15 COFFEY, Q.C.:
 16 Q. Do you have any reason to believe that she
 17 would not have conveyed that fact to you, the
 18 fact that this is a significant issue?
 19 MS. MATTHEWS:
 20 A. She may have.
 21 COFFEY, Q.C.:
 22 Q. Which would negate any suggestion contained in
 23 that July 19th e-mail of 2:32 p.m. that the
 24 problem was somehow minimized or potentially
 25 minimized? See, what I'm getting at, ma'am,

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1 is this, that morning in the first e-mail, Mr.
 2 Cake's e-mail, this is a big problem.
 3 MS. MATTHEWS:
 4 A. Right.
 5 COFFEY, Q.C.:
 6 Q. Major issue.
 7 MS. MATTHEWS:
 8 A. Uh-hm.
 9 COFFEY, Q.C.:
 10 Q. We've looked at the afternoon e-mail and that
 11 one line in it.
 12 MS. MATTHEWS:
 13 A. Uh-hm.
 14 COFFEY, Q.C.:
 15 Q. We can also, though, look at a lot of material
 16 from July 20 and 21st.
 17 MS. MATTHEWS:
 18 A. Right.
 19 COFFEY, Q.C.:
 20 Q. Dealing with the magnitude of the problem, its
 21 unknowns, but also its magnitude or potential
 22 magnitude and its seriousness.
 23 MS. MATTHEWS:
 24 A. Uh-hm.
 25 COFFEY, Q.C.:

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1 Q. And the uncertainty about how it would be
 2 approached in terms of communicating with
 3 patients and the public.
 4 MS. MATTHEWS:
 5 A. Right.
 6 COFFEY, Q.C.:
 7 Q. We know that. We understand from Ms. Chaplin
 8 that she did speak with you on the 21st about
 9 that and conveyed that to you.
 10 MS. MATTHEWS:
 11 A. Okay.
 12 COFFEY, Q.C.:
 13 Q. Conveyed what she knew, the upshot of the
 14 briefing of July 21st.
 15 MS. MATTHEWS:
 16 A. Uh-hm.
 17 COFFEY, Q.C.:
 18 Q. Would suggest here that it was still then, or
 19 as of July 21, known to be or thought to be a
 20 big problem.
 21 MS. MATTHEWS:
 22 A. Right.
 23 COFFEY, Q.C.:
 24 Q. The only thing that changed was that it wasn't
 25 going to become public, like that day or the

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1 next day or the following week.
 2 MS. MATTHEWS:
 3 A. My sense is that it was not as big an issue as
 4 they anticipated in terms of the numbers based
 5 on the July 21st meeting, but again, I wasn't
 6 at that meeting, I wasn't at the briefing, so
 7 I really can't speculate.
 8 COFFEY, Q.C.:
 9 Q. I appreciate that, I understand that, but it's
 10 still, I don't think anyone is going to come
 11 before the Commission and say that the
 12 numbers, whether it's 1200 or 1500 or 6 to
 13 700, 6 to 700 is still a lot of people.
 14 MS. MATTHEWS:
 15 A. That's right.
 16 COFFEY, Q.C.:
 17 Q. So that would not make, in a practical sense
 18 that would make no difference in your world.
 19 MS. MATTHEWS:
 20 A. It would still be a substantial issue, but
 21 again, from my perspective, my priority at
 22 that time would have been the patients, not
 23 necessarily the public. I would have relied
 24 heavily upon, as did others, I think, the
 25 advice of health care professionals and, you

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1 know, I don't think it's the place of
 2 politicians to tell doctors how to deal with
 3 their patients and if doctors and health care
 4 professionals are telling the Department of
 5 Health we need to be cautious about how we
 6 proceed, yes, absolutely patients need to be
 7 told and we will tell them we are doing the
 8 retesting, but we need to be careful about how
 9 and when we tell the public at large, which is
 10 very different from ensuring that patients are
 11 made aware because patients are, obviously to
 12 me, the key stakeholder in this whole issue.
 13 So from my perspective, if I had been assured
 14 that patients were being appropriately dealt
 15 with, would I have--you know, generally
 16 speaking from a communications perspective,
 17 you always prefer full and open disclosure and
 18 in the Premier's office particularly, and I
 19 think that we have demonstrated many times
 20 over the course of our tenure in the Premier's
 21 office, that we are certainly not opposed to
 22 full and open disclosure on some pretty
 23 controversial items and, you know, there would
 24 be nothing from our perspective to be gained
 25 from withholding this information from

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1 patients. So we would have been concerned
 2 with ensuring that patients were made aware of
 3 the problem, but would have deferred to advice
 4 from health care professionals in terms of
 5 when the public at large would be advised.
 6 THE COMMISSIONER:
 7 Q. Are we talking about July now?
 8 COFFEY, Q.C.:
 9 Q. Yes, ma'am, we are, July 19th to the 21st.
 10 THE COMMISSIONER:
 11 Q. That range.
 12 COFFEY, Q.C.:
 13 Q. Yes, the 21st.
 14 THE COMMISSIONER:
 15 Q. So can I just have a little confusion--are you
 16 suggesting that you, in July 19th and 20th,
 17 you knew enough about this to know what the
 18 doctor's positions were?
 19 MS. MATTHEWS:
 20 A. I anticipate that Carolyn would have relayed
 21 to me what the advice--what advice they were
 22 getting from Eastern Health and from my
 23 perspective, Eastern Health are, those are
 24 health care professionals.
 25 COFFEY, Q.C.:

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1 Q. As of July 19th, I gather based upon, at
 2 least--what I gather much matters, but the
 3 evidence we've heard here suggests that there
 4 were differences of opinion, significant
 5 differences of opinion about whether to go
 6 public or not, how to tell the patients or
 7 not, when to tell the patients, how -
 8 MS. MATTHEWS:
 9 A. Right.
 10 COFFEY, Q.C.:
 11 Q. It was all--who do you tell, what sorts of
 12 patients to tell, those whose results had
 13 changed, those who were being retested. And
 14 that didn't really change on July 21st.
 15 MS. MATTHEWS:
 16 A. Uh-hm.
 17 COFFEY, Q.C.:
 18 Q. That was still going on and continued for a
 19 period of time afterward. So what I want to
 20 ask you is this, if Ms. Chaplin advised you on
 21 the 21st as best she could about what was then
 22 known, the issue was still of a significant
 23 magnitude involving hundreds of patients.
 24 Whether or not the patients should be told at
 25 that moment or subsequently was not then

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1 agreed by those involved.
 2 MS. MATTHEWS:
 3 A. Whether?
 4 COFFEY, Q.C.:
 5 Q. Whether or not they should be told at that
 6 point in time.
 7 MS. MATTHEWS:
 8 A. My understanding would have been that the
 9 patients were going to be informed as soon as
 10 their tests were re-read and it was determined
 11 whether or not they had been impacted and
 12 needed a new course of treatment. That would
 13 have been my understanding.
 14 COFFEY, Q.C.:
 15 Q. And when would you have obtained that?
 16 MS. MATTHEWS:
 17 A. I would have just generally taken it from the
 18 initial conversation with Carolyn because I
 19 know that from my perspective it would have
 20 been the first question I asked and I can't
 21 imagine why anyone would contemplate not
 22 sharing information with patients that would
 23 impact their health, there's nothing to be
 24 gained from that, no--I just can't imagine any
 25 reason why anyone would even contemplate that

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1 and it certainly would not have been
 2 contemplated, condoned or acceptable to the
 3 Premier's office.
 4 COFFEY, Q.C.:
 5 Q. Did you become aware that there was a
 6 difference or differences of opinion with
 7 Eastern Health as to whether patients should
 8 be told about the fact that they were being
 9 retested?
 10 MS. MATTHEWS:
 11 A. I don't recall being told that. I may have
 12 been, but I don't recall it specifically.
 13 COFFEY, Q.C.:
 14 Q. So ma'am, is it possible then throughout the
 15 summer of 2005, that you did somewhat keep in
 16 touch with what was going on?
 17 MS. MATTHEWS:
 18 A. I guess anything is possible. I can only say
 19 to you that from my perspective this issue was
 20 clearly in the realm of Eastern Health
 21 primarily and the department was overseeing
 22 it. And again, not to minimize the
 23 seriousness of the issue, but I can't express
 24 enough the volume of information and work and
 25 issues that come to the Premier's office

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1 floor. It's not meant to sound like an excuse
 2 or, you know, it's just the reality of life on
 3 that floor. We deal with so many issues up
 4 there, so we would have relied very heavily
 5 upon the professionals in Eastern Health and
 6 upon the department and the professionals i
 7 that department to ensure that this issue and
 8 particularly a health care issue, you know,
 9 it's different to have a particular policy of
 10 government or perhaps some program that
 11 government's running. You know, it's easier
 12 for government to have a direct say in those
 13 types of things, but when you're dealing with
 14 patient care and health care issues and you
 15 have issues to consider, like patient
 16 confidentiality and those types of issues, you
 17 rely heavily upon the health care
 18 professionals in the system to advise as to
 19 the best course of action.
 20 COFFEY, Q.C.:
 21 Q. Well ma'am, with respect to this matter, if we
 22 could just look again, please, at P-0313 and
 23 this is the September 30th, 2005, 4:42 p.m. e-
 24 mail to yourself and others from Ms. Chaplin.
 25 I take it then that, as you've said, you may

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1 have related this to the July 19th matter when
 2 you go this, that Friday afternoon.
 3 MS. MATTHEWS:
 4 A. Correct.
 5 COFFEY, Q.C.:
 6 Q. Where did you not go actually on that Friday
 7 looking for more information, as to kind of
 8 what's this about, you know, what is going to
 9 happen on Sunday, as it were, is it possible
 10 that you're not going and looking further was
 11 because in fact you had been generally kept
 12 apprised of what was going on with respect to
 13 this issues? Not in a detailed way, but in a
 14 general way.
 15 MS. MATTHEWS:
 16 A. I just cannot say that with certainty, I
 17 don't, I think -
 18 COFFEY, Q.C.:
 19 Q. No, I'm not saying it was with certainty, is
 20 it possible.
 21 MS. MATTHEWS:
 22 A. But it would be disingenuous for me to say,
 23 it's possible I had been updated throughout
 24 the summer, but from the end of July to the
 25 end of September, it's not a huge timeframe,

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1 so I likely would have recalled it on my own.
 2 I have a, you know, I think I have a fairly
 3 decent capacity to remember those types of
 4 issues and events.
 5 COFFEY, Q.C.:
 6 Q. And I suspect you do, what I'm focusing on
 7 here was, was that here there's a reference to
 8 ER/PR. Those e-mails on July 19th don't say
 9 anything about ER/PR.
 10 MS. MATTHEWS:
 11 A. Uh-hm.
 12 COFFEY, Q.C.:
 13 Q. I take it that before July 19th, would you
 14 have had any reason to be conversant with
 15 ER/PR as a concept?
 16 MS. MATTHEWS:
 17 A. It wouldn't have been something that I would
 18 have talked about on a daily basis.
 19 COFFEY, Q.C.:
 20 Q. No, in the sense of estrogen receptors,
 21 progesterone receptors and their relationship
 22 with breast cancer testing, you wouldn't have
 23 been -
 24 MS. MATTHEWS:
 25 A. Not particularly, but the key words for me

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1 would have been breast cancer patients.
 2 COFFEY, Q.C.:
 3 Q. So here, looking at this, on September 30th,
 4 this is concerning ER/PR testing of breast
 5 cancer patients, you wouldn't have actually
 6 known what ER/PR testing was?
 7 MS. MATTHEWS:
 8 A. I, at that point, if anything, I would have
 9 had a very rudimentary understanding of it.
 10 COFFEY, Q.C.:
 11 Q. All right, so where you did not then go
 12 looking for more information on the 30th, it
 13 is, I gather, entirely possible that's because
 14 you had some sense of where this was at the
 15 time?
 16 MS. MATTHEWS:
 17 A. I wouldn't speculate as to that, I would more
 18 so assume that it was because it was an
 19 Eastern Health issue, it says right in the
 20 subject line, "Heads up, Eastern Health
 21 Issue", it was an Eastern Health issue. The
 22 department were clearly aware of it, so I, you
 23 know, I have confidence in the people who work
 24 in the departments throughout government and
 25 the communications people to deal with their

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1 issues effectively and to ensure that they are
 2 handled appropriately. I receive any number
 3 of e-mails or heads up in a given day on any
 4 number of issues, so -
 5 COFFEY, Q.C.:
 6 Q. And I understand that, it's not so much that
 7 you've received them, I understand you get a
 8 large volume of them, it's what you do as a
 9 result of them is what I'm, in terms of this
 10 particular one, where you did not and there's
 11 no sign anywhere that you actually did
 12 anything in a documentary way.
 13 MS. MATTHEWS:
 14 A. In a documentary way? No, I didn't.
 15 COFFEY, Q.C.:
 16 Q. There's no e-mails, so that suggests that you
 17 knew something about it, because you're not
 18 the sort of person who would just kind of
 19 receive an e-mail--this is going to come out
 20 on Sunday.
 21 MS. MATTHEWS:
 22 A. Right.
 23 COFFEY, Q.C.:
 24 Q. And I have no real idea what this is about.
 25 MS. MATTHEWS:

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1 A. I would have had an idea from the July
 2 conversation.
 3 COFFEY, Q.C.:
 4 Q. And other than that, but see the July
 5 conversation would be, initial conversation
 6 would be major story, possible second
 7 conversation the same day or thereabouts.
 8 MS. MATTHEWS:
 9 A. Correct.
 10 COFFEY, Q.C.:
 11 Q. Maybe not so major.
 12 MS. MATTHEWS:
 13 A. Right.
 14 COFFEY, Q.C.:
 15 Q. July 21st, probably back to major again, if
 16 Ms. Chaplin is correct about having talked to
 17 you about it.
 18 MS. MATTHEWS:
 19 A. Uh-hm.
 20 COFFEY, Q.C.:
 21 Q. And that's where it would have sat and there's
 22 no further briefing note, there's no documents
 23 that we have seen anywhere, so the only way
 24 you would know anymore is if you had been
 25 kept, more or less told something throughout

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1 the summer and early fall.
 2 MS. MATTHEWS:
 3 A. Theoretically, yes, that's true.
 4 COFFEY, Q.C.:
 5 Q. Okay, in terms of that, when the story did
 6 break and I'll bring it up here, please, would
 7 you have reviewed--read that that Sunday, do
 8 you think?
 9 MS. MATTHEWS:
 10 A. I would imagine I would have read that, yes.
 11 COFFEY, Q.C.:
 12 Q. Okay, P-0086 please? Now this, ma'am, is the
 13 actual story published in The Independent that
 14 day, October 2nd, 2005. Is there anything,
 15 like that you can recall in particular that
 16 stood out in the story?
 17 MS. MATTHEWS:
 18 A. To say I would have a particular recollection
 19 of that, when I read that story, would be
 20 disingenuous for me to say that because I
 21 simply don't at this time. Knowing how I
 22 typically would respond to things, I would
 23 have seen this story as, okay, well I received
 24 an e-mail from Carolyn that this was going to
 25 be in the media and it is in the media.

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1 Eastern Health are talking about it, the
 2 doctors are talking about it, it's an
 3 incredibly unfortunate situation, but it seems
 4 to be that Eastern Health are handling the
 5 issue.
 6 COFFEY, Q.C.:
 7 Q. Handling in what sense?
 8 MS. MATTHEWS:
 9 A. In terms of patient care.
 10 COFFEY, Q.C.:
 11 Q. Yeah, but what does that actually mean in the
 12 sense of handling in patient care?
 13 MS. MATTHEWS:
 14 A. From my perspective, and again, you know, I
 15 have to go back and say that working in the
 16 Premier's office, I would not have been
 17 intimately involved in the day-to-day workings
 18 of Eastern Health or the Department of Health,
 19 for that matter. From my perspective, the
 20 same questions would have remained, are the
 21 issues in the lab being looked at and
 22 considered and hopefully resolved, and are
 23 patients being appropriately contacted and
 24 will they receive the proper treatment that
 25 they justly deserve. And from my perspective

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1 having read that story, those issues seem to
 2 be addressed.
 3 COFFEY, Q.C.:
 4 Q. Now did you phone anybody after having
 5 received that e-mail about this?
 6 MS. MATTHEWS:
 7 A. I don't believe I did.
 8 COFFEY, Q.C.:
 9 Q. And looking at this story, I stand to be
 10 corrected, but--or better informed, but
 11 there's no number associated or given here at
 12 all, is there?
 13 MS. MATTHEWS:
 14 A. There doesn't appear to be a number, no.
 15 COFFEY, Q.C.:
 16 Q. So the actual magnitude, I mean having read
 17 this, the reader is not all that informed
 18 about how big the problem is.
 19 MS. MATTHEWS:
 20 A. No.
 21 COFFEY, Q.C.:
 22 Q. Like the sheer number of patients.
 23 MS. MATTHEWS:
 24 A. Right.
 25 THE COMMISSIONER:

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1 Q. Mr. Coffey, there is a reference to numbers on
 2 the second page there.
 3 COFFEY, Q.C.:
 4 Q. And I understand that.
 5 THE COMMISSIONER:
 6 Q. It's not a reference which includes total
 7 numbers, but there is a reference to numbers.
 8 COFFEY, Q.C.:
 9 Q. Yes, I apologize, Commissioner, you're
 10 certainly correct. It does the--I don't know
 11 40 or 50 the other day or 5 or 6, that were
 12 there--that's in the middle column,
 13 Commissioner, but in terms of the total number
 14 of patients, there's no -
 15 MS. MATTHEWS:
 16 A. No, there's no reference.
 17 COFFEY, Q.C.:
 18 Q. So would you be concerned to know how many
 19 patients were involved potentially?
 20 MS. MATTHEWS:
 21 A. From my perspective at that time, I would have
 22 to say again that it was seen as an
 23 operational issue for Eastern Health and in
 24 terms of the exact number of patients, I
 25 wasn't aware at that time if they knew

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1 particularly exactly how many patients had
 2 been impacted verses how many had been in the
 3 group that was retested but were not impacted
 4 negatively. So it's not something that would
 5 have particularly resonated with me at that
 6 time, no.
 7 COFFEY, Q.C.:
 8 Q. And in the middle of the first page, just go
 9 back one, the sixth paragraph attributes to
 10 Dr. Laing in the following "The reason why we
 11 haven't gone public with this is we don't have
 12 all the answers. The last thing we want to do
 13 is make people afraid is to cause some sort of
 14 mass hysteria."
 15 MS. MATTHEWS:
 16 A. Right.
 17 COFFEY, Q.C.:
 18 Q. So did you interpret that as the reason for
 19 them not having gone public in the first
 20 place?
 21 MS. MATTHEWS:
 22 A. I think that I would have interpreted that to
 23 mean that doctors would have a concern that if
 24 they went public without their patients
 25 knowing all of the details, that they could

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1 potentially maybe psychologically impact
 2 patients or psychologically impact people who
 3 were not even a part of this situation. I
 4 would have just assumed that doctors were
 5 concerned about the overall impact it could
 6 have on patients if they weren't properly
 7 informed.
 8 COFFEY, Q.C.:
 9 Q. So what do you recall then happened, you've
 10 read the story. What then happened from your
 11 perspective, in terms of your involvement?
 12 MS. MATTHEWS:
 13 A. From my involvement--I didn't have further
 14 involvement, I know that and I recall later in
 15 that month Eastern Health did province-wide
 16 advertisements and frankly, that's something I
 17 would have taken great comfort in from my
 18 perspective.
 19 COFFEY, Q.C.:
 20 Q. Why is that?
 21 MS. MATTHEWS:
 22 A. Well from my perspective it was now a widely
 23 known issue, everyone in the province would
 24 have, or your know, the vast majority of the
 25 people in the province would have had access

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1 to those advertisements. It was being
 2 discussed in the media, so--I know ideally you
 3 would like to ensure that all patients are
 4 informed first and then you would turn your
 5 mind to public disclosure, but at that point
 6 in time it was widely known and patients were
 7 informed and I would have taken some comfort
 8 in the fact that the situation was under
 9 control. I had no reason to believe
 10 otherwise.
 11 COFFEY, Q.C.:
 12 Q. Ma'am, with respect to that, I take it you
 13 understood on September 30th, 2005, you would
 14 have understood that--well did you have any
 15 understanding on September 30th as to how many
 16 patients were involved, potentially?
 17 MS. MATTHEWS:
 18 A. No, I don't -
 19 COFFEY, Q.C.:
 20 Q. The last number we'd seen was 12 to 1500.
 21 MS. MATTHEWS:
 22 A. I have to go back again and say that this was
 23 not an issue that was in--talked about in the
 24 Premier's office every day. It was an issue
 25 for Eastern Health. We received, you know, a

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1 heads up when the issue first broke, it was
 2 now going to be in the media. The specific
 3 numbers, they were discussed and did I have
 4 knowledge of them on that particular day how
 5 many individuals were going to be retested? I
 6 may have, but it's not something that stands
 7 out in my mind right now because it was not an
 8 issue that was primarily being dealt with by
 9 the Premier's office.
 10 COFFEY, Q.C.:
 11 Q. And in terms then of, what I want to ask you
 12 about is this, is that you had then understood
 13 in September 30th that the great mass of
 14 patients retest results would not have been
 15 back?
 16 MS. MATTHEWS:
 17 A. I probably would have understood that, I can't
 18 recollect specific details around that time.
 19 COFFEY, Q.C.:
 20 Q. And you would have understood that individual
 21 patients had not yet been told that they were
 22 being retested?
 23 MS. MATTHEWS:
 24 A. No, I wouldn't have--I don't know that I was
 25 privy to that information at that time. This

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1 is not an issue that was on the daily agenda
 2 in the Premier’s office.
 3 COFFEY, Q.C.:
 4 Q. No, no, I understand that.
 5 MS. MATTHEWS:
 6 A. So the specific details like that, I just
 7 can’t tell you right now if I knew them. It’s
 8 difficult, as you can imagine as well, in
 9 preparing for this Commission you are, you
 10 know, you’re in receipt of a lot of
 11 information that you wouldn’t have necessarily
 12 had back in those days, particularly in the
 13 Premier’s office because it wasn’t something
 14 that was, we were leading the file, so I can’t
 15 say with certainty that I would have known
 16 those numbers. I imagine that I would not
 17 have had those specific details.
 18 COFFEY, Q.C.:
 19 Q. Like when the story broke on October 2nd, and
 20 this is what I’m trying to focus on, did you
 21 understand at the time that for many patients
 22 this was their first introduction to the fact
 23 that this was a problem? Would you have
 24 understood that story breaking on October 2nd?
 25 MS. MATTHEWS:

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1 A. I wouldn’t have particularly thought that, no,
 2 I would have assumed that throughout the
 3 course of the summer that as patients were
 4 being retested, they were being told. But
 5 having said that, I wouldn’t have an imminent
 6 knowledge of exactly when the test came back
 7 and when patients were told. I just would
 8 have had a general understanding.
 9 COFFEY, Q.C.:
 10 Q. No, what I’m getting at, ma’am, is that I’m
 11 just trying to get some, for the Commissioner
 12 to have some sense of from the Premier’s
 13 office’s perspective what was understood at
 14 the time when the story was published on
 15 October 2nd -
 16 MS. MATTHEWS:
 17 A. Uh-hm.
 18 COFFEY, Q.C.:
 19 Q. Did you understand that for many people,
 20 actual patients, that this would have been the
 21 first they ever heard of this?
 22 MS. MATTHEWS:
 23 A. I wouldn’t have -
 24 COFFEY, Q.C.:
 25 Q. Would you have understand that or not?

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1 MS. MATTHEWS:
 2 A. I would not have understood that, no.
 3 COFFEY, Q.C.:
 4 Q. So what did you understand, as of that point,
 5 was the approach?
 6 MS. MATTHEWS:
 7 A. At that point, I understood -
 8 COFFEY, Q.C.:
 9 Q. Patient notification.
 10 MS. MATTHEWS:
 11 A. - that patients were--the issues in the lab
 12 were being looked into and hopefully it was
 13 being resolved and that patients were--the
 14 tests were being retested and that patients
 15 were, in as timely and efficient a manner as
 16 possible, being told if they had been
 17 negatively impacted by the ER/PR mistakes.
 18 COFFEY, Q.C.:
 19 Q. So they had been negatively impacted. So if
 20 they--if a test result came--you understood
 21 that if a test result was coming back
 22 confirming the original result, were those
 23 patients being told?
 24 MS. MATTHEWS:
 25 A. I don’t really recall differentiating at that

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1 point, whether or not I differentiated between
 2 those who were impacted. I just recall that
 3 if patients were impacted--in my mind, I
 4 guess, I never really thought it through, but
 5 I would have assumed that the priority would
 6 be if you were negatively impacted that you
 7 would receive a phone call because obviously
 8 you may have to--you know, you may receive a
 9 different course of treatment. And again, I
 10 would have had really a rudimentary knowledge
 11 of the issue.
 12 COFFEY, Q.C.:
 13 Q. If we could look please, I believe it’s P-
 14 0125? Actually, it’s P-0124. I apologize.
 15 Ma’am, if we could, please, just going to look
 16 at--yes, page six, please, I’m going to go on
 17 P-0124. Now ma’am, this is a copy of a
 18 briefing note, Department of Health and
 19 Community Services, titled Testing of Breast
 20 Cancer Patients at St. John’s Hospitals, and
 21 there’s a distribution list here.
 22 MS. MATTHEWS:
 23 A. Right.
 24 COFFEY, Q.C.:
 25 Q. Did you understand by October 15th that this

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1 was a province wide problem?
 2 MS. MATTHEWS:
 3 A. I think I would have had a sense that it would
 4 be province wide because I believe there's
 5 only one lab in the province who would perform
 6 those tests. Did I know that specifically at
 7 that time or am I recollecting it, you know,
 8 over the course of time, I'm not 100 percent
 9 certain. But it doesn't resonate with me
 10 whether or not I thought it was one particular
 11 area of the province versus province wide.
 12 COFFEY, Q.C.:
 13 Q. Did you request this briefing note be
 14 prepared?
 15 MS. MATTHEWS:
 16 A. No, I did not.
 17 COFFEY, Q.C.:
 18 Q. Do you know who did?
 19 MS. MATTHEWS:
 20 A. No, I do not.
 21 COFFEY, Q.C.:
 22 Q. Between the September 30th e-mail that we
 23 looked at earlier and your receipt of this
 24 particular briefing note, did you have any
 25 conversations with anybody about ER/PR or this

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1 matter, this issue?
 2 MS. MATTHEWS:
 3 A. Not that I recall.
 4 COFFEY, Q.C.:
 5 Q. Ma'am, just looking at that, is there anything
 6 in it that alerted a reader to the fact that
 7 Eastern Health knew about this for months
 8 before patients were told, patients at large
 9 were told about it?
 10 MS. MATTHEWS:
 11 A. If you'll just give me a moment, I'm just
 12 reading down through.
 13 COFFEY, Q.C.:
 14 Q. Sure, take your time.
 15 THE COMMISSIONER:
 16 Q. Mr. Coffey, in that question, are you
 17 referring to the time span between the index
 18 case and July?
 19 COFFEY, Q.C.:
 20 Q. Yes.
 21 THE COMMISSIONER:
 22 Q. Or are you talking about -
 23 COFFEY, Q.C.:
 24 Q. Well -
 25 THE COMMISSIONER:

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1 Q. - the time span between the index case and
 2 when the story broke in The Independent?
 3 COFFEY, Q.C.:
 4 Q. When the story broke in The Independent
 5 really. The idea being this that from the
 6 time--certainly from May of '05 onward, when
 7 they--certainly by May 24th '05, the
 8 pathologists and the VP Medical knew that they
 9 had some kind of a problem. That's readily
 10 apparent from material we've seen, and just
 11 getting--want to get some sense from your own
 12 perspective at the time, reading this, how
 13 clearly, if at all, the fact that notification
 14 of patients as a group about the fact of
 15 retesting is laid out here, and how aware you
 16 were at the time.
 17 MS. MATTHEWS:
 18 A. I guess, from this note, I would have taken
 19 away that the--I don't particularly--in answer
 20 to your first question, because I think you
 21 asked me a couple of questions.
 22 COFFEY, Q.C.:
 23 Q. Sure.
 24 MS. MATTHEWS:
 25 A. In answer to your first question, in terms of

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1 does anything jump out at me indicating that
 2 Eastern Health had known for several or a few
 3 months before patients, not particularly.
 4 There's a statement, I can't--a representative
 5 visited the lab in July to review use and so,
 6 from my perspective, that July reference would
 7 jive with when the information was first made
 8 or I was first made aware of the information.
 9 And I'm sorry, your second question again was?
 10 COFFEY, Q.C.:
 11 Q. Is this: when you look at this, is there any
 12 explanation here as to why patients weren't
 13 told about the retesting back in July or
 14 August or September?
 15 MS. MATTHEWS:
 16 A. There's no particular--I don't see a
 17 particular explanation, with the exception of
 18 the fact that they're still retesting samples
 19 at Mount Sinai. It also goes on to say that
 20 Eastern Health is sending letters to surgeons
 21 and other attending physicians of those
 22 individuals who could be impacted.
 23 COFFEY, Q.C.:
 24 Q. Based on the Mount Sinai testing results, yes.
 25 MS. MATTHEWS:

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1 A. Correct.

2 COFFEY, Q.C.:

3 Q. But the whole matter of the fact that there

4 was an internal debate within Eastern Health

5 about whether the patient should or shouldn't

6 be told individually or through a public

7 release back in July and August, that whole

8 matter, there's no reference to any of that

9 here?

10 MS. MATTHEWS:

11 A. I had no knowledge of that at all and there's

12 no reference. There doesn't seem to be a

13 reference in this note. It's certainly not

14 something that would have jumped out at me.

15 COFFEY, Q.C.:

16 Q. So up until certainly October of 2005, you had

17 no knowledge of that?

18 MS. MATTHEWS:

19 A. No.

20 COFFEY, Q.C.:

21 Q. Do you recall when it was then that you did

22 become aware that there was such a debate?

23 MS. MATTHEWS:

24 A. About whether or not patients should be told?

25 COFFEY, Q.C.:

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1 Q. Yes, about the fact that they were being

2 retested, not had been retested, were being

3 retested.

4 MS. MATTHEWS:

5 A. I don't recall. For me, it wasn't--I never

6 made that distinction in my head. For me,

7 there was never any question. I was always

8 assured that as tests were redone, patients

9 were being notified.

10 COFFEY, Q.C.:

11 Q. I appreciate that, but that's in the past

12 tense. As it was done results are back and

13 are then notified, as opposed to being

14 notified about the fact that we are going to

15 retest your sample, and we will get back to

16 you with the result.

17 MS. MATTHEWS:

18 A. It's just a detail that I wouldn't have been

19 privy to because again, it was something that

20 Eastern Health was dealing with and the

21 Department were overseeing. It's just not

22 some--it's just not a detail that would have

23 made its way up to the Premier's office floor

24 at that time.

25 COFFEY, Q.C.:

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1 Q. Now at the time you read this, and you would

2 have read this, what, October 5th or 6th?

3 MS. MATTHEWS:

4 A. Presumably, yes.

5 COFFEY, Q.C.:

6 Q. Okay, because it's dated the 5th.

7 MS. MATTHEWS:

8 A. Right.

9 COFFEY, Q.C.:

10 Q. Did you discuss that with anybody then?

11 MS. MATTHEWS:

12 A. I don't recall having a specific discussion.

13 I may have, but I don't particularly. It

14 doesn't stand out in my mind.

15 COFFEY, Q.C.:

16 Q. Having read it, did you recognize the

17 potential for there to be complaints about the

18 fact that this had not been made public for

19 months?

20 MS. MATTHEWS:

21 A. It probably would have stood out to me. As I

22 said earlier, the fact that the issue had come

23 into the public domain by virtue of the fact

24 that a patient went to the media certainly

25 wasn't ideal. But again, I know there would

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1 have been discussion with health care

2 professionals about the most appropriate

3 manner in which to let patients know versus

4 the public at large know about the issue.

5 THE COMMISSIONER:

6 Q. And would you have known that then?

7 MS. MATTHEWS:

8 A. I can't recall with certainty. From my

9 perspective, I probably would have. It

10 probably would have been discussed at some

11 point, perhaps, you know, with Carolyn when

12 she initially made the phone call, because

13 there's a general understanding that when it

14 comes to health care issues, there are

15 dynamics at play that aren't necessarily

16 involved in other issues that you would deal

17 with on a day-to-day basis, in terms of how

18 you communicate issues to the general public.

19 Health care issues would be seen as something

20 that you would most--an area where you would

21 most definitely defer, to the most part, or

22 very much take the advice of health care

23 professionals.

24 COFFEY, Q.C.:

25 Q. If we could look, please, at Exhibit P-0632?

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1 Just to put it in context, it's an internal e-mail to Eastern Health, but it's dated October
 2 11th 2005, and why I have it here is just
 3 convenient because it has appended to it is
 4 the distribution of an article, back one page.
 5 This is on The Independent, October 9th, 2005.
 6 It's a follow-up story, the next week, and it
 7 involves an interview with Peter Dawe. At the
 8 top of the second column, a quote attributed
 9 to him, following "'we're pretty concerned
 10 about the whole issue obviously, that it even
 11 happened in the first place' says Dawe.
 12 'We've told the Eastern Health Authority that
 13 we want to stay in touch with them and make
 14 sure the proper follow up is done with the
 15 people that are out there that need more
 16 accurate information.'" And then they go on to
 17 attribute to him, but not in quotations, "he
 18 adds common sense and a current ten percent
 19 mistake rate in retesting samples suggests at
 20 least 200 patients may be affected."
 21 So would you have paid attention to this
 22 story in the following week's Independent?
 23 MS. MATTHEWS:
 24 A. I'm sure I would have read it. Again, I don't

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1 recall specifically if I had read it. I don't
 2 know if I was travelling or whatnot, but I'm
 3 saying that in the--you know, in the general
 4 course of life and what I do and if I'm in the
 5 province, I would have read this article, I'm
 6 sure.
 7 COFFEY, Q.C.:
 8 Q. Ma'am, do you see Cabinet papers or memorandum
 9 to Executive Council dealing with funding
 10 issues?
 11 MS. MATTHEWS:
 12 A. Yes, I would see, I would receive Cabinet
 13 documents.
 14 COFFEY, Q.C.:
 15 Q. Okay. And you would review them from what
 16 perspective?
 17 MS. MATTHEWS:
 18 A. Generally from a communications perspective
 19 and overall government policy, but
 20 specifically for general--I guess I should say
 21 generally from an overall government policy
 22 perspective, specifically from a
 23 communications perspective.
 24 COFFEY, Q.C.:
 25 Q. If we could, please, Exhibit P-0164? Ma'am,

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1 this is a memorandum to Executive Council,
 2 HCS, 2005-037. Its title is "New Treatment
 3 Therapies for Cancer Patients" and the issue
 4 is framed as whether to introduce new
 5 treatment therapies to targeted cancer
 6 patients in Newfoundland and Labrador. And
 7 there have three, three recommendations, the
 8 first of which is to add the drug Herceptin to
 9 the provincial systemic therapy formulary.
 10 See that?
 11 MS. MATTHEWS:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. So you would have seen this at the time,
 15 October, 2005?
 16 MS. MATTHEWS:
 17 A. Yes, I would have.
 18 COFFEY, Q.C.:
 19 Q. If we could look, please, at page 6?
 20 Actually, I'll just go back one, please? Page
 21 5 is the, shows the attachments, Annex 1,
 22 letters from Eastern Health, Annex 2,
 23 communications plan. And at page 6 we have
 24 Annex 2, the communications plan. So I take
 25 it that this is certainly the portion of the

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1 document that you would have paid particular
 2 attention to?
 3 MS. MATTHEWS:
 4 A. Yes, I would have, I would have, more than
 5 likely I would have skimmed this document. I
 6 likely wouldn't have read it in detail.
 7 COFFEY, Q.C.:
 8 Q. But the communications plan itself, would you
 9 have read that?
 10 MS. MATTHEWS:
 11 A. I probably wouldn't have read it in detail
 12 just because we typically do not get Cabinet
 13 books until--well, there's not a lot of time
 14 in between when we get the information and
 15 when we actually have Cabinet, so I would
 16 read--and there could be any number of items
 17 on the Cabinet agenda, so it just depends on
 18 how much time you have. But I would have, I
 19 certainly would have gone down through the
 20 communications analysis and the key messages
 21 and whatnot.
 22 COFFEY, Q.C.:
 23 Q. Okay. If we could look, please, at page 6?
 24 I'm just going to bring it up here. And this
 25 is under "Communications Analysis" "Public

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1 Environment." I take it the "Public
 2 Environment" heading, these are standardized
 3 headings and approaches?
 4 MS. MATTHEWS:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. Formatting?
 8 MS. MATTHEWS:
 9 A. Yes, that's right.
 10 COFFEY, Q.C.:
 11 Q. Is to put the matter in context for the
 12 reader?
 13 MS. MATTHEWS:
 14 A. Right.
 15 COFFEY, Q.C.:
 16 Q. And beginning with the paragraph beginning
 17 with the word "Locally there has been
 18 significant recent media attention about
 19 inaccurate results for", I'm sorry, "from
 20 hormone receptor tests for breast cancer
 21 patients." And it goes on then at some
 22 length. The second paragraph, "There has
 23 been--related to this there has been a
 24 significant reaction to the issue," and then
 25 the attributed quotation or quote to Gerri

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1 Rogers in a recent Globe and Mail article.
 2 And then they also attribute a quote to Peter
 3 Dawe. Which continues on into the next page,
 4 page 7. And then the writer's note "The story
 5 has also received national media attention"
 6 and refers to a recent CBC story, October
 7 20th, 2005 titled "Unreliable Tests Give
 8 Lesson to all Labs." And it goes on to
 9 describe what that story referred to. And it
 10 concludes by saying, "Given the negative
 11 coverage of this story and the resulting lack
 12 of confidence amongst breast cancer patients
 13 in the reliability of testing procedures in
 14 the province, it's important that the
 15 government respond with positive messages
 16 about the introduction of Herceptin to the
 17 provincial systemic therapy, chemotherapy
 18 program." And then there are a number of
 19 strategic considerations laid out here.
 20 MS. MATTHEWS:
 21 A. Um-hm.
 22 COFFEY, Q.C.:
 23 Q. And the third of which refers to, again, third
 24 bullet, "Given recent media reports about
 25 ER/PR testing and the public's resulting loss

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1 of confidence in the health system, it is
 2 important the government respond to the needs
 3 of breast cancer patients." And then it
 4 describes the target audience which includes,
 5 in the third bullet, breast cancer patients,
 6 survivors and families, and of course, others
 7 that are listed there. And then there are
 8 communications objectives set out at the
 9 bottom of the page. And then finally, there
 10 are a series of messages. Ma'am, looking at
 11 those, do you take any issue with what's
 12 written here?
 13 MS. MATTHEWS:
 14 A. I'll just take a moment to read them.
 15 COFFEY, Q.C.:
 16 Q. Sure, take your time.
 17 MS. MATTHEWS:
 18 A. No, I don't take any issue with that.
 19 COFFEY, Q.C.:
 20 Q. If we could go, please, to page 30? Now,
 21 that, I take it, the material we just looked
 22 at would have been prepared by the department
 23 itself, that portion of it?
 24 MS. MATTHEWS:
 25 A. Yes.

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1 COFFEY, Q.C.:
 2 Q. The department's submission?
 3 MS. MATTHEWS:
 4 A. Typically it says at the bottom of the
 5 document who prepared it and who approved it.
 6 COFFEY, Q.C.:
 7 Q. And that's spelled out there.
 8 MS. MATTHEWS:
 9 A. Right.
 10 COFFEY, Q.C.:
 11 Q. Here at page 30 titled "Secret Communications
 12 and Consultation Branch Briefing Note, New
 13 Treatment Therapies for Cancer Patients." This
 14 one is dated November 1, 2005, prepared by
 15 Melanie O'Neill.
 16 MS. MATTHEWS:
 17 A. Um-hm.
 18 COFFEY, Q.C.:
 19 Q. And reviewed by Carolyn Chaplin?
 20 MS. MATTHEWS:
 21 A. Right.
 22 COFFEY, Q.C.:
 23 Q. They both at the time worked in the
 24 communications and consultation branch?
 25 MS. MATTHEWS:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. Would you have reviewed this?
 4 MS. MATTHEWS:
 5 A. I may have. I typically review the--you know,
 6 I have to review the entire Cabinet document
 7 and the communications consultation--or the
 8 communications plan, rather. I may have
 9 reviewed this, I--it doesn't stand out in my
 10 mind right now given the volume of documents
 11 that I've reviewed over the course of the
 12 number of years, but I may have, I would
 13 likely have read this.
 14 COFFEY, Q.C.:
 15 Q. And the last sentence in the first paragraph
 16 reads, "As noted in the strategic
 17 consideration section of the plan, this
 18 announcement is a positive counter to the
 19 recent media reports regarding inaccurate
 20 results around hormone receptor testing."
 21 MS. MATTHEWS:
 22 A. Right.
 23 COFFEY, Q.C.:
 24 Q. So from a communications perspective would
 25 that be an accurate -

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1 MS. MATTHEWS:
 2 A. Yes.
 3 COFFEY, Q.C.:
 4 Q. - statement? So if we could go back, please,
 5 to page 7? Looking at that first full
 6 paragraph, the sentence beginning "Given the
 7 negative coverage of this story and the
 8 resulting lack of confidence amongst breast
 9 cancer patients in the reliability of testing
 10 procedures in the province" and it goes on to
 11 talk about the government's response with
 12 positive messages. Is it fair then to say
 13 that as of the end of October, 2005 that the
 14 Cabinet Secretariat at least understood that
 15 this was that sort of issue?
 16 MS. MATTHEWS:
 17 A. Yes -
 18 COFFEY, Q.C.:
 19 Q. That this ER/PR matter was that sort of issue?
 20 MS. MATTHEWS:
 21 A. Sure.
 22 COFFEY, Q.C.:
 23 Q. And had that--had potential wide-spread
 24 significance to public confidence?
 25 MS. MATTHEWS:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. How closely were you following or had you
 4 followed up to that point what was going on in
 5 the media concerning ER/PR up until, say, the
 6 beginning of November?
 7 MS. MATTHEWS:
 8 A. As I said before, it would have been part of
 9 just general media monitoring. I receive news
 10 clippings on any number of issues. I would
 11 have followed it in the media. I would have
 12 anticipated if there was an issue that
 13 required the Premier's office intervention or
 14 involvement, that we would have been alerted
 15 to that fact, but otherwise I very much would
 16 have seen it as an operational issue for
 17 Eastern Health and the department had full
 18 confidence that the department was overseeing
 19 the work of Eastern Health in that regard.
 20 COFFEY, Q.C.:
 21 Q. And the media coverage in question, I take it,
 22 would be paper, newspaper coverage, the
 23 Evening--electronic news services, the radio?
 24 MS. MATTHEWS:
 25 A. Sure.

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1 COFFEY, Q.C.:
 2 Q. And that would include both news casts and
 3 Open Line?
 4 MS. MATTHEWS:
 5 A. That's right.
 6 COFFEY, Q.C.:
 7 Q. Ma'am, with that in mind, you know, I take it
 8 the House did open in the fall of 2005?
 9 MS. MATTHEWS:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. Was it anticipated that it might be raised in
 13 the House of Assembly, the issue?
 14 MS. MATTHEWS:
 15 A. I can't really speak to that. I know there
 16 wasn't in the Premier's briefing book and the
 17 issues that we would have requested, it was
 18 not provided as one of their top items.
 19 That's not to say that the department
 20 certainly may not have anticipated it would
 21 arise in the House. I would imagine given the
 22 issue and given the media coverage I would
 23 have been surprised had it not been raised.
 24 But from my perspective it would have been
 25 something that the minister and the Department

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1 of Health would have dealt with in the House
 2 of Assembly.
 3 COFFEY, Q.C.:
 4 Q. Okay. Was there any understanding at that
 5 time as to if this issue was raised in the
 6 House of Assembly as to who was to get onto
 7 his or her feet and answer it?
 8 MS. MATTHEWS:
 9 A. I don't think it would have even been a
 10 discussion, it would have been a foregone
 11 conclusion that that would have been the
 12 responsibility of the Minister of Health.
 13 COFFEY, Q.C.:
 14 Q. Is there any arrangement, though, at times,
 15 about who's to respond?
 16 MS. MATTHEWS:
 17 A. If the Premier is particularly involved in a
 18 file, for example, as I cited before, the
 19 Atlantic Accord, it would be a given that the
 20 Premier would answer questions. But in terms
 21 of departmental issues, it's very much
 22 expected that ministers deal with those issues
 23 in the House of Assembly. It's--unless it's an
 24 issue that the Premier is particularly
 25 involved in in terms of being the lead on a

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1 file, he would leave those questions to the
 2 minister.
 3 COFFEY, Q.C.:
 4 Q. And in relation to ER/PR do you know if it was
 5 ever discussed as to who was to get onto their
 6 feet and respond?
 7 MS. MATTHEWS:
 8 A. It was never discussed with me.
 9 COFFEY, Q.C.:
 10 Q. Okay. Now, it does come up later in '07 as to
 11 which minister -
 12 MS. MATTHEWS:
 13 A. Yes, that's accurate.
 14 COFFEY, Q.C.:
 15 Q. But that's after it becomes really
 16 controversial?
 17 MS. MATTHEWS:
 18 A. That's right.
 19 COFFEY, Q.C.:
 20 Q. Looking at Exhibit P-0687, please? Again,
 21 ma'am, this is simply an e-mail, it's internal
 22 to Eastern Health but it's December 2nd, 2005
 23 and has appended to it the story taken from a
 24 CBC news website, "Cancer" and, December 2nd,
 25 2005, "Cancer Patients Frustrated With Test

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1 Wait Times." And it involves, in particular,
 2 at patient named Zita White.
 3 MS. MATTHEWS:
 4 A. Um-hm.
 5 COFFEY, Q.C.:
 6 Q. And also attributes a quote to the bottom of
 7 it to Dr. Bob Williams. In the Premier's
 8 office were you aware of what was by this
 9 point in time, by early December, a developed
 10 complaints in the public forum, public media
 11 about the slowness with which the results were
 12 coming back?
 13 MS. MATTHEWS:
 14 A. From the media or from patients particularly?
 15 COFFEY, Q.C.:
 16 Q. Well, it's in the media and it is by a
 17 patient.
 18 MS. MATTHEWS:
 19 A. I would, if I had read this story, I
 20 certainly would have been aware of the
 21 issue.
 22 COFFEY, Q.C.:
 23 Q. Do you recall whether or not anyone--that's
 24 why I was asking you earlier about the idea of
 25 is there anything, any structure in place to

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1 bring to your attention a matter or an issue
 2 that apparently is not being resolved from
 3 certain members of the public's perspective?
 4 MS. MATTHEWS:
 5 A. Well, every -
 6 COFFEY, Q.C.:
 7 Q. Satisfactorily resolved?
 8 MS. MATTHEWS:
 9 A. Every issue that isn't being resolved from the
 10 public's perspective is not brought
 11 necessarily to the Premier's office for
 12 resolution. We very much rely upon
 13 departments and agencies like Eastern Health
 14 to resolve those issues. It's not--it would
 15 be the exception, again, rather than the rule
 16 for the Premier's office to become involved.
 17 And particularly in a circumstance like this,
 18 I can certainly appreciate the frustration of
 19 those people who were impacted; I think it's
 20 quite natural and understandable. But from
 21 the perspective of how quickly a lab can read
 22 a result, that's just not something that the
 23 Premier's office would have likely involved
 24 itself in.
 25 COFFEY, Q.C.:

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1 Q. There's another subject matter, Exhibit P-310.
 2 Thank you. This is, again, a series of e-
 3 mails, December 1st, 2005. And I appreciate
 4 you're neither mentioned, the originator or
 5 recipient of it. But because it refers to
 6 the--if I could.
 7 COMMISSIONER:
 8 Q. You want to go down further?
 9 COFFEY, Q.C.:
 10 Q. Yes, please, if you could, please, just scroll
 11 down a little bit, please? Thank you. At one
 12 of the e-mails from Tansy Mundon--did you know
 13 Ms. Mundon?
 14 MS. MATTHEWS:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. Okay. She -
 18 MS. MATTHEWS:
 19 A. Fairly well.
 20 COFFEY, Q.C.:
 21 Q. And how, in what context did you know her?
 22 MS. MATTHEWS:
 23 A. I've worked with her for several years in
 24 government.
 25 COFFEY, Q.C.:

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1 Q. And as of December, 2005 had you known her for
 2 long before that?
 3 MS. MATTHEWS:
 4 A. I would have known her for a few years, for
 5 sure, yeah.
 6 COFFEY, Q.C.:
 7 Q. Okay, so she had been in government before
 8 that for awhile?
 9 MS. MATTHEWS:
 10 A. Yes, she had.
 11 COFFEY, Q.C.:
 12 Q. Okay. Now here, Ms. Thomas-Pennell is writing
 13 to her to inform her about a matter involving
 14 an inquiry by Mark Quinn.
 15 MS. MATTHEWS:
 16 A. Right.
 17 COFFEY, Q.C.:
 18 Q. Doing a news story on the fact that ER/PR
 19 testing is taking longer than we thought.
 20 That is, "Mr. Quinn had talked to Peter Dawe
 21 and a particular cancer patient and Dr.
 22 Williams had done a quick telephone interview.
 23 Basically all he said is that we are getting
 24 the results back as fast as we can. Issued a
 25 plea to Mount Sinai they do what they can to

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1 hurry the procedure along. There's not much
 2 more we can say. Just wanted to keep you in
 3 the loop. I managed to hold him off until
 4 today, that way the issue should be dead again
 5 by the time the House opens again next week."
 6 MS. MATTHEWS:
 7 A. Um-hm.
 8 COFFEY, Q.C.:
 9 Q. Now, that particular comment, this is a
 10 Thursday just before 2:00. The idea of
 11 putting a reporter off until a particular
 12 point in the week so an issue will be dead by
 13 the time the House, in this context it would
 14 the House of Assembly, opens again next week.
 15 MS. MATTHEWS:
 16 A. Right.
 17 COFFEY, Q.C.:
 18 Q. Have you come across that idea before?
 19 MS. MATTHEWS:
 20 A. No, I haven't. And I would point out that
 21 that was written by an individual who did not
 22 work for government. And I can say quite
 23 clearly and categorically and I think we've
 24 demonstrated it during our time in government
 25 that the Premier is not afraid of issues in

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1 the media and he certainly doesn't run away
 2 from them. So our, from our perspective,
 3 that's not a philosophy that we would have
 4 necessarily endorsed. An issue is going to be
 5 an issue regardless of if the House of
 6 Assembly is open or not.
 7 COFFEY, Q.C.:
 8 Q. Do you recall whether Ms. Mundon ever brought
 9 this sort of attitude or approach, the fact
 10 that she'd been apprised of it or told about
 11 it December 1, 2005, did she ever bring that
 12 to your attention?
 13 MS. MATTHEWS:
 14 A. No, not to my knowledge, no.
 15 COFFEY, Q.C.:
 16 Q. If we could look, please, at Exhibit P-0100?
 17 Now, this is again an e-mail involving Ms.
 18 Mundon. It's dated December 4th, 2005. One
 19 particular portion of it I'm just going to
 20 read to you, it's the one at 09 hours, which
 21 would be nine past midnight on Monday,
 22 December 5th from Ms. Hennessey to Ms. Mundon.
 23 She says, expresses surprise. And she says,
 24 "From a," in the third line, "From a patient's
 25 perspective this is becoming less and less

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1 acceptable and it is likely the minister will
 2 be subject to some hard questioning on why
 3 things went wrong and why it is taking so long
 4 to get the results from Mount Sinai."
 5 Suggesting that within, at least, the
 6 Department of Health there was a recognition
 7 that this was not satisfactory?
 8 MS. MATTHEWS:
 9 A. Right.
 10 COFFEY, Q.C.:
 11 Q. And the idea that Mr., it was then Mr.
 12 Ottenheimer will be subject to some hard
 13 questioning. In circumstances where it was
 14 anticipated a person such as Mr. Ottenheimer
 15 would be subject to hard questioning,
 16 potentially, would that be raised in a forum
 17 with the Premier's office?
 18 MS. MATTHEWS:
 19 A. Not necessarily. Ministers are typically
 20 quite capable of handling themselves in those
 21 circumstances.
 22 COFFEY, Q.C.:
 23 Q. By that point in time, which is the fall
 24 sitting of 2005, was there any understanding
 25 in the Premier's office as to how Mr.

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1 Ottenheimer was going to answer any such
 2 question involving ER/PR?
 3 MS. MATTHEWS:
 4 A. No.
 5 COFFEY, Q.C.:
 6 Q. And that's so despite the fact that there were
 7 public complaints, complaints publicly about
 8 it being unsatisfactory?
 9 MS. MATTHEWS:
 10 A. Again, we have--it would be impossible for the
 11 Premier's office to follow up on every single
 12 issue that is in every single department. And
 13 we had full confidence in the department to
 14 handle the issue.
 15 COFFEY, Q.C.:
 16 Q. Do you know if Mr. Williams was--or asked
 17 about, well, what's going on with this?
 18 MS. MATTHEWS:
 19 A. If he was asked or did he ask? I don't recall
 20 him asking, no. He may have, I just don't
 21 recall him asking. He may have asked back in
 22 October when the briefing note came up
 23 regarding the story, but again I can't say
 24 with certainty that he did.
 25 COFFEY, Q.C.:

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1 Q. And with respect to this, if we could look
 2 please at exhibit P-0395, if we could look
 3 please at page six. And to put this is some
 4 kind of temporal context, this is a transcript
 5 of a VOCM radio broadcast of December 6, 2005.
 6 It's an interview by Gerry Phelan of Peter
 7 Dawe concerning this matter. And the title is
 8 "patients still waiting for test results".
 9 And Mr. Dawe, on page seven in the transcript
 10 says or is quoted as saying, in the third
 11 line, "Tamoxifen in the clinical trials has
 12 shown in one particular clinical trial a 33
 13 percent increase in survival rate over a two
 14 year period. So, there's no doubt that, you
 15 know, taking a group of people you can't pick
 16 out which one and it's almost impossible on an
 17 individual basis, but, you know, if you take a
 18 group of people, almost a thousand women and
 19 then, you know, a hundred of them should have
 20 been on Tamoxifen, there's no doubt that lives
 21 were and had been endangered and will be
 22 endangered unless this process is hurried
 23 along". So, that's an example of what was
 24 being said -
 25 MS. MATTHEWS:

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1 A. Um-hm.
 2 COFFEY, Q.C.:
 3 Q. - in the media at the time. And again, to be
 4 fair and put it in context, looking at page
 5 three of the same exhibit, is a transcript of
 6 an interview by CBC radio, Jeff Gilhooly,
 7 December 5, 2005 of Peter Dawe and at page
 8 five of the transcript, Peter Dawe is
 9 attributed with the following comment. "Well,
 10 if you look at, you know, what the lesson
 11 learned, you know, from my...it's easy for me
 12 to say, I'm not working in that system, but
 13 from outside the system and advocating for
 14 people with cancer, you're going to say, look,
 15 you know, your first has got to be can we
 16 protect life here? You know, whose life is it
 17 that we can, you know, put a priority on to
 18 literally save their life. And if you go
 19 through that process, if you think through
 20 that process first, then you know you're going
 21 to come up with some different decisions that
 22 were made, right". And this has to do with
 23 the priority of testing and the idea
 24 potentially and in fact, apparently some
 25 deceased patients' results were retested -

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1 MS. MATTHEWS:
 2 A. Okay.
 3 COFFEY, Q.C.:
 4 Q. - early on. How much, if at all, were you
 5 aware in late November, early December 2005
 6 that those sorts of things were being said
 7 publicly?
 8 MS. MATTHEWS:
 9 A. As I've already said, I would have been
 10 generally aware. Did I hear that specific
 11 interview? I can't say with certainty. I
 12 would have been generally aware that there was
 13 concern in the public domain, but again, it
 14 would have been an issue particularly from lab
 15 testing that we would have relied upon health
 16 care professionals to deal with. I don't
 17 think it would have been appropriate or anyone
 18 would have expected it at that time that the
 19 premier's office would have involved itself in
 20 lab testing. It's not our area of expertise
 21 and we would have relied upon the people at
 22 Eastern Health to ensure that everything was
 23 looked after in a timely and appropriate
 24 manner, particularly as it related to patient
 25 care.

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1 THE COMMISSIONER:
 2 Q. Mr. Coffey (inaudible) luncheon break now.
 3 COFFEY, Q.C.:
 4 Q. Thank you, Commissioner, I'll do that.
 5 THE COMMISSIONER:
 6 Q. All right, 2:00 p.m.
 7 (LUNCH BREAK)
 8 THE COMMISSIONER:
 9 Q. Please be seated. Mr. Coffey.
 10 COFFEY, Q.C.:
 11 Q. Thank you, Commissioner. Exhibit P-0402,
 12 please. Just look at page two of this, Ms.
 13 Matthews. This is a--it's an "Independent"
 14 newspaper story of February 5, 2006 "Cancer
 15 Suit Filed, Eastern Health Sued For False
 16 Breast Cancer Tests, Lawyer Expects More Suits
 17 To Come" and this is a story involving a lady
 18 named Michelle Hanlon and it refers to a
 19 Statement of Claim having been issued, okay.
 20 I'll just go back there, just so you'll see
 21 it. That's her name right there and it's a
 22 Statement of Claim. Was there any effort made
 23 by the premier's office to keep track of such
 24 matters as lawsuits filed involving Crown
 25 agencies or Crown entities such as Eastern

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1 Health?
 2 MS. MATTHEWS:
 3 A. Generally speaking in the premier's office, we
 4 wouldn't specifically track lawsuits. We
 5 would depend upon the relevant department
 6 involved. In this case it would be the
 7 Department of Health and potentially the
 8 Department of Justice, although I'm not quite
 9 sure what involvement they would have in a
 10 lawsuit concerning an outside Crown agency.
 11 COFFEY, Q.C.:
 12 Q. And the reason I ask that will become apparent
 13 in a moment, a couple of moments. If we
 14 could, please, Exhibit P-0394. Ma'am, ATIPPA
 15 requests.
 16 MS. MATTHEWS:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. Are you involved in responding to ATIPPA
 20 requests, your office?
 21 MS. MATTHEWS:
 22 A. Generally speaking I wouldn't be involved.
 23 Obviously, the government receives quite a
 24 number of ATIPPA requests in the course of a
 25 year. We do have co-ordinator on our floor

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1 who works with the co-ordinator for ATIPPA
 2 requests for Executive Council. I would be
 3 made aware of a request if it specifically
 4 involved the premier's office. I could also
 5 be made aware of a request if the co-ordinator
 6 at our office thought that perhaps it's
 7 something that I should be made aware of. He
 8 may say, Elizabeth, by the way, we have this
 9 request in. Did you want to have a look at?
 10 I may or may not have a look, just depending
 11 upon if I felt that it was significant enough
 12 for me to look at.
 13 COFFEY, Q.C.:
 14 Q. Sorry, so there's a co-ordinator in who's
 15 office?
 16 MS. MATTHEWS:
 17 A. In the premier's office.
 18 COFFEY, Q.C.:
 19 Q. Premier's office.
 20 MS. MATTHEWS:
 21 A. Yes.
 22 COFFEY, Q.C.:
 23 Q. And does every ATIPPA request that comes to
 24 the government pass through that office?
 25 MS. MATTHEWS:

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1 A. Oh gosh, no. Typically -
 2 COFFEY, Q.C.:
 3 Q. If we could, how does that work?
 4 MS. MATTHEWS:
 5 A. Departments deal with their own ATIPPA
 6 requests.
 7 COFFEY, Q.C.:
 8 Q. Okay.
 9 MS. MATTHEWS:
 10 A. They would generally, I believe make Cabinet
 11 Secretariat aware or keep them apprised. They
 12 probably keep a running list, for example, of
 13 requests that come into government. I would
 14 imagine communications directors probably keep
 15 the communications and consultation branch
 16 aware of requests that come into departments.
 17 The co-ordinator in our office would only
 18 involve himself with requests specifically
 19 made to Executive Council which is, as I
 20 described earlier, is kind of, you could
 21 describe it as the Premier's department. So,
 22 he would--the individual in our office would
 23 co-ordinate and really oversee, he would
 24 oversee in co-ordination with the co-ordinator
 25 in Executive Council the requests that came in

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1 related to Executive Council or the premier's
 2 office.
 3 COFFEY, Q.C.:
 4 Q. What circumstances, if any that involved an
 5 ATIPPA request to the Department of Health and
 6 Community Services in 2006, under what
 7 circumstances would that end up being, passing
 8 through the premier's office?
 9 MS. MATTHEWS:
 10 A. I think it would be relatively rare for it to
 11 pass through the premier's office.
 12 COFFEY, Q.C.:
 13 Q. Was there any policy in government in dealing
 14 with responses to ATIPPA requests to have a
 15 communications plan in place in relation to
 16 the time at which a response went out?
 17 MS. MATTHEWS:
 18 A. Generally speaking?
 19 COFFEY, Q.C.:
 20 Q. Yes.
 21 MS. MATTHEWS:
 22 A. I think departments probably do things
 23 differently from department to department. I
 24 would imagine and it would be my anticipation
 25 that if a request came into a particular

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1 department, the director of communications, at
 2 the very least, would be given a heads up that
 3 the request was in, in the event that it could
 4 turn into a media or a public issue. The
 5 directors of communications of perhaps the
 6 Executive would then determine whether or not
 7 it would be appropriate to prepare a
 8 communications plan and do so accordingly.
 9 COFFEY, Q.C.:
 10 Q. So, is there any blanket policy that there be
 11 a communications plan?
 12 MS. MATTHEWS:
 13 A. I'm not aware of a blanket written policy,
 14 there may be one, but I think it would just be
 15 a--you know, your intuition would tell you
 16 whether or not you would need to prepare a
 17 communications plan for a particular ATIPPA
 18 request.
 19 COFFEY, Q.C.:
 20 Q. Now, were you aware of an ATIPPA request made
 21 to the Department of Health and Community
 22 Services in February 2006 by Mark Quinn?
 23 MS. MATTHEWS:
 24 A. No, I don't recall being aware of that
 25 request.

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1 COFFEY, Q.C.:
 2 Q. If we could please, what's your next memory of
 3 ER/PR? Because we had gotten as far as, I
 4 believe, discussing before lunch your
 5 awareness generally in late November,
 6 certainly by early December 2005 that there
 7 was still discussion of the matter in the
 8 media.
 9 MS. MATTHEWS:
 10 A. Correct.
 11 COFFEY, Q.C.:
 12 Q. You would have been aware of that. After
 13 that, what then happened?
 14 MS. MATTHEWS:
 15 A. My next involvement would have been in August
 16 of 2006 when there was a note prepared jointly
 17 by the Department of Health and Community
 18 Services and Cabinet Secretariat. I believe
 19 that note arose as a result of a story in the
 20 media. So, it was provided as an update note
 21 which I would add is not unusual.
 22 COFFEY, Q.C.:
 23 Q. Exhibit P-0811, please. Now, this is an e-
 24 mail from Gary Cake, Monday, July 31, 2006
 25 10:05 a.m. to John Abbott. It's copied to

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1 Marilyn McCormack and the subject is "a
 2 briefing note" and he writes, "John, would you
 3 please have a briefing note prepared on the
 4 issue in the front page story of 'The
 5 Independent' yesterday"--I'm sorry--"re:
 6 lawsuit being launched by breast cancer
 7 patients. For you information the only note
 8 in our system on this matter is dated October
 9 5, '05. Thanks. Gary". Was there any system
 10 in place within the premier's office or
 11 Cabinet Secretariat that you're aware of that
 12 keeps track of requests for briefing notes?
 13 MS. MATTHEWS:
 14 A. Not in the premier's office, but in Cabinet
 15 Secretariat, I would anticipate there is a
 16 tracking mechanism.
 17 COFFEY, Q.C.:
 18 Q. And were you aware or when did you become--
 19 well, first of all, were you aware before that
 20 this request was being made by Mr. Cake?
 21 MS. MATTHEWS:
 22 A. No, I was not.
 23 COFFEY, Q.C.:
 24 Q. When did you become aware that it had been
 25 made?

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1 MS. MATTHEWS:
 2 A. I wouldn't have been aware until I actually
 3 received the briefing note.
 4 COFFEY, Q.C.:
 5 Q. And do you recall how many versions of the
 6 briefing note you saw?
 7 MS. MATTHEWS:
 8 A. I just saw one version of the briefing note.
 9 COFFEY, Q.C.:
 10 Q. The one? Okay. Please Commissioner, one
 11 second, I want to identify the particular one.
 12 It's P-0125, please, page 32, please. This is
 13 it, that registry stamp. This is the
 14 distribution list and your name is amongst
 15 those there. It's as page 31, Commissioner of
 16 P-0125 and just if I could, please, looking at
 17 the last page of the actual briefing note,
 18 it's dated August 18, 2006 and it's prepared
 19 by, approved by Heather Predham, Eastern
 20 Health, Moira Hennessey, Health and Community
 21 Services, reviewed by Marilyn McCormack and
 22 Gary Cake, Cabinet Secretariat.
 23 Ma'am, at that time, your understanding
 24 was what in relation to the significance, if
 25 any, of the names that follow "prepared by"

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1 and "reviewed by"?
 2 MS. MATTHEWS:
 3 A. To be honest, those names wouldn't have jumped
 4 out at me at all. I don't--when I receive a
 5 briefing note in the premier's office--and you
 6 have to understand, we receive several notes
 7 in the premier's office in the run of a week.
 8 We could receive up to 10, 12 notes in a day
 9 or several notes, certainly in the run of a
 10 week. I don't typically bring my attention to
 11 by whom it was prepared or reviewed because I
 12 just -
 13 COFFEY, Q.C.:
 14 Q. And I appreciate not necessarily who they
 15 were. What I'm asking about is, is the
 16 significance perhaps more to the point of the
 17 words "prepared by", the word "prepared".
 18 MS. MATTHEWS:
 19 A. No, that would not have. I would have seen
 20 Eastern Health, Health and Community Services,
 21 Cabinet Secretariat, that wouldn't be unusual
 22 to me.
 23 COFFEY, Q.C.:
 24 Q. To see the word "prepared by", would you
 25 associate that with--would you have understood

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1 that Heather Predham had actually prepared
 2 this?
 3 MS. MATTHEWS:
 4 A. Yes.
 5 COFFEY, Q.C.:
 6 Q. That's what I'm getting at. The usage of the
 7 word prepared.
 8 MS. MATTHEWS:
 9 A. I would have assumed it was prepared by
 10 Heather Predham and Moira Hennessey, but to be
 11 honest, I would not have--I likely would not
 12 have even noticed who prepared and reviewed
 13 the note at that time.
 14 COFFEY, Q.C.:
 15 Q. I appreciate, I understand that the actual
 16 individuals might not, in the circumstances be
 17 of any significance to you, but you would have
 18 assumed, I take it, that if their names were
 19 there that they actually prepared them and
 20 approved them?
 21 MS. MATTHEWS:
 22 A. Absolutely.
 23 COFFEY, Q.C.:
 24 Q. Okay. And the usage of the word "reviewed
 25 by", the usage of the word "reviewed", did you

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1 assume, at the time, that that actually meant
 2 that Ms. McCormack and Mr. Cake had actually
 3 reviewed these?
 4 MS. MATTHEWS:
 5 A. I wouldn't have noticed it, but to read that
 6 now, I absolutely would assume they would have
 7 reviewed the note.
 8 COFFEY, Q.C.:
 9 Q. Was there any system in place, to your
 10 knowledge, at that time, by which those, in
 11 this case it's four individuals, in any way,
 12 signified, in a personal way, that they had
 13 actually prepared or approved or reviewed
 14 these, like initialled them in any way or kept
 15 track of in any way?
 16 MS. MATTHEWS:
 17 A. I don't -
 18 COFFEY, Q.C.:
 19 Q. What I'm getting at is this, is how would you
 20 know other than what you've read there that
 21 Marilyn McCormack actually reviewed this?
 22 MS. MATTHEWS:
 23 A. I would trust that information to be accurate.
 24 COFFEY, Q.C.:
 25 Q. That's what I'm getting at.

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1 MS. MATTHEWS:
 2 A. Okay.
 3 COFFEY, Q.C.:
 4 Q. Just by virtue of the fact that I take it that
 5 it was written--it's typed there, you would
 6 assume that it's accurate?
 7 MS. MATTHEWS:
 8 A. Yes, yes.
 9 THE COMMISSIONER:
 10 Q. Not working again, Mr. Coffey?
 11 COFFEY, Q.C.:
 12 Q. No, not working again.
 13 THE COMMISSIONER:
 14 Q. I'm afraid the mice are fooling up Mr.
 15 Coffey's day. Did you want to tell us -
 16 COFFEY, Q.C.:
 17 Q. Yes, it's probably somebody with a Bluetooth
 18 actually -
 19 MR. BROWNE:
 20 Q. It may need antibodies.
 21 COFFEY, Q.C.:
 22 Q. It's probably somebody with a Bluetooth,
 23 actually, I'm advised who hasn't disabled it.
 24 THE COMMISSIONER:
 25 Q. Did you want to go up or down, if you'd ask

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1 the Registrar, she may be able to help you.
 2 COFFEY, Q.C.:
 3 Q. Perhaps, well actually what I'd like to do is
 4 to go to--I'll deal first of all with this and
 5 then go back a page. "Action required" here,
 6 ma'am, do you see that?
 7 MS. MATTHEWS:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. "This notice provided for information purposes
 11 only. Should the Premier require further
 12 detail, officials from Eastern Health, as well
 13 as their legal counsel, will be available for
 14 an in-person briefing." Okay?
 15 MS. MATTHEWS:
 16 A. Yes.
 17 COFFEY, Q.C.:
 18 Q. And this deals with litigation against Eastern
 19 Health in relation to ER/PR matter.
 20 MS. MATTHEWS:
 21 A. Right.
 22 COFFEY, Q.C.:
 23 Q. That's what the whole of the briefing note is
 24 about, amongst other things. When you saw
 25 that, I take it you did read or would have

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1 read this briefing note on August 18th or
 2 thereabouts.
 3 MS. MATTHEWS:
 4 A. Yes.
 5 COFFEY, Q.C.:
 6 Q. The reference to the Premier requiring,
 7 "Should the Premier require further detail,
 8 officials from Eastern Health, as well as
 9 their legal counsel, will be available for an
 10 in-person briefing." Had you ever seen a
 11 reference to offering up a lawyer before?
 12 MS. MATTHEWS:
 13 A. As I said, we received so many briefing notes
 14 in the Premier's office, it's altogether
 15 possible there's been references to a lawyer
 16 before. It's not something that jumped out at
 17 me.
 18 COFFEY, Q.C.:
 19 Q. And you would have understood at the time the
 20 function of making a lawyer available would be
 21 what in this context?
 22 MS. MATTHEWS:
 23 A. I assume I would have read that almost as a
 24 courtesy, perhaps the people who had prepared
 25 the note thought, well, the Premier is a

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1 lawyer, perhaps he might like to have a
 2 briefing from a legal perspective. It really
 3 wasn't something that jumped out at me. The
 4 note, if you go further up in the note, you
 5 know, there are details about the actual
 6 lawsuit, so that would not have jumped out at
 7 me in particular.
 8 COFFEY, Q.C.:
 9 Q. And the fact that the lawyer for at least one
 10 side of the lawsuit is being suggested as
 11 being made available, but there's no reference
 12 to the other side of the lawsuit?
 13 MS. MATTHEWS:
 14 A. Right.
 15 COFFEY, Q.C.:
 16 Q. That didn't--kind of of potential anomaly -
 17 MS. MATTHEWS:
 18 A. It just would not have resonated with me, I
 19 wouldn't have had any anticipation that--I
 20 know the Premier never took them up on that
 21 offer and from my perspective, you know, when
 22 you have an issue in government, you have many
 23 implications that you consider, you consider
 24 budgetary implication, legal implications,
 25 legislative implications, so it's not unusual

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1 to see a reference to legal issues in a
 2 briefing note, to see an offer for a briefing--
 3 -I would have seen it as just a courtesy and
 4 nothing more.
 5 COFFEY, Q.C.:
 6 Q. Now the heading above that is "Reasons for the
 7 erroneous results and steps taken to prevent
 8 reoccurrence"?
 9 MS. MATTHEWS:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. Now at this point in time, what was your
 13 understanding as to where the ER/PR issue was
 14 in the public forum?
 15 MS. MATTHEWS:
 16 A. I'm not sure I understand your question.
 17 COFFEY, Q.C.:
 18 Q. Well at this point, this is August, mid August
 19 '05.
 20 MS. MATTHEWS:
 21 A. Yes.
 22 COFFEY, Q.C.:
 23 Q. Where was ER/PR in the public--I'm sorry, '06,
 24 I apologize, I meant to say '06, where was the
 25 ER/PR issue in the public forum?

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1 MS. MATTHEWS:
 2 A. There had been, it was from my perspective, it
 3 had been widely reported by the media. There
 4 had been ads, I referred to them earlier by
 5 Eastern Health, province-wide ads explaining
 6 the issue. The issue of the lawsuit was in
 7 the public domain, so it was widely known, the
 8 issue was widely known.
 9 COFFEY, Q.C.:
 10 Q. And was there still some dissatisfaction being
 11 expressed publicly about Eastern Health's
 12 handling of the matter up to that point?
 13 MS. MATTHEWS:
 14 A. Nothing stands out in my mind at that time.
 15 I'm sure not everyone was a hundred percent
 16 satisfied, but they seldom are on any given
 17 issue. It's not something that stands out to
 18 me in particular, in August of '06.
 19 COFFEY, Q.C.:
 20 Q. Now this is about a year, well actually it's
 21 13 months after you were first told by Ms.
 22 Chaplin about the existence of the problem.
 23 MS. MATTHEWS:
 24 A. That's right.
 25 COFFEY, Q.C.:

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1 Q. Here it says, "Eastern Health has engaged
 2 external consultants to review the procedures
 3 of the laboratory. When all reports are
 4 received, they will be reviewed and the
 5 recommendations will be implemented. The goal
 6 is to have the laboratory accredited. Until
 7 these processes are completed, all samples
 8 will continue to be retested at Mount Sinai."
 9 And what was your understanding in terms of
 10 the handling at that point and where the
 11 clinical issues stood? The handling of the
 12 clinical issues and technological issues and
 13 where they stood?
 14 MS. MATTHEWS:
 15 A. I, to be honest, did not have very clear
 16 understanding of the clinical or technological
 17 issues simply because it's something that fell
 18 outside my area of expertise. I wasn't a
 19 hundred percent sure of the specific issues of
 20 what happened in the lab simply because it was
 21 a very complex medical situation and from my
 22 perspective, it's not something that--I'm not
 23 saying it's not something that wouldn't have
 24 concerned me personally to know that those
 25 tests had been misdiagnosed, I'm saying from a

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1 communications perspective, the specifics of
 2 what happened in the lab, I did not know those
 3 details, but I was assured that the issues in
 4 the lab generally were being addressed, so
 5 that this would never happen again, to the
 6 best of their ability.
 7 COFFEY, Q.C.:
 8 Q. Now you were being assured in this regard by
 9 whom?
 10 MS. MATTHEWS:
 11 A. I would have been assured by the Department of
 12 the Health, officials within the department.
 13 COFFEY, Q.C.:
 14 Q. And do you recall who that was and when that
 15 happened?
 16 MS. MATTHEWS:
 17 A. I don't recall specifically, my general
 18 interaction would have been--generally my
 19 interaction would have been with the
 20 directors, so either Carolyn or Tansy and in
 21 2006 and again, it's somewhat difficult to
 22 recollection specific times and dates this far
 23 in the future, but--so I wouldn't be able to
 24 tell you exactly when those conversations
 25 occurred and what the exact details were, but

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1 I do recall that from the onset of the issue,
 2 my concerns and priorities always were, as I
 3 said earlier, are we doing something to fix
 4 the issues at the lab and ensure that patient
 5 safety is secure on a go-forward basis and are
 6 patients being appropriately dealt with.
 7 COFFEY, Q.C.:
 8 Q. Okay, would it have been a concern to know,
 9 well, aside on a go-forward basis, well what
 10 happened and why did it go on so long,
 11 apparently undetected.
 12 MS. MATTHEWS:
 13 A. Right.
 14 COFFEY, Q.C.:
 15 Q. Would that be of concern to know the answer
 16 to?
 17 MS. MATTHEWS:
 18 A. From my perspective, from a purely
 19 communications perspective, the specifics of
 20 what happened in the lab? No, because it's
 21 not my area of expertise, I'm not a health
 22 care professional.
 23 COFFEY, Q.C.:
 24 Q. Okay, but you would have understood, wouldn't
 25 you, that certainly the media, perhaps the

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1 public, certainly the media would--by this
 2 point in time, August, 2006, was certainly
 3 wondering how many results changed?
 4 MS. MATTHEWS:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. And what caused the problem in the first
 8 place.
 9 MS. MATTHEWS:
 10 A. Right, and I would anticipate that Eastern
 11 Health would answer those questions.
 12 COFFEY, Q.C.:
 13 Q. Okay. Now, looking at this particular
 14 briefing note, is there any answer to the
 15 second question, which is why it happened and
 16 why it went undetected so long?
 17 MS. MATTHEWS:
 18 A. I would have to go back through -
 19 COFFEY, Q.C.:
 20 Q. Sure, take your time. Is your mouse -
 21 THE COMMISSIONER:
 22 Q. Your's is not working either?
 23 MS. MATTHEWS:
 24 A. No.
 25 THE COMMISSIONER:

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1 Q. Is this the Registrar or -
 2 THE REGISTRAR:
 3 Q. This is me.
 4 COFFEY, Q.C.:
 5 Q. And if we could go back to the first page
 6 please?
 7 THE COMMISSIONER:
 8 Q. To page 1 of this particular document please?
 9 COFFEY, Q.C.:
 10 Q. Thank you.
 11 THE COMMISSIONER:
 12 Q. And then very slowly. If you want her to stop
 13 at any point, just let her know, please.
 14 MS. MATTHEWS:
 15 A. Okay, thank you.
 16 COFFEY, Q.C.:
 17 Q. There's probably an electronic device
 18 somewhere around that jams these, according to
 19 -
 20 THE COMMISSIONER:
 21 Q. Yes, we've had that experience before. We
 22 blame it on Bluetooth, but I don't know
 23 whether that's correct or not.
 24 MS. MATTHEWS:
 25 A. You can go through the actual chart there. I

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1 don't believe that there's anything in this
 2 note that specifically says here is exactly
 3 what happened in the lab and here is exactly
 4 how we fixed it. There's a general knowledge
 5 about what Tamoxifen would mean to a breast
 6 cancer patient, how it impacts treatment, what
 7 ER/PR tests, the results of those tests, how
 8 they impact treatment. But a specific answer
 9 about what precisely happened--and it's my
 10 understanding, you know, that the issues in
 11 the lab were incredibly complex, there were
 12 several steps, there was technology, there
 13 was, you know, human activity, so it wasn't a
 14 black and white answer, per se, and I don't
 15 think that those answers are reflected in this
 16 briefing note.

17 COFFEY, Q.C.:

18 Q. And your understanding of, as you've just
 19 described then, that perhaps there was more
 20 than one factor involved -

21 MS. MATTHEWS:

22 A. Yes.

23 COFFEY, Q.C.:

24 Q. You would have acquired that when and from
 25 whom?

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1 MS. MATTHEWS:

2 A. I don't particularly know when exactly I would
 3 have been told that, but I, again, my
 4 information would have come from the director
 5 of communications or I may have discussed it
 6 with the chief of staff, if he had discussed
 7 it with somebody else, but again, that's just
 8 conjecture. I know that I was told that, more
 9 than likely it would have been by somebody in
 10 the Department of Health.

11 COFFEY, Q.C.:

12 Q. Would you have understood that by the middle
 13 of August, 2006, by the time this came along?

14 MS. MATTHEWS:

15 A. Yes, I likely would have understood it by that
 16 time.

17 COFFEY, Q.C.:

18 Q. And you say here, looking at page or the last
 19 page of the actual briefing note, under the
 20 heading "Reasons for the erroneous results and
 21 steps taken", the actual reasons, of course,
 22 are not spelled out.

23 MS. MATTHEWS:

24 A. That's right.

25 COFFEY, Q.C.:

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1 Q. And at the time in August of 2006, did you
 2 have any concerns or were you made aware of
 3 any concerns anyone had that 13 months, at
 4 least to your knowledge would have passed
 5 since you first became aware of this, and
 6 you're being advised "when all reports are
 7 received, they will be reviewed and
 8 recommendations will be implemented",
 9 suggesting present and in fact, future tense,
 10 13 months later.

11 MS. MATTHEWS:

12 A. I don't recall at that time having a specific
 13 concern. That's not to say that I didn't,
 14 it's just that I don't recollect reading this
 15 note and specifically at the point in time
 16 when I read this note, obviously anyone who
 17 was involved in this would be concerned the
 18 longer the timeframe elapsed between the
 19 discovery of the problems and the resolution
 20 of those problems, but in terms of
 21 specifically when the problems would be
 22 resolved the lab, that was something that was
 23 so outside of my area of expertise that I
 24 would have been concerned from a perspective
 25 of finding, you know, monitoring and wondering

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1 when the lab would be able to be, for example,
 2 reopened, but in terms of the specifics of
 3 what was going on in the lab, I would have
 4 left that to people who are much more
 5 qualified than I am to deal with those issues.

6 COFFEY, Q.C.:

7 Q. Now ma'am, from a communications perspective,
 8 though, would you have been concerned that 13
 9 months have passed, people--the public is
 10 perhaps getting restless about this, there's
 11 no end in sight based upon your reading of
 12 this note as to when answers will be provided
 13 to the public?

14 MS. MATTHEWS:

15 A. I don't know that I would have thought there
 16 was no end in sight, I would have -

17 COFFEY, Q.C.:

18 Q. Well there's no end in sight suggested here,
 19 is it?

20 MS. MATTHEWS:

21 A. Not suggested here, but again, again for me at
 22 this point in time it would have been an issue
 23 that Eastern Health would have been handling.
 24 It was, you know, it was very much their
 25 issue. The department was on top of it and I

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1 hate to sound repetitive when I keep saying
 2 that, but from the Premier's office's
 3 perspective, we relied upon the people in
 4 those organizations, within that department
 5 and within the organization of Eastern Health,
 6 to handle the issue appropriately.
 7 COFFEY, Q.C.:
 8 Q. Okay, looking at the first page under "Current
 9 status (pathology reports). The total number
 10 of patient tissue sent for retesting at Mount
 11 Sinai was 939. The majority of the test
 12 results, 929, have been returned. The
 13 following table details the results from Mount
 14 Sinai and also provides information on the 422
 15 test results with changes. The review by the
 16 Newfoundland and Labrador panel upon receipt
 17 from Mount Sinai." So at the time would you
 18 have understood that well there are 923
 19 results back, 422 of them changed, the
 20 results. It says 422 test results with
 21 changes suggesting that whatever the fraction
 22 is, it's probably around just over forty
 23 percent, the test results did change.
 24 MS. MATTHEWS:
 25 A. Right.

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1 COFFEY, Q.C.:
 2 Q. You would have understood that, if you did the
 3 arithmetic, you would have understood?
 4 MS. MATTHEWS:
 5 A. Sure.
 6 COFFEY, Q.C.:
 7 Q. Approximately half?
 8 MS. MATTHEWS:
 9 A. Right.
 10 COFFEY, Q.C.:
 11 Q. Changed, or getting close to half, 45 percent
 12 or so. Did you recognize that at the time,
 13 reading this, that -
 14 MS. MATTHEWS:
 15 A. It didn't stand out to me particularly because
 16 it wasn't highlighted as something that was
 17 different or new. I wasn't intimately aware
 18 of the numbers, just because again it wasn't
 19 something that was talked about day to day in
 20 our office, so it's not something that
 21 necessarily would have jumped out to me.
 22 Typically if there's an issue that's new or
 23 emerging, it would be highlighted as such, and
 24 I didn't see that to be highlighted in this
 25 briefing note.

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1 COFFEY, Q.C.:
 2 Q. Now, ma'am, what did understand was about or
 3 going to happen in respect of this?
 4 MS. MATTHEWS:
 5 A. I didn't--I wouldn't say that I necessarily
 6 had an anticipation that anything was going to
 7 happen. I saw it as an update note at that
 8 time. There was no request for action on the
 9 part of the Premier's office, there was no
 10 request for direction, so I would have seen it
 11 as an update note for information purposes.
 12 COFFEY, Q.C.:
 13 Q. Was there any discussion about this afterward?
 14 MS. MATTHEWS:
 15 A. Not to my recollection, no.
 16 COFFEY, Q.C.:
 17 Q. And I appreciate there was no request for
 18 direction. I take it then that there was, as
 19 best you can recall, no thought by anyone that
 20 perhaps intervention was warranted or inquiry,
 21 further inquiries were warranted?
 22 MS. MATTHEWS:
 23 A. No, we didn't hear--I didn't hear from anyone
 24 in communications at that time, we didn't hear
 25 from the minister at that time or the deputy,

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1 so, no.
 2 COFFEY, Q.C.:
 3 Q. Do you know if--did you speak to Mr. Thompson
 4 about this at all, do you know?
 5 MS. MATTHEWS:
 6 A. At that time?
 7 COFFEY, Q.C.:
 8 Q. Yes.
 9 MS. MATTHEWS:
 10 A. No.
 11 COFFEY, Q.C.:
 12 Q. How about Mr. Williams?
 13 MS. MATTHEWS:
 14 A. Not that I recall, no.
 15 COFFEY, Q.C.:
 16 Q. Did you make any inquiries as it related to
 17 this at all?
 18 MS. MATTHEWS:
 19 A. Not to the best of my recollection, no.
 20 COFFEY, Q.C.:
 21 Q. So the information contained in it, did you
 22 expect or anticipate, because there are a lot
 23 of numbers in this, I mean, -
 24 MS. MATTHEWS:
 25 A. Yes.

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1 COFFEY, Q.C.:

2 Q. - there's a lot of numbers and very detailed

3 descriptions of what those numbers mean.

4 MS. MATTHEWS:

5 A. Yes.

6 COFFEY, Q.C.:

7 Q. Did you understand that this was going to be

8 made public or might be made public at some

9 time? I'm trying to get the Commissioner some

10 sense of from the Premier's office in August

11 of '06 -

12 MS. MATTHEWS:

13 A. Sure.

14 COFFEY, Q.C.:

15 Q. - how, if any thought was given at all to how

16 this was going to play itself out in the

17 public forum.

18 MS. MATTHEWS:

19 A. From my perspective, again, and I have to put

20 context around this, in the Premier's office

21 in the run of a week we receive any number of

22 briefing notes on any number of items from any

23 number of departments, so this would have been

24 one of several notes that we would have

25 received. It was, again, there was no request

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1 for action or direction. I would have really

2 seen it as an updated note. It would not have

3 resonated with me that those particular

4 numbers were or were not in the public domain.

5 From my perspective I knew that the issue was

6 generally in the public domain, that Eastern

7 Health had done interviews and the oncologists

8 and doctors had spoken to the media, the

9 advertisement had been placed, you know, in

10 the -

11 COFFEY, Q.C.:

12 Q. And I appreciate that, ma'am -

13 MS. MATTHEWS:

14 A. - preceding year.

15 COFFEY, Q.C.:

16 Q. But what had happened, though, is that a lot

17 of people, we looked at just before lunch, the

18 December--I shouldn't say a lot -

19 MS. MATTHEWS:

20 A. Right.

21 COFFEY, Q.C.:

22 Q. - spokesperson for the Canadian Cancer

23 Society, I referred you to two different days

24 or the same day, really, two interviews.

25 MS. MATTHEWS:

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1 A. Um-hm, right.

2 COFFEY, Q.C.:

3 Q. In effect, complaining?

4 MS. MATTHEWS:

5 A. Right.

6 COFFEY, Q.C.:

7 Q. About Eastern Health's behaviour?

8 MS. MATTHEWS:

9 A. Yes.

10 COFFEY, Q.C.:

11 Q. And perhaps not directly, but indirectly the

12 government is responsible for health care?

13 MS. MATTHEWS:

14 A. Um-hm.

15 COFFEY, Q.C.:

16 Q. And ultimately responsible for it. So this is

17 now six months later, there's a lawsuit, it's

18 a class action, in fact, this is what this is

19 about at this point. The Premier's office is

20 advised in mid August as to the status of the

21 legal proceedings?

22 MS. MATTHEWS:

23 A. Right.

24 COFFEY, Q.C.:

25 Q. And from your perspective, I take it, looking

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1 back on it, you just saw this as an update on

2 where we were?

3 MS. MATTHEWS:

4 A. Yeah, I would actually--I think you described

5 it perfectly, it was a status, we were updated

6 on the status -

7 COFFEY, Q.C.:

8 Q. No -

9 MS. MATTHEWS:

10 A. - of the issue. And -

11 COFFEY, Q.C.:

12 Q. I was quoting, actually, your own word.

13 MS. MATTHEWS:

14 A. Okay.

15 COFFEY, Q.C.:

16 Q. You said a status report. What I'm getting at

17 is this, is you understood the purpose of the

18 note was to provide you as to an update on the

19 status. It just -

20 MS. MATTHEWS:

21 A. Right.

22 COFFEY, Q.C.:

23 Q. - deals with the lawsuit and the numbers.

24 MS. MATTHEWS:

25 A. Yes, that's accurate.

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1 COFFEY, Q.C.:

2 Q. It says nothing about where we're going with

3 this?

4 MS. MATTHEWS:

5 A. Well, again, it's an issue that was being

6 handled by the department, by Eastern Health

7 and just one of many briefing notes that would

8 have come in to the Premier's office and we

9 would have been confident still, at that time,

10 that it was being handled appropriately.

11 COFFEY, Q.C.:

12 Q. Exhibit P-0180, please? Ma'am, this is again,

13 I just picked this one because it's an e-mail

14 from Tansy Mundon to a number of senior

15 individuals and the minister of health on

16 November 27th, 2006 at 10:30 a.m., the subject

17 is "ER/PR Transcript, CBC News, Here and Now,

18 Thursday, November 23rd, 2006." And it

19 involved Jonathan Crowe, Chris O'Neill-Yates

20 and Minnie Hoyles.

21 MS. MATTHEWS:

22 A. Um-hm.

23 COFFEY, Q.C.:

24 Q. And if you look right down, I think it's the

25 second comment by Ms. O'Neill-Yates, she says,

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1 "After two mastectomies Hoyles is left with

2 questions, could an accurate test result mean

3 doctors would have prescribed leading cancer

4 treatment. Will her cancer come back? After

5 it realized there was a problem Eastern Health

6 sent hundreds of samples to Toronto to be

7 retested. Those results are back. Eastern

8 Health hasn't yet said what went wrong with

9 Hoyles' test and possibly hundreds" I presume

10 it should be "of others" "or how many women

11 had false results." Okay?

12 MS. MATTHEWS:

13 A. Um-hm.

14 COFFEY, Q.C.:

15 Q. Now, that happens to be one media report, I

16 believe there were others around that time.

17 MS. MATTHEWS:

18 A. Um-hm.

19 COFFEY, Q.C.:

20 Q. The House, I take it, would have been about to

21 open?

22 MS. MATTHEWS:

23 A. If it hadn't already been open, yes.

24 COFFEY, Q.C.:

25 Q. If it hadn't already?

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1 MS. MATTHEWS:

2 A. Yeah.

3 COFFEY, Q.C.:

4 Q. Were you aware then in the fall of 2006 that,

5 at least in the public forum, public media,

6 there was a certain amount of dissatisfaction

7 or impatience being expressed -

8 MS. MATTHEWS:

9 A. As we -

10 COFFEY, Q.C.:

11 Q. - concerning the failure to -

12 MS. MATTHEWS:

13 A. I think as we -

14 COFFEY, Q.C.:

15 Q. - address what went -

16 MS. MATTHEWS:

17 A. - previously -

18 COFFEY, Q.C.:

19 Q. - wrong and how many?

20 MS. MATTHEWS:

21 A. Yeah. I think as we discussed previously this

22 morning and you've already shown a couple of

23 other media stories from around that time, I'm

24 sure there are several stories that we could

25 potentially go through, so yeah, very clearly

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1 the issue is in the public domain, I don't

2 dispute that at all. But what I would say

3 again is that it was an issue for Eastern

4 Health and the department was also monitoring

5 it in conjunction with Eastern Health and we

6 would have felt confident that they were

7 handling it appropriately.

8 COFFEY, Q.C.:

9 Q. And, well, Peter Dawe is quoted here toward

10 the bottom of the page, "What happened? Why

11 was this mistake made or these series of

12 mistakes? That then leads into what have we

13 done about it now, what has the system done

14 about it to fix it?" So what lead you to

15 believe at that point in time that Eastern

16 Health was handling it appropriately? As it's

17 pointed out, it's 18 months -

18 MS. MATTHEWS:

19 A. I would have assumed that they were still

20 working through their issues as it related to

21 what happened in the lab. But from our

22 perspective at that time, the lab had been

23 closed, test results dating back to 1997 were

24 being retested, new tests that were coming

25 into the system, so new patients, their test

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1 results were being sent outside of the
 2 province. So from our perspective and patient
 3 care perspective, I wouldn't have had any
 4 concerns because I would have felt confident
 5 that those tests were being appropriately
 6 analyzed and that the patients were getting
 7 the proper treatment.
 8 COFFEY, Q.C.:
 9 Q. And I appreciate that on a go-forward basis,
 10 and that had been true since July or August of
 11 '05.
 12 MS. MATTHEWS:
 13 A. Right.
 14 COFFEY, Q.C.:
 15 Q. But here, looking at this, in the quote above
 16 there is, I just read to you Peter Dawe's last
 17 one. The one above that is, "This is the type
 18 of information that should be made public.
 19 Obviously it's a concern that it's taken up to
 20 18 months and we still don't have that
 21 information being made public." So as a
 22 communications individual I take it you'd be
 23 acutely aware of that sort of--that the
 24 potential consequences of a delay that
 25 extended -

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1 MS. MATTHEWS:
 2 A. Acutely?
 3 COFFEY, Q.C.:
 4 Q. Acutely aware. They haven't told the public
 5 what's going on or what they know?
 6 MS. MATTHEWS:
 7 A. Um-hm.
 8 COFFEY, Q.C.:
 9 Q. We're now approaching 18 months.
 10 MS. MATTHEWS:
 11 A. From my--yeah, sorry, continue.
 12 COFFEY, Q.C.:
 13 Q. So you would have understood the rationale for
 14 Mr. Dawe's complaint?
 15 MS. MATTHEWS:
 16 A. I would certainly understand the rationale for
 17 his complaint because he was advocating on a
 18 group of--on behalf of a group of individuals.
 19 COFFEY, Q.C.:
 20 Q. Yeah. At that point in time you would have
 21 been aware that as of August, anyway, you had
 22 most of the numbers, if not all of them?
 23 MS. MATTHEWS:
 24 A. I -
 25 COFFEY, Q.C.:

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1 Q. Three months before -
 2 MS. MATTHEWS:
 3 A. I don't think that from my perspective I would
 4 have, I would have put that information
 5 together necessarily.
 6 COFFEY, Q.C.:
 7 Q. Okay.
 8 MS. MATTHEWS:
 9 A. It's, and again, you know, I keep--I know I'm
 10 starting to sound a bit like a broken record,
 11 but I have to say again that from our office's
 12 perspective, this issue was not being managed
 13 on a day-to-day basis in our office.
 14 COFFEY, Q.C.:
 15 Q. Yeah, and -
 16 MS. MATTHEWS:
 17 A. So I wouldn't necessarily have had the context
 18 to put a briefing note that we had gotten in
 19 August of '06 together with the story that I
 20 may or may not have actually heard at that
 21 time. But I very well may have heard it, but
 22 I wouldn't have necessarily put the two
 23 together.
 24 COFFEY, Q.C.:
 25 Q. When did you become aware that Eastern Health

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1 was going to hold a technical media briefing?
 2 MS. MATTHEWS:
 3 A. Sorry, I -
 4 COFFEY, Q.C.:
 5 Q. When did you become aware that Eastern Health
 6 was finally going to hold a media technical
 7 briefing?
 8 MS. MATTHEWS:
 9 A. I became--I'm not certain if I became aware of
 10 it before or after they actually had the
 11 briefing, but in--it would have been either
 12 the day before or the day of or potentially
 13 even after. Again, it's something that the
 14 department would have organized and
 15 coordinated with Eastern Health. It wouldn't
 16 be typical for me to involve myself in
 17 briefings being held by outside agencies.
 18 COFFEY, Q.C.:
 19 Q. And do you recall the circumstances under
 20 which you did become aware of it?
 21 MS. MATTHEWS:
 22 A. I believe--I don't recall specifically, but I
 23 wouldn't be surprised if Tansy perhaps didn't
 24 give me a call to let me know that the
 25 briefing had taken place and I believe she

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1 sent me a briefing note the day following the
 2 briefing, if I'm not mistaken. And I
 3 obviously would have heard in the news that a
 4 technical briefing had taken place, as well.
 5 COFFEY, Q.C.:
 6 Q. Do you recall whether or not you paid any
 7 attention to the media coverage afterward?
 8 MS. MATTHEWS:
 9 A. I don't recall paying specific attention to
 10 the media coverage. I can't say that I
 11 didn't. There was--you know, I generally try
 12 to keep abreast of issues in the media.
 13 COFFEY, Q.C.:
 14 Q. Yes. And this was a relatively important
 15 issue, I take it, because it involved hundreds
 16 of people?
 17 MS. MATTHEWS:
 18 A. Absolutely. Any health care issue is seen to
 19 be a very important issue.
 20 COFFEY, Q.C.:
 21 Q. P-0197, please? And this is an e-mail from
 22 Tansy Mundon to yourself and Andrea Nolan,
 23 December 12, 2006, 12:34 p.m. The subject is
 24 a briefing note for Premier on ER and PR. And
 25 she writes, "Elizabeth, Andrea, for the

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1 Premier's information, this issue is in the
 2 media today." And then the page, this is a
 3 question and answer briefing note, Department
 4 of Health and Community Services. The third
 5 page of the briefing note is dated December
 6 12th, 2006, drafted by Beverley Griffiths and
 7 approved by Moira Hennessey. Ma'am, did you
 8 receive this?
 9 MS. MATTHEWS:
 10 A. Yes, I did.
 11 COFFEY, Q.C.:
 12 Q. And would you have read it?
 13 MS. MATTHEWS:
 14 A. Yes, I likely would have read it.
 15 COFFEY, Q.C.:
 16 Q. And would you have passed it on to Mr.
 17 Williams?
 18 MS. MATTHEWS:
 19 A. It's not likely that I would have.
 20 COFFEY, Q.C.:
 21 Q. Would you have passed on the informational
 22 content in it to Mr. Williams?
 23 MS. MATTHEWS:
 24 A. I may have, but not necessarily. It's not
 25 unusual if, particularly when the House of

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1 Assembly is open if an issue comes up in the
 2 media that a director of communication in any
 3 department might give me a heads up to an
 4 issue. But in this particular case I would
 5 have known--Tansy would have sent this to me
 6 because the House of Assembly was taking place
 7 that afternoon, I would imagine. And I would
 8 have known the minister would have handled
 9 questions in the House of Assembly. So when I
 10 brief the Premier and prepare him to go into
 11 the House of Assembly for question period, as
 12 you can imagine, it's, as I've said before,
 13 our office is quite a hectic place, so you
 14 know, you try to prioritize your day and you
 15 try to take your time, the select moments have
 16 with the Premier and use them wisely. So if I
 17 know a minister is going to address an issue
 18 in the House, I wouldn't necessarily raise it
 19 with the Premier.
 20 COFFEY, Q.C.:
 21 Q. And you wouldn't necessarily, but is it
 22 entirely possible whether it was a full--in
 23 effect, a full-blown press conference in one
 24 sense the day before, on Monday, December
 25 11th, is it likely that you would, in fact,

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1 have raised it with him, at least to give him
 2 a heads up, you know -
 3 MS. MATTHEWS:
 4 A. I may or may not -
 5 COFFEY, Q.C.:
 6 Q. - Premier Williams, yesterday, this was -
 7 MS. MATTHEWS:
 8 A. Yes. Well, if there was media reports the
 9 Premier may have read them himself, I don't
 10 know. But I cannot say with certainty that I
 11 raised it with him, so I wouldn't really feel
 12 comfortable speculating whether or not I had
 13 raised it with him or not.
 14 COFFEY, Q.C.:
 15 Q. Ma'am when you look at this under "Anticipated
 16 Questions", one of them, of course, is, the
 17 third bullet is, "What is the rate of error?"
 18 MS. MATTHEWS:
 19 A. Um-hm.
 20 COFFEY, Q.C.:
 21 Q. And the second-last bullet under "Key
 22 Messages" refers to two numbers other than
 23 years. "Test samples for 939 breast cancer
 24 patients between '97 and 2005 were retested.

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1 117 patients had recommended changes in their
 2 treatment plans. There were multiple factors
 3 involved. Since legal proceedings have been
 4 initiated we will have to allow the legal
 5 process to determine if, in fact, error has
 6 occurred." Okay. Do you know whether or not
 7 there is actually an explanation here of
 8 whether or not an error occurred or even what
 9 occurred?
 10 MS. MATTHEWS:
 11 A. An explanation in this briefing note?
 12 COFFEY, Q.C.:
 13 Q. Of why it occurred? Yeah.
 14 MS. MATTHEWS:
 15 A. In this briefing note?
 16 COFFEY, Q.C.:
 17 Q. Yes.
 18 MS. MATTHEWS:
 19 A. I don't see an explanation in the briefing
 20 note, no, not a detailed explanation.
 21 COFFEY, Q.C.:
 22 Q. Would it have been of concern to the Premier's
 23 office from your perspective at that time to
 24 learn the reasons for why the errors--why the
 25 problem occurred? Would you want to know why

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1 it occurred?
 2 MS. MATTHEWS:
 3 A. I guess I would give the same answer that I
 4 asked (sic.) to that question previous and say
 5 that from my perspective the specifics of what
 6 happened in the lab, specifically what
 7 happened, step by step, that would not have
 8 been an issue for me from a communications
 9 perspective. It's not my area of expertise
 10 and I wouldn't have considered it to be a part
 11 of my job to understand the intricacies of
 12 what happened. My main concern would have
 13 been were those issues being addressed and was
 14 patient care appropriately being handled.
 15 COFFEY, Q.C.:
 16 Q. Well, if the minister was to be asked in the
 17 House of Assembly what happened, the existence
 18 of an adequate answer would be of concern from
 19 a communications perspective, wouldn't it?
 20 MS. MATTHEWS:
 21 A. Sure.
 22 COFFEY, Q.C.:
 23 Q. And as of that day were you aware that there
 24 was such an answer, and if so, who had it?
 25 MS. MATTHEWS:

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1 A. I can't recollect whether or not I was aware
 2 what the specific answer would have been. I
 3 would have known that generally there would
 4 have been an explanation regarding ER/PR
 5 testing, what Tamoxifen could mean to those
 6 patients who were impacted, just a general
 7 explanation of what had happened in the lab
 8 and also how they had come to find out about
 9 the problems and steps that were being taken
 10 to improve the situation on a go-forward
 11 basis.
 12 COFFEY, Q.C.:
 13 Q. I appreciate that, but none of that actually
 14 answers the question, does it, which is the
 15 question being why did this happen?
 16 MS. MATTHEWS:
 17 A. Right.
 18 COFFEY, Q.C.:
 19 Q. If Mr. Osborne, at the time, was to be asked
 20 that question, did you have any reason to
 21 believe that he actually had an answer, a real
 22 answer to the question?
 23 MS. MATTHEWS:
 24 A. Aside from this briefing note, I didn't have
 25 any reason to believe he didn't have an answer

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1 to that question. It had never been raised
 2 with me specifically.
 3 COFFEY, Q.C.:
 4 Q. Now did anyone ask, at this time, about these
 5 reviews? Because the reviews are referred to,
 6 the external reviews are referred to in this.
 7 Anybody ask about "well, what did they find?"
 8 MS. MATTHEWS:
 9 A. Personally, I did not. I don't have any
 10 knowledge of whether or not anybody else asked
 11 that question. I would have assumed that they
 12 had hopefully resulted in some information
 13 that would be beneficial to the lab and to the
 14 patients who were impacted.
 15 COFFEY, Q.C.:
 16 Q. But in terms of whether or not the external
 17 reviewers actually found out or at least
 18 purported to find out and explain why this had
 19 happened, and perhaps potentially explain why
 20 it had gone on for so long undetected, to your
 21 knowledge, at least no one in the Premier's
 22 office ever actually asked that question?
 23 MS. MATTHEWS:
 24 A. I can only speak for myself and say that -
 25 COFFEY, Q.C.:

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1 Q. And to your knowledge, no one -
 2 MS. MATTHEWS:
 3 A. No.
 4 COFFEY, Q.C.:
 5 Q. You didn't and no one else, to your knowledge,
 6 did?
 7 MS. MATTHEWS:
 8 A. I didn't and I don't have any knowledge of
 9 anyone else having done that.
 10 COFFEY, Q.C.:
 11 Q. And just--and you understood based upon, at
 12 least what's in writing there drafted to
 13 inform Mr. Osborne as to what answer he might
 14 give to that question, which is a question
 15 which is why it happened, you acknowledge
 16 there's no actual answer here, and so you -
 17 THE COMMISSIONER:
 18 Q. She just answered that question.
 19 COFFEY, Q.C.:
 20 Q. Yes, okay, I'll leave it then, Commissioner.
 21 So that you understood then perhaps that Mr.
 22 Osborne wasn't really going to answer the
 23 question at all if it was asked?
 24 MS. MATTHEWS:
 25 A. I wouldn't say that I presumed that. I would

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1 have -
 2 COFFEY, Q.C.:
 3 Q. So you thought he might know something that's
 4 not here?
 5 MS. MATTHEWS:
 6 A. I don't really recall having thought about it
 7 in that respect. From my perspective, I would
 8 have anticipated that he answer to the best of
 9 his ability, in terms of what they had so far
 10 discovered and what steps they were taking on
 11 a go-forward basis.
 12 COFFEY, Q.C.:
 13 Q. Exhibit P-0186 please? This is a transcript
 14 of CBC Radio interview, December 13th 2006,
 15 8:45 a.m. It's an interview involving Jeff
 16 Gilhooly, Mark Quinn and Peter Dawe, which is
 17 two days after the technical briefing, so
 18 Wednesday, and Mr. Gilhooly, in the middle of
 19 the page two of three here, says "what
 20 reaction is this getting from the Canadian
 21 Cancer Society?" Mr. Quinn says "its members
 22 say they still have questions. I spoke with
 23 Peter Dawe. He's the executive director of
 24 the Canadian Cancer Society in this province"
 25 and they then attribute the following to Mr.

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1 Dawe, "what we're not seeing still is a full
 2 explanation of the numbers of people that were
 3 affected overall and some idea of what
 4 actually went wrong with the process. Knowing
 5 how many people actually ended up with a
 6 different treatment because of the issue tells
 7 you about the impact of what that issue had on
 8 a number of people. I guess what it doesn't
 9 tell you about is the actual scope of what
 10 went wrong." And again, we can--there are
 11 other references in media materials at the
 12 time recording that, in fact, Eastern Health
 13 had refused to answer the question as to how
 14 many changes there had been overall in
 15 results, and as to why the problem had
 16 occurred, leaving it for--because it was
 17 before the Courts.
 18 Were you aware that there was still
 19 dissatisfaction being expressed by individuals
 20 such as Mr. Dawe after December 11th?
 21 MS. MATTHEWS:
 22 A. Well, again, as I've answered before, I would
 23 have been generally aware through media
 24 reports. I don't know that I would have
 25 necessarily assumed--to some extent, some of

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1 the concerns that are raised in this article
 2 in particular, I probably would have assumed
 3 that they didn't necessarily have all of those
 4 answers at that time. I wasn't 100 percent
 5 sure probably if maybe they knew exactly all
 6 of the numbers. And again, I'm just--it's
 7 kind of hindsight for me right now and I can't
 8 really say for certain. But the fact that
 9 they weren't sharing information because of a
 10 lawsuit is not something that in particularly
 11 jumped out to me. I can tell you that from
 12 our perspective, the concept of keeping
 13 information from patients if it would somehow
 14 impact their health would have been completely
 15 unacceptable and something we never would have
 16 condoned, but I never believed that to be the
 17 case.
 18 COFFEY, Q.C.:
 19 Q. Okay. On that point, are you aware or were
 20 you aware at the time that in terms of dealing
 21 with adverse events for patients, and this
 22 would be an adverse event, okay?
 23 MS. MATTHEWS:
 24 A. Yes.
 25 COFFEY, Q.C.:

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1 Q. Apparently in the medical community, that at
 2 least there's one vein of thought or one
 3 school of thought that when it's discovered
 4 that there is an adverse event, patients are
 5 thought perhaps to have the right to be told
 6 as to if the answer is known as to why it
 7 occurred, that they have the right to be told
 8 what happened and why?
 9 MS. MATTHEWS:
 10 A. At that time, I didn't have a great deal of
 11 experience in terms of adverse events in
 12 relation to health care issues. I obviously
 13 know a lot more today than what I knew at the
 14 time. My own instinct would be obviously that
 15 if patients were adversely affected by
 16 something that they would absolutely have a
 17 right to know.
 18 COFFEY, Q.C.:
 19 Q. To know why it happened, if the answer was
 20 known, an answer or answers were known, to be
 21 told why?
 22 MS. MATTHEWS:
 23 A. I would anticipate that patients would have
 24 that right to know.
 25 COFFEY, Q.C.:

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1 Q. In fact, that's what Mr. Dawe--that quote I
 2 just read you from Mr. Dawe is in effect
 3 complaining about. He's complaining that they
 4 haven't been told yet why.
 5 MS. MATTHEWS:
 6 A. Right.
 7 COFFEY, Q.C.:
 8 Q. So from your perspective at least, as the
 9 communications director for the Premier's
 10 office at the time, you weren't attuned to
 11 that aspect of the matter?
 12 MS. MATTHEWS:
 13 A. It's not something that would have resonated
 14 with me, no.
 15 COFFEY, Q.C.:
 16 Q. Okay. After then December 12th 2006, what was
 17 your next exposure to this matter, ER/PR?
 18 What's your next memory of it?
 19 MS. MATTHEWS:
 20 A. That would have certainly been the events in
 21 May of 2007.
 22 COFFEY, Q.C.:
 23 Q. What then--what do you recall about that?
 24 What happened?
 25 MS. MATTHEWS:

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1 A. I recall that there was a story reported in
 2 the media that the numbers that Eastern Health
 3 had--I'm sorry?
 4 COFFEY, Q.C.:
 5 Q. Did you have any heads up that that was going
 6 to happen?
 7 MS. MATTHEWS:
 8 A. No, I did not.
 9 COFFEY, Q.C.:
 10 Q. Okay.
 11 MS. MATTHEWS:
 12 A. None at all.
 13 COFFEY, Q.C.:
 14 Q. Go ahead. Sorry, I apologize, ma'am.
 15 MS. MATTHEWS:
 16 A. No problem. I recall a story in the media
 17 regarding the fact that Eastern Health had not
 18 given full--the full picture, I guess you
 19 could say, at the technical briefing in
 20 December and what more so jumped out at me was
 21 the magnitude of the difference in numbers
 22 that had been shared with the media in
 23 December versus what the actual numbers were
 24 which had come to light, I guess, through the
 25 Court process.

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1 COFFEY, Q.C.:
 2 Q. Now to skip ahead to today, do you understand
 3 now that, in fact, the Government, the
 4 Department of Health and Community Services,
 5 in fact certainly knew in December of '06 what
 6 those numbers were and in fact, that Eastern
 7 Health did not plan to give them out?
 8 MS. MATTHEWS:
 9 A. I know today that the Department of Health
 10 knew about those numbers. I wouldn't say that
 11 I know today--well, I know now obviously that
 12 Eastern Health wasn't going to give them out,
 13 because they didn't give them out at the
 14 briefing, but I wouldn't say that the
 15 Department knew that. I think it was the
 16 Department's understanding that they would
 17 give as much information as they possibly
 18 could at that technical briefing.
 19 COFFEY, Q.C.:
 20 Q. Are you aware that in the actual briefing
 21 materials though that were sent to the
 22 Department on the morning of December 11th, in
 23 the Q and A, questions and answers, there's a
 24 reference to the fact that they're not giving
 25 out those numbers?

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1 MS. MATTHEWS:
 2 A. I'm aware of that.
 3 COFFEY, Q.C.:
 4 Q. Now?
 5 MS. MATTHEWS:
 6 A. Now, yes.
 7 COFFEY, Q.C.:
 8 Q. So I take it then that your understanding is
 9 that no one from the Department actually read
 10 the Q and A's from beginning to end in
 11 December of '06?
 12 MS. MATTHEWS:
 13 A. I wouldn't want to speculate on whether or not
 14 anyone read them from beginning to end.
 15 COFFEY, Q.C.:
 16 Q. So if they had read them though from beginning
 17 to end, they'd know?
 18 MS. MATTHEWS:
 19 A. I guess you could surmise that, yes.
 20 COFFEY, Q.C.:
 21 Q. I'm sorry, ma'am, so go ahead. You listen to
 22 the story. There's a disparity in the
 23 numbers.
 24 MS. MATTHEWS:
 25 A. I think at that time, and particularly in

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1 relation to the magnitude of what those
 2 numbers meant, it was at that point--and just
 3 to backtrack a little bit, I had heard that
 4 there had been some frustration in terms of
 5 the Department--the dealings that the
 6 Department had had with Eastern Health over
 7 probably forthcoming with information and
 8 again, it was secondhand information for me,
 9 so it was really just something that I had
 10 heard probably in casual conversation. It's
 11 not something that had been formalized in a
 12 complaint or anything like that. It was just
 13 simply that there had been frustrations.
 14 COFFEY, Q.C.:
 15 Q. On that point, ma'am, I think you mentioned
 16 this morning that Tansy Mundon had, at one
 17 point, told you about that.
 18 MS. MATTHEWS:
 19 A. Yes, that's accurate.
 20 COFFEY, Q.C.:
 21 Q. Do you recall when that was?
 22 MS. MATTHEWS:
 23 A. I really don't recall specifically when it
 24 was, because it wasn't--again, it wasn't a
 25 formalized--you know, she didn't send me a

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1 formal e-mail. It would have been perhaps in
 2 the caucus room some day during the House of
 3 Assembly when it was opened or--because aside
 4 from the House of Assembly, I may talk to
 5 directors a lot, but I don't generally see
 6 them very often. So I can't recall
 7 specifically when she told me that, but I do
 8 recall her expressing that frustration, and
 9 when this story broke in May, it was at that
 10 point when there was really--there had been
 11 dissatisfaction in the public prior to that,
 12 and like I said this morning, you know, this
 13 issue aside, whenever you have an issue that
 14 government or an agency is dealing with, there
 15 are always--you know, there are always people
 16 that are unable. So you don't--it's
 17 anticipated that there will be some
 18 discontent, but at this point, I think that we
 19 began to realize that there was a real lack of
 20 confidence and I guess confidence had been
 21 shaken in Eastern Health's handling of this
 22 from both the Government's perspective and
 23 also from the public's perspective.
 24 COFFEY, Q.C.:
 25 Q. What had happened between the end of December

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1 of '06 and May 15th '07 to change that?
 2 MS. MATTHEWS:
 3 A. I think -
 4 COFFEY, Q.C.:
 5 Q. Because we've looked at Mr. Dawe saying they
 6 haven't told us why and they haven't even told
 7 us the total numbers. That's recorded.
 8 MS. MATTHEWS:
 9 A. Right.
 10 COFFEY, Q.C.:
 11 Q. He complains about that in December. Now at
 12 least you know some of the numbers.
 13 MS. MATTHEWS:
 14 A. From the Premier's office perspective, it was
 15 those numbers and from Cabinet's perspective,
 16 I think--you know, I wouldn't want to speak
 17 for individual Cabinet members, but I know
 18 that from the Premier's office and Cabinet's
 19 perspective, the disparity in those numbers
 20 were startling and the fact that those numbers
 21 had to be obtained by the media through a
 22 Court process was something that shook the
 23 Government's confidence in Eastern Health's
 24 handling of the issue and it was also, as I
 25 think I mentioned this morning, it was also

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1 the first time we'd ever had a Minister come
 2 to the Premier's office and say -
 3 COFFEY, Q.C.:
 4 Q. Could you tell us please about that? Because
 5 you had mentioned it this morning.
 6 MS. MATTHEWS:
 7 A. Right. It was--it wouldn't have been a call
 8 that was placed to me, but I know the Minister
 9 of Health at that time, Minister Wiseman,
 10 contacted our office and I don't know if it
 11 was the Premier directly or the chief of
 12 staff, but he was not happy about the course
 13 of events as they had unfolded, in terms of
 14 the briefing that had happened in December,
 15 the fact that all of those numbers had not
 16 been put out into the public domain at that
 17 time, and that now the numbers were out there
 18 and it was more the magnitude of the numbers
 19 again. It was significant difference in the
 20 numbers. So that -
 21 COFFEY, Q.C.:
 22 Q. Which numbers are we talking about here?
 23 MS. MATTHEWS:
 24 A. The conversion. I believe the numbers that
 25 had been given out at the December technical

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1 briefing were the conversions--there were--
 2 again, I don't know the technicalities of it,
 3 so I'm going to state this very simply maybe,
 4 but there were a group of tests where there
 5 was a change in how the test was read, but
 6 only a portion of that group had their actual
 7 treatment impacted.
 8 COFFEY, Q.C.:
 9 Q. Yes.
 10 MS. MATTHEWS:
 11 A. So of the total group, only 117 had an actual
 12 change in treatment. So from a patient care
 13 perspective, there were only 117 patients who
 14 were directly impacted, but there were another
 15 large portion, I think a couple of hundred
 16 patients, whose tests had not been read
 17 properly. So the actual conversion rate was
 18 different--was substantially different than
 19 what Eastern Health had revealed in December.
 20 I hope that was clear.
 21 COFFEY, Q.C.:
 22 Q. I think that probably captures it. If we
 23 look, please, at Exhibit P-0125, page 31?
 24 Back in August, August 18th, your office had
 25 been advised that in fact there were 422 test

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1 results with changes.
 2 MS. MATTHEWS:
 3 A. Um-hm.
 4 COFFEY, Q.C.:
 5 Q. So the actual number there is even, by an
 6 order of magnitude of 100--well, it's 100
 7 higher than 317.
 8 MS. MATTHEWS:
 9 A. Um-hm.
 10 COFFEY, Q.C.:
 11 Q. So I take it then that back in August, the
 12 Premier's office at least, if you understood
 13 what you were reading, would have been able to
 14 figure out that actually it's almost 50
 15 percent there, it's certainly 45 percent or so
 16 have got changed results.
 17 MS. MATTHEWS:
 18 A. Right.
 19 COFFEY, Q.C.:
 20 Q. And was it--so I take it that it wasn't so
 21 much the fact that there was the 317, because
 22 317 is actually less than 422.
 23 MS. MATTHEWS:
 24 A. Right.
 25 COFFEY, Q.C.:

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1 Q. So I mean, 317 wouldn't--I take it wasn't the
 2 big problem in May of '07 and if 317 wasn't
 3 the problem, was it the fact that they hadn't
 4 given out the number was the problem in
 5 December? Was that really the problem, as
 6 opposed to what the number was?
 7 MS. MATTHEWS:
 8 A. It was the magnitude of the difference in the
 9 numbers and again, when I look back at this
 10 August 18th briefing note, if this was an
 11 issue that was--that I knew intimately in the
 12 Premier's office and that I was dealing with
 13 every day, perhaps those numbers would have
 14 stood out to me. But the honest answer is
 15 that it's just--from my perspective, that's
 16 not something that stood out to me at that
 17 time. It was--there was no indication that
 18 this was a new number or that there was
 19 anything different about these numbers. It
 20 was an updated note and I really would have
 21 just seen it as that and not drilled down into
 22 the numbers, because I would have assumed that
 23 the Department was handling it appropriately
 24 and they knew what the implications of these
 25 numbers would be.

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1 COFFEY, Q.C.:

2 Q. Ma'am, as a communications director on May

3 15th, when you're hearing 117 in December, now

4 317, what did you do? You hear this. The

5 order of magnitude, as you pointed out, is

6 completely different. What did you do then?

7 MS. MATTHEWS:

8 A. We would have had a discussion in the

9 Premier's office about that.

10 COFFEY, Q.C.:

11 Q. Okay. Well, what happened? Who was there and

12 what happened?

13 MS. MATTHEWS:

14 A. I can't--specifically, who was there, I can't

15 tell you, but I would assume it probably would

16 have been a conversation--initially I probably

17 would have had a conversation with the

18 Department of Health, with the communications

19 director over there. I know the -

20 COFFEY, Q.C.:

21 Q. That would be Ms. Mundon?

22 MS. MATTHEWS:

23 A. Yes, that's right. I know the Minister

24 contacted our office, so it's likely the

25 conversation would have started with myself,

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1 between myself and Mr. Crawley and that we

2 would have alerted the Premier to the matter

3 as well.

4 COFFEY, Q.C.:

5 Q. What did you tell Mr. Williams?

6 MS. MATTHEWS:

7 A. We would have simply relayed the media

8 reports.

9 COFFEY, Q.C.:

10 Q. And what, if anything, was his reaction?

11 MS. MATTHEWS:

12 A. I don't specifically recollect what he said,

13 but I know that he wasn't happy about it.

14 COFFEY, Q.C.:

15 Q. Did you get any understanding of why he was

16 unhappy about it?

17 MS. MATTHEWS:

18 A. I think -

19 COFFEY, Q.C.:

20 Q. Even if you can't remember exactly what it was

21 he said.

22 MS. MATTHEWS:

23 A. I think that there had been a general sense of

24 frustration with how Eastern Health had dealt

25 with the problem and again, I think the

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1 Premier may have spoken with the Minister and

2 I wasn't privy to that conversation. So he

3 may have had more information that I might not

4 be able to share with you right now. You

5 would have to ask him. But there was

6 generally just a shaken confidence in Eastern

7 Health's handling of the issue.

8 COFFEY, Q.C.:

9 Q. What was your understanding about what Mr.

10 Wiseman was upset about?

11 MS. MATTHEWS:

12 A. I think -

13 COFFEY, Q.C.:

14 Q. Because you had indicated that he probably

15 spoke to the Premier or the Chief of Staff,

16 Mr. Wiseman had.

17 MS. MATTHEWS:

18 A. Right.

19 COFFEY, Q.C.:

20 Q. What was conveyed to you about his concern?

21 MS. MATTHEWS:

22 A. Well, I wasn't privy to the conversation. I

23 just know that he wasn't happy that the order

24 of magnitude of numbers released by Eastern

25 Health in December was so far removed from

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1 what the actual numbers were that were in the

2 Court documents.

3 COFFEY, Q.C.:

4 Q. Did you make any inquiries yourself, other

5 than you've said you've contacted Tansy

6 Mundon. Do you recall what Ms. Mundon had to

7 say to you?

8 MS. MATTHEWS:

9 A. I speculate that I contacted Ms. Mundon.

10 COFFEY, Q.C.:

11 Q. Okay.

12 MS. MATTHEWS:

13 A. Yeah, so I'm not 100 percent sure what she

14 would have said to me.

15 COFFEY, Q.C.:

16 Q. Okay. Well, do you recall what then happened,

17 in terms of what do you recall about who you

18 dealt with and what, if anything, you said to

19 them or they said to you?

20 MS. MATTHEWS:

21 A. I recall that there was a request to have

22 Cabinet briefed on the issue and that a

23 briefing occurred, I believe, on May the 17th.

24 COFFEY, Q.C.:

25 Q. Did you attend the briefing?

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1 MS. MATTHEWS:
 2 A. Yes, I would have attended that briefing.
 3 COFFEY, Q.C.:
 4 Q. Were you involved in the actual preparation
 5 for the briefing?
 6 MS. MATTHEWS:
 7 A. No, I was not.
 8 COFFEY, Q.C.:
 9 Q. Okay, and your role there was what?
 10 MS. MATTHEWS:
 11 A. In Cabinet and in Cabinet briefings, I just
 12 sit as an observer.
 13 COFFEY, Q.C.:
 14 Q. And looking back on it, what was the reaction
 15 of Cabinet to the briefing?
 16 MS. MATTHEWS:
 17 A. I think they were startled by the issue
 18 generally. I mean, they generally would have
 19 had a sense and an understanding of the issue
 20 certainly, but again, they weren't--they
 21 wouldn't have been happy that the numbers
 22 released in December were so far removed from
 23 the actual numbers that were in the Court
 24 documents.
 25 COFFEY, Q.C.:

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1 Q. Now were you aware that--I take it this was as
 2 well, of course, on May 15th raised in the
 3 House of Assembly?
 4 MS. MATTHEWS:
 5 A. Yes, okay, it was around then, yeah.
 6 COFFEY, Q.C.:
 7 Q. Would have been raised and would have been
 8 raised every day that week.
 9 MS. MATTHEWS:
 10 A. Yes, I'm not 100 percent certain, but it would
 11 be there in Hansard, yes.
 12 COFFEY, Q.C.:
 13 Q. Do you know whether or not Mr. Wiseman was
 14 interviewed in the first day or so concerning
 15 this?
 16 MS. MATTHEWS:
 17 A. By the media?
 18 COFFEY, Q.C.:
 19 Q. By the media, yes.
 20 MS. MATTHEWS:
 21 A. Yes, he was interviewed. I'm not sure of the
 22 specific day, but yes, he was.
 23 COFFEY, Q.C.:
 24 Q. And do you recall that he said something about
 25 legal issues or legal considerations having

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1 played a part in the failure of Eastern Health
 2 in December to--or failure, the refusal of
 3 Eastern Health in December of '06 to talk
 4 about numbers?
 5 MS. MATTHEWS:
 6 A. He may have. I don't recall that
 7 specifically.
 8 COFFEY, Q.C.:
 9 Q. What then happened, ma'am? The Cabinet's
 10 briefed.
 11 MS. MATTHEWS:
 12 A. Oh gosh, Cabinet is briefed on, I think, the
 13 17th.
 14 COFFEY, Q.C.:
 15 Q. Yes.
 16 MS. MATTHEWS:
 17 A. And then there is another meeting a couple of
 18 days after that. It is determined and decided
 19 by Cabinet that there will be a judicial
 20 commission of inquiry on the matter. Over the
 21 next couple of days, the terms of reference
 22 are developed and here we are today.
 23 COFFEY, Q.C.:
 24 Q. What, if any, part did you play in any of
 25 that? What, if any, part did you play in

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1 that?
 2 MS. MATTHEWS:
 3 A. I would have--again, I would have been an
 4 observer in the Cabinet meeting, but Cabinet
 5 would have determined the terms of reference
 6 for the Inquiry. I would have drafted the
 7 news release and the related communications
 8 material, which was the news release, but
 9 other than that, Cabinet would have drafted
 10 the terms of reference.
 11 COFFEY, Q.C.:
 12 Q. You say that on May 15th, at least from your
 13 perspective, looking back on it, Government
 14 had lost faith, as it were, with Eastern
 15 Health?
 16 MS. MATTHEWS:
 17 A. Yes, that's right.
 18 COFFEY, Q.C.:
 19 Q. Lost confidence in Eastern Health's -
 20 MS. MATTHEWS:
 21 A. Yes, that's right.
 22 COFFEY, Q.C.:
 23 Q. - management of this issue. Did the Premier's
 24 office take any steps, at that point, to
 25 intervene then? Because prior to that, there

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1 had been no intervention based upon what
 2 you've told us.
 3 MS. MATTHEWS:
 4 A. Yes, we called a Commission of Inquiry.
 5 COFFEY, Q.C.:
 6 Q. I appreciate that, but -
 7 MS. MATTHEWS:
 8 A. Okay.
 9 COFFEY, Q.C.:
 10 Q. - other than that, in terms of dealing with
 11 the Department of Health or Eastern Health and
 12 how they would respond?
 13 MS. MATTHEWS:
 14 A. Oh yes, they requested that Eastern Health
 15 hold another technical briefing for the media.
 16 COFFEY, Q.C.:
 17 Q. And so again, to put this in context for the
 18 Commissioner, I gather that at least some time
 19 before this, at a point you're uncertain of,
 20 Ms. Mundon had let you know that she was not
 21 very content with the way--her dealings with
 22 Eastern Health in terms of how informed she
 23 was or lack of it?
 24 MS. MATTHEWS:
 25 A. Yes.

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1 COFFEY, Q.C.:
 2 Q. Okay. When this occurred on May 15th, did
 3 that change, the approach in that regard
 4 change?
 5 MS. MATTHEWS:
 6 A. I think she still felt some frustration.
 7 Again, I've never dealt directly with Eastern
 8 Health or their communications people, but I
 9 think it's safe to say that she continued to
 10 feel some frustration.
 11 COFFEY, Q.C.:
 12 Q. Now ma'am, in drafting the press release, the
 13 content of it, that would be the one
 14 announcing the establishment of a Commission
 15 of Inquiry -
 16 MS. MATTHEWS:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. Okay, and that press release is dated May
 20 22nd, 2007.
 21 MS. MATTHEWS:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. Are you aware of where the source documents
 25 for that, for portions of that came from?

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1 MS. MATTHEWS:
 2 A. We would have relied--I personally would have
 3 relied upon the Department of Health for that
 4 information and I would assume that they would
 5 have gotten that information from Eastern
 6 Health in turn.
 7 COFFEY, Q.C.:
 8 Q. That they would have gotten it from Eastern
 9 Health?
 10 MS. MATTHEWS:
 11 A. Yes. I guess it would depend on what specific
 12 portion you're talking about, but generally
 13 speaking, I would imagine that they would have
 14 to get some of that information from Eastern
 15 Health and they would have some in house in
 16 the Department.
 17 COFFEY, Q.C.:
 18 Q. If we could, please, Exhibit P-0872? Now
 19 ma'am, this is an e-mail from Tansy Mundon to
 20 John Abbott and Moira Hennessey, Monday, May
 21 21st 2007 at 7:35 p.m., draft key messages for
 22 your review. Key messages, ER/PR, and then
 23 there are a number of bullets. I'm just going
 24 to, if you would, just--the first of them is
 25 "government is very sympathetic to the

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1 individuals impacted. Second, this issue is
 2 not about breast cancer screening." The
 3 third, "Eastern Health first became aware of a
 4 problem"--if we could bring up, please,
 5 Exhibit P-0128, page 43, please? This is the
 6 actual news release announcing the Commission
 7 of Inquiry, and this would have been if not
 8 drafted entirely by yourself, certainly
 9 approved of by yourself?
 10 MS. MATTHEWS:
 11 A. Yes.
 12 COFFEY, Q.C.:
 13 Q. Okay. If we just look at the second page of
 14 it, under backgrounder, ER/PR testing for
 15 breast cancer patients.
 16 MS. MATTHEWS:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. What is the purpose of a backgrounder in that
 20 context?
 21 MS. MATTHEWS:
 22 A. The purpose of backgrounders generally are to
 23 provide additional information and really to
 24 provide as much information as we can. From
 25 my perspective, backgrounders are a tool that

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1 I like to use because sometimes we forget that
 2 there are media outside of St. John's and
 3 there are a lot of local reporters in rural
 4 communities at RB papers and otherwise who
 5 don't have the benefit of being in St. John's.
 6 They don't have the benefit of questioning the
 7 Premier after the House of Assembly, or the
 8 Minister. They don't have the benefit of
 9 going to news conferences and technical
 10 briefings and the like.
 11 COFFEY, Q.C.:
 12 Q. Sure.
 13 MS. MATTHEWS:
 14 A. So backgrounders are, I would imagine,
 15 beneficial to them. So I like to include,
 16 wherever possible, as much information as I
 17 can for people and also for the national media
 18 as well, for people who aren't on the ground
 19 and don't have the benefit of that face-to-
 20 face daily interaction with ministers and the
 21 Premier.
 22 COFFEY, Q.C.:
 23 Q. Okay. Looking at the first bullet there,
 24 "this issue is not about breast cancer
 25 screening. At no time has there been a

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1 question of accuracy of mammograms or biopsy
 2 results to diagnose breast cancer." See that?
 3 MS. MATTHEWS:
 4 A. Yes.
 5 COFFEY, Q.C.:
 6 Q. I apologize, Commissioner, just a moment. Oh
 7 yes, I'll just pick perhaps I'll pick the
 8 third bullet. It's easier to look at.
 9 "Eastern Health first became aware of a
 10 problem with ER/PR test results in May 2005
 11 and immediately conducted an internal review."
 12 See that?
 13 MS. MATTHEWS:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. "and July 2005 had made a decision to retest
 17 all negative ER/PR tests." If we just look
 18 back, please, at Exhibit P-0872? If we look
 19 at the third bullet here. It reads "Eastern
 20 Health first became aware of a problem with
 21 test results in May 2005 and immediately
 22 conducted an internal review. In July 2005,
 23 they made a decision to retest all negative
 24 ER/PR tests done." If you go back and forth,
 25 you'll see--well, if we put it up on a split

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1 screen here, you could actually follow it, but
 2 a lot of what's in what are referred to in
 3 0872, if we could look at please, 0872,
 4 referred to here as key messages, ER/PR, draft
 5 key messages for your review, that is for Mr.
 6 Abbott's and Ms. Hennessey's review, actually
 7 end up verbatim as backgrounder. Were you
 8 aware that the key messages turned into
 9 backgrounder?
 10 MS. MATTHEWS:
 11 A. Wouldn't be unusual.
 12 COFFEY, Q.C.:
 13 Q. What were termed anyway, key messages.
 14 MS. MATTHEWS:
 15 A. Right.
 16 THE COMMISSIONER:
 17 Q. Mr. Coffey, wherever you can find a convenient
 18 spot, we'll have an afternoon break.
 19 COFFEY, Q.C.:
 20 Q. Thank you, sure. And if we could just look
 21 at, please, at Exhibit P-128, page 45? I'm
 22 just going to go to the next page here. I'm
 23 just again picking one of the bullets. At the
 24 top of the page, this particular one, "there
 25 was full disclosure to patients and their

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1 families once test results became available."
 2 Now ma'am, and we could look back and there's
 3 an equivalent one in the key messages. You've
 4 told us that it wouldn't be unusual for key
 5 messages, from a departmental level, to end up
 6 as backgrounder?
 7 MS. MATTHEWS:
 8 A. Right.
 9 COFFEY, Q.C.:
 10 Q. In a press release. The government had lost
 11 such faith in Eastern Health's management of
 12 this matter that they had, in fact,
 13 established a Commission of Inquiry or
 14 announced one?
 15 MS. MATTHEWS:
 16 A. Um-hm.
 17 COFFEY, Q.C.:
 18 Q. Why was it that in issuing a backgrounder that
 19 you would accept the assertions by Eastern
 20 Health in relation to this matter at all?
 21 MS. MATTHEWS:
 22 A. I guess the answer to that question would
 23 simply be that there wasn't a complete
 24 breakdown in the agency of Eastern Health. We
 25 still had to rely upon them for full and open

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1 disclosure to government and we did that. And
 2 you know, from my perspective those key
 3 messages would have been vetted by the deputy
 4 minister and the minister of health at that
 5 time. And we would have taken them--you know,
 6 and there are e-mails that I have sent or at
 7 least one that I can recall where I was quite
 8 adamant that information that we were putting
 9 out into the public domain must be accurate,
 10 and I always stressed that and I repeated it
 11 over and over again, I always wanted to make
 12 sure we were being accurate in what we were
 13 putting out in the public domain. But by the
 14 same token, we had, to an extent, rely upon
 15 what they were telling us. You know, I don't
 16 work over at Eastern Health, I don't--I'm not
 17 in the office over there every day, so I--you
 18 know, we had to rely upon them to an extent to
 19 ensure that the information they were giving
 20 us was completely accurate and that we were
 21 not in any way misleading the public and we
 22 relied upon them in this respect, I would
 23 assume.
 24 COFFEY, Q.C.:
 25 Q. And just in that regard before we break,

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1 Commissioner, looking back at page 43 of this
 2 exhibit, Exhibit P-0128, and that was so
 3 despite the fact that at least one or more of
 4 the key questions to be answered by the
 5 Commission of Inquiry related to the response
 6 of Eastern Health. So the Commission, you
 7 were establishing a Commission of Inquiry
 8 which was going to--or announcing that which
 9 was going to question, or answer certain
 10 questions.
 11 MS. MATTHEWS:
 12 A. Right.
 13 COFFEY, Q.C.:
 14 Q. Relating to Eastern Health's response?
 15 MS. MATTHEWS:
 16 A. Right.
 17 COFFEY, Q.C.:
 18 Q. And the appropriateness of it and were
 19 simultaneously accepting Eastern Health's
 20 assertion and adopting it, because in the
 21 backgrounder it's actually you issuing, your
 22 office issuing?
 23 MS. MATTHEWS:
 24 A. Um-hm.
 25 COFFEY, Q.C.:

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1 Q. The backgrounder adopting it at face value.
 2 And you don't see that there might be some
 3 inconsistency or disconnect between having a
 4 Commissioner inquire into a particular matter
 5 and you simultaneously in the same document
 6 asserting that a matter was handled in a
 7 particular matter?
 8 MS. MATTHEWS:
 9 A. Not particularly, because if you eventually
 10 get to the terms of reference for this
 11 Commission of Inquiry, we also have asked the
 12 Commissioner to look at all communications and
 13 everyone who was involved in terms of making
 14 sure that issues were appropriately
 15 communicated, so that would include
 16 government, as well.
 17 COFFEY, Q.C.:
 18 Q. Yes, and I appreciate that and I understand--
 19 that's one of the reasons I suspect you're
 20 here -
 21 MS. MATTHEWS:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. - is in relation to that. But from your
 25 perspective as communications director in the

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1 Premier's office at the time issuing this
 2 press release.
 3 MS. MATTHEWS:
 4 A. Right.
 5 COFFEY, Q.C.:
 6 Q. The idea that you're accepting, in effect,
 7 holus bolus, really, what Eastern Health is
 8 telling you in this regard, that particular
 9 one, full disclosure to patients and their
 10 families, despite the fact that you had reason
 11 to have some misgivings, at least about some
 12 of their behaviour in terms of disclosure?
 13 MS. MATTHEWS:
 14 A. All I can say is that I know that I vigorously
 15 challenged every bit of information that went
 16 into those releases from Eastern Health and I
 17 vigorously challenged the authenticity of it
 18 and I asked point blank if we were absolutely
 19 certain that the information was accurate and
 20 I was assured that it was and I used that
 21 information the way I saw it. I--you know, I
 22 asked the question and I received the answer.
 23 COFFEY, Q.C.:
 24 Q. Do you recall who you challenged and who gave
 25 you those assurances?

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1 MS. MATTHEWS:
 2 A. I would have done that through the Department
 3 of Health. I've never dealt directly with
 4 Eastern Health.
 5 COFFEY, Q.C.:
 6 Q. Who in the Department of Health, who would we
 7 be talking about here, would that be Mr.
 8 Abbott, Ms. Mundon?
 9 MS. MATTHEWS:
 10 A. I would have--my primary contact would have
 11 been with Ms. Mundon.
 12 COFFEY, Q.C.:
 13 Q. Okay.
 14 MS. MATTHEWS:
 15 A. Were there circumstances where Mr. Abbott was
 16 there, possibly, I can't say for certain, but
 17 certainly she would have gone to her executive
 18 with that. You know, I think from a
 19 communications perspective she wouldn't have
 20 made those decisions herself. She would have
 21 gone to the people who were in charge of the
 22 department and in charge of Eastern Health
 23 and, you know, they would have verified the
 24 information with those individuals.
 25 COFFEY, Q.C.:

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1 Q. Thank you, Commissioner. We can break now,
 2 I'll come back and finish up shortly after the
 3 break. Thank you.
 4 COMMISSIONER:
 5 Q. All right.
 6 (RECESS)
 7 COMMISSIONER:
 8 Q. Please be seated. Mr. Coffey.
 9 COFFEY, Q.C.:
 10 Q. Thank you, Commissioner. If we could, please,
 11 Exhibit P-0877? And this is an e-mail of May
 12 22nd, 2007 from yourself to a number of
 13 individuals, including Mr. Crawley, Mr.
 14 Burrage, Ms. Cheeseman, Mr. Thompson, Ms.
 15 Barnes, Ms. Mundon and Ms. Nolan. It's draft
 16 news release. And you say, "A couple of
 17 comments. I think it would be helpful to see
 18 another quote from the minister in the body of
 19 the release that reinforces the new testing
 20 processes and the steps that have been taken
 21 to address the issue. It is important that we
 22 reassure the public that we are taking this
 23 seriously and have already taken substantive
 24 action to address the issue at hand." The
 25 second paragraph, "The second bullet on page 2

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1 says that Eastern Health contacted all
 2 patients. I am of the understanding that, in
 3 fact, Eastern Health contacted the family
 4 physicians who in turn contacted patients. If
 5 this is the case, this has to change in the
 6 backgrounder. It is critically important that
 7 every piece of information in this news
 8 release is 100 percent accurate. 3. Having
 9 said that, I would assume that the quote
 10 attribute to Mr. Tilley on first page is also
 11 accurate. (The portion about not withholding
 12 any personal information.)" And paragraph 4,
 13 "Page 2, bullet 4 - Is the one-year time frame
 14 accurate? Someone mentioned it less than
 15 that, (around 8 months ?) 5. Finally, in the
 16 second last bullet on the release, I would add
 17 that although the media were not informed, the
 18 patients who were directly impacted were
 19 informed. Can't overstate that enough.
 20 Thanks all," signed "EM". Now, ma'am, the
 21 second paragraph there, your assertion that it
 22 was your view that an approach that it be
 23 critically important every piece of
 24 information in this particular news release be
 25 100 percent accurate is borne out here, okay,

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1 this is your e-mail. And you do insist that
 2 the backgrounder be changed to accommodate the
 3 reference to family physicians.
 4 MS. MATTHEWS:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. Which you understood was the case. Why would
 8 you want, what would the purpose be by being
 9 helpful to see another quote from the minister
 10 in the body of the release?
 11 MS. MATTHEWS:
 12 A. Again -
 13 COFFEY, Q.C.:
 14 Q. Go ahead, ma'am.
 15 MS. MATTHEWS:
 16 A. Sorry, okay. From the perspective of just the
 17 pure drafting of a news release, from my
 18 perspective, again, having quotes from the
 19 minister are helpful for--well, it's good to
 20 have a quote from the minister. It's
 21 obviously good to highlight steps that have
 22 been taken because obviously at this point we
 23 want to do whatever we can to make sure that
 24 we rebuild the confidence of the public. But
 25 also, quotes in the body of a release from a

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1 minister are helpful for those media outlets
 2 that are outside of St. John's who may not
 3 have the opportunity to directly interview or
 4 be, participate in a scrum that the minister
 5 may have. So it's really, that's not the only
 6 reason to put an additional quote in the news
 7 release, but it's one of the reasons.
 8 COFFEY, Q.C.:
 9 Q. I take it one of them is is there might be
 10 perceived to be some political advantage or
 11 gain or benefit?
 12 MS. MATTHEWS:
 13 A. I wouldn't necessarily say political
 14 advantage.
 15 COFFEY, Q.C.:
 16 Q. I wouldn't say necessarily, but one of the
 17 possibly?
 18 MS. MATTHEWS:
 19 A. I guess it could possibly be an advantage.
 20 But in this circumstance I think that I've
 21 stated quite clearly that the reason is
 22 because we want to reassure the public that
 23 the issue is being taken seriously. As I
 24 said, public confidence at that point had been
 25 shaken and as a government especially in

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1 regards to health care issues you really want
 2 to make sure that the public has as much
 3 confidence as they possibly can have in the
 4 system and in what the people who they have
 5 elected to serve them are doing to address the
 6 situation.
 7 COFFEY, Q.C.:
 8 Q. Now, at that point, and this is May 22nd,
 9 2007, what, if anything, had, to your
 10 knowledge, had the government done to assure
 11 itself that, in fact, Eastern Health had
 12 addressed the problem?
 13 MS. MATTHEWS:
 14 A. From my perspective, and again, I never dealt
 15 directly with Eastern Health, I've never
 16 spoken with anyone over there, I would have
 17 left that to the department.
 18 COFFEY, Q.C.:
 19 Q. Sure. What, if anything, had they done,
 20 though, do you know?
 21 MS. MATTHEWS:
 22 A. I can't give specific instances. I know that
 23 the minister had met with the head of Eastern
 24 Health and there had, you know, meetings had
 25 taken place and they had been told in the

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1 strongest of terms, I would imagine, though I
 2 didn't participate in those meetings, that
 3 inaccurate or incomplete information was no
 4 longer acceptable and that the issues had to
 5 be addressed in the most open and accountable
 6 manner that they possibly could.
 7 COFFEY, Q.C.:
 8 Q. Okay. Now, up to that point, I take it--well,
 9 to your knowledge had anyone within the
 10 Department of Health or the Premier's office
 11 actually seen any indication, other than some
 12 assertion that we've handled it, any actual
 13 documented accounting that this is what we've
 14 done, like the recommendations, for example,
 15 being implemented or -
 16 MS. MATTHEWS:
 17 A. No. And again, I would go back to we'd never
 18 heard from a minister prior to that. Minister
 19 Wiseman was really the first minister who had
 20 come to the Premier's office and expressed
 21 that concern.
 22 COFFEY, Q.C.:
 23 Q. So did you become aware in May or June of 2007
 24 or for that matter afterward, after that
 25 point, were you ever made aware that the

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1 Department of Health had asked for the
 2 external review reports?
 3 MS. MATTHEWS:
 4 A. That was becoming more of an issue. I wasn't-
 5 -I wouldn't have known exactly when or how
 6 they had asked for those reports. I think, I
 7 believe, if I'm not mistaken, the deputy
 8 minister may have asked for them before he
 9 left the department.
 10 COFFEY, Q.C.:
 11 Q. Did you know that at the time?
 12 MS. MATTHEWS:
 13 A. I wouldn't have known that at the time, no,
 14 not necessarily.
 15 COFFEY, Q.C.:
 16 Q. Okay. You know that now because he's come in
 17 and told us that, but -
 18 MS. MATTHEWS:
 19 A. That's right.
 20 COFFEY, Q.C.:
 21 Q. But at the time?
 22 MS. MATTHEWS:
 23 A. At the time I would not have necessarily known
 24 that. And again, during that time frame
 25 although right now we know the significance of

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1 those external reports and they've been
 2 highlighted much more, back in those days it
 3 was not something that was of particular
 4 significance to me in terms of dealing with
 5 the issue.
 6 COFFEY, Q.C.:
 7 Q. If we could look, please, at Exhibit P-466?
 8 Now, this is an e-mail from Mr. Tilley, May
 9 31st, 2007, 5 p.m., it's to a number of people
 10 on the board of trustees of Eastern Health.
 11 But, I just bring it up here because he opens
 12 with saying, "Trustees, in the House of
 13 Assembly yesterday the Premier released an
 14 internal memo dated June, 2003 to the media."
 15 MS. MATTHEWS:
 16 A. Um-hm.
 17 COFFEY, Q.C.:
 18 Q. "From a pathologist who was overseeing our
 19 immunohisto--or histochemistry lab to the
 20 director of our laboratory medicine." And it
 21 goes on about that. When did you first become
 22 aware of Dr. Ejeckam's June, 2003 memo?
 23 MS. MATTHEWS:
 24 A. I would have become aware of it the same day
 25 that Premier became aware of it, which was

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1 late in May of 2007.
 2 COFFEY, Q.C.:
 3 Q. And how did you become aware of it?
 4 MS. MATTHEWS:
 5 A. I became aware of it because the Premier told
 6 me about it.
 7 COFFEY, Q.C.:
 8 Q. Do you recall what you were told about it?
 9 MS. MATTHEWS:
 10 A. I believe when the Premier saw the memo, he
 11 was a little, don't want to use the word
 12 "startled" and I don't want to put words in
 13 his mouth, but I think that when he saw that
 14 memo, he was somewhat startled that that issue
 15 had been within the Eastern Health, at the
 16 very least, in so many years ago, in 2003.
 17 And more than anything I think he felt at that
 18 time that he just wanted the memo to be made
 19 public so that we were seen to be disclosing
 20 everything we knew about the issue.
 21 COFFEY, Q.C.:
 22 Q. Do you know if any inquiries were made of
 23 Eastern Health at the time by the Premier's
 24 office as to what happened in 2003, what's
 25 this about?

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1 MS. MATTHEWS:
 2 A. I would imagine we didn't ask Eastern Health
 3 directly, but I am fairly confident that the
 4 Premier asked the minister to discuss with
 5 Eastern Health the genuses of the memo and
 6 what had happened in 2003 when the lab had
 7 been closed or that portion of the lab had
 8 been closed.
 9 COFFEY, Q.C.:
 10 Q. And the decision to disclose the memo was
 11 whose?
 12 MS. MATTHEWS:
 13 A. That was the Premier's decision.
 14 COFFEY, Q.C.:
 15 Q. And did you advise him in that regard?
 16 MS. MATTHEWS:
 17 A. No. That was a decision, he had already had
 18 the memo and he had--he was quite firm that he
 19 wanted to ensure that the public were made
 20 aware of it because we certainly wanted to be
 21 seen as being very forthcoming about the
 22 entire situation.
 23 COFFEY, Q.C.:
 24 Q. Do you recall, did you become afterward that
 25 there were other such memos from 2003?

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1 MS. MATTHEWS:
 2 A. I would have become aware sometime after that.
 3 I don't know exactly when, but -
 4 COFFEY, Q.C.:
 5 Q. When I say "Other such memos" I mean Dr.
 6 Ejeckam's memos in April and May of 2003.
 7 MS. MATTHEWS:
 8 A. Yes, it would have been sometime after that
 9 before I came aware of those memos.
 10 COFFEY, Q.C.:
 11 Q. Ma'am, if I could, please, I mean, throughout,
 12 then, May into June, from your perspective as
 13 the director of communications with the
 14 Premier's office, you would have been aware
 15 that there was a press conference May 18th by
 16 Eastern Health?
 17 MS. MATTHEWS:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. Okay. Did you--you would have followed it, I
 21 take it, or at least followed reports on it?
 22 MS. MATTHEWS:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. From your perspective how satisfied or not

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1 were you with Mr. Tilley's approach to it?

2 MS. MATTHEWS:

3 A. I would struggle to recall exactly what my--at

4 that point in time I think that we were really

5 into managing a situation that had gotten out

6 of control and from a communications

7 perspective, so we were, you know, very much

8 in tune with what we expected Eastern Health

9 would say regarding the issue, I don't recall

10 his exact performance, per se, it was a

11 technical briefing, I believe, and I know that

12 officials from the Department of Health did, I

13 believe, attend that technical briefing, but I

14 would not have attended it myself.

15 COFFEY, Q.C.:

16 Q. Oh and I appreciate that, but you certainly

17 would have been apprised of what happened at

18 it, generally.

19 MS. MATTHEWS:

20 A. Yes.

21 COFFEY, Q.C.:

22 Q. From your perspective, why did Mr. Tilley

23 remain at his job at that point?

24 MS. MATTHEWS:

25 A. That's not something really I could speculate

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1 on.

2 COFFEY, Q.C.:

3 Q. Okay, in terms of that, you weren't involved

4 in any discussions about that at the time?

5 MS. MATTHEWS:

6 A. No, I wouldn't have gotten involved in those

7 discussions.

8 COFFEY, Q.C.:

9 Q. Because you are aware that around that

10 timeframe there were calls in the media by

11 people, through the media, for Mr. Tilley's

12 resignation or removal?

13 MS. MATTHEWS:

14 A. Yes.

15 COFFEY, Q.C.:

16 Q. And the matter had evolved then throughout May

17 and we're to enter now to June, was there a

18 communications plan developed by the

19 government?

20 MS. MATTHEWS:

21 A. I can't say that I know--I would imagine the

22 Department of Health had a communications plan

23 in place at that time, specifically as it

24 relates to how the issue was unfolding and the

25 calling of the Commission of the Inquiry.

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1 COFFEY, Q.C.:

2 Q. Have you seen that?

3 MS. MATTHEWS:

4 A. I can't say that I haven't, I don't recall it

5 specifically right now, but I'm sure that I

6 probably would have seen that.

7 COFFEY, Q.C.:

8 Q. How about the Premier's office, did it have

9 its own communications plan?

10 MS. MATTHEWS:

11 A. No, we would have relied upon the Department

12 of Health to do that communications plan.

13 COFFEY, Q.C.:

14 Q. Has the Premier's office ever developed a

15 communications plan in relation to this ER/PR

16 matter or the Commission of Inquiry?

17 MS. MATTHEWS:

18 A. No, we would have relied upon the Department

19 of Health.

20 COFFEY, Q.C.:

21 Q. And to your knowledge, does the Department of

22 Health currently have one?

23 MS. MATTHEWS:

24 A. I would anticipate that they do, yes.

25 COFFEY, Q.C.:

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1 Q. And as likely as not, you would have seen it

2 too?

3 MS. MATTHEWS:

4 A. I would likely have seen it, yes.

5 COFFEY, Q.C.:

6 Q. Do you recall when that was--well if it

7 exists, who would we ask to see it? Who would

8 have a copy?

9 MS. MATTHEWS:

10 A. Oh, the Department of Health and Community

11 Services, Director of Communications.

12 COFFEY, Q.C.:

13 Q. If we could, please, look at Exhibit P-0228?

14 And this is an e-mail from Ms. Cheeseman, June

15 3rd, 2007, 11:29 a.m. Subject is "On line

16 poll question". It's to Ms. Nolan, Ms.

17 Turpin, yourself and Ms. Mundon and it's

18 actually the results of a poll, apparently a

19 Telegram on-line poll question dealing with

20 the issue of "do you agree with the Liberal

21 Party calling for the resignation of Health

22 Minister, Ross Wiseman and Eastern's Health's

23 CEO, George Tilley, over their handling of the

24 faulty hormone receptor testing controversy."

25 And that's why I asked you the question about

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1 whether or not there was any discussion about
 2 whether or not Mr. Tilley should continue, to
 3 your knowledge.
 4 MS. MATTHEWS:
 5 A. Uh-hm.
 6 COFFEY, Q.C.:
 7 Q. What, if any, sort of usage is made of this
 8 sort of material? I mean, why would Ms.
 9 Cheeseman be sending you this?
 10 MS. MATTHEWS:
 11 A. She would send it as an item of interest. For
 12 me, personally, on-line polls are frankly
 13 rather meaningless, they are very difficult to
 14 control and I wouldn't have taken it as
 15 anything more than a point of interest. I
 16 don't monitor on-line polls personally.
 17 COFFEY, Q.C.:
 18 Q. And if we could, please, exhibit P-0960? This
 19 is an e-mail of June 7th, 2007 from yourself
 20 to Mr. Thompson, Mr. Wiseman and Ms. Mundon.
 21 It's an ATIPP request related to hormone
 22 receptor tests and it says, "Hi Tansy, please
 23 note that the August 2006 note should be
 24 included in the ATIPPA response regarding
 25 briefing notes prepared for the Minister.

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1 Although the note was ultimately prepared for
 2 the Premier, it was done so in consultation
 3 with the department, as well it is assumed
 4 that any note prepared by a department on a
 5 particular issue automatically goes to the
 6 minister of that department. To exclude this
 7 note would be disingenuous, so it should be
 8 included in the ATIPPA response, appropriately
 9 vetted by officials, of course. Thanks. EM."
 10 And you've carboned that or copied that to Mr.
 11 Crawley, Mr. Norris and Ms. Cheeseman. Ma'am,
 12 in relation to this, why was this ATIPPA
 13 request sent to you or why was it being, kind
 14 of going through you for vetting?
 15 MS. MATTHEWS:
 16 A. Well at that point, obviously -
 17 COFFEY, Q.C.:
 18 Q. This was not to the Premier's office?
 19 MS. MATTHEWS:
 20 A. No, it was not, no. At that point though,
 21 this issue would--the Premier's office would
 22 have been seized of this issue, I mean, we had
 23 called a Commission of Inquiry which is no
 24 small undertaking and not something that any
 25 government would do lightly. And so we were

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1 obviously kept very aware of the issues from
 2 that point forward in relation to the ER/PR
 3 file. And it's one of those circumstances
 4 where although the request didn't come
 5 directly to the Premier's office, it was quite
 6 clear to everyone concerned that anything
 7 relating to this file now particularly a
 8 request of this nature, would be vetted
 9 through the Premier's office.
 10 COFFEY, Q.C.:
 11 Q. So it was an informal understanding, an
 12 unwritten understanding, but an understanding
 13 none the same--nevertheless.
 14 MS. MATTHEWS:
 15 A. It may have been verbalized, I'm not entirely
 16 certain, but it certainly would have been an
 17 understanding between myself and Tansy. Tansy
 18 is a very conscientious individual and I have
 19 no doubt that we would have had that
 20 conversation and she would have included me in
 21 that ATIPPA response.
 22 COFFEY, Q.C.:
 23 Q. Exhibit P-0233 please? This is an e-mail of
 24 June 7th, 2007, 2:51 p.m. from Mr. Thompson to
 25 a number of individuals, including yourself,

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1 and he opens by saying, "Talked to George and
 2 Heather Predham, the key question is whether
 3 Eastern Health's statements that all patients
 4 were contacted in October of 2005 is accurate.
 5 The short answer is that every patient they
 6 had identified for retesting by October, 2005,
 7 was contacted by telephone at that time. The
 8 long answer is that Eastern Health was
 9 reasonably confident at that time that it
 10 identified everyone in the province that
 11 needed retesting." And then he goes on then
 12 to explain that's not necessarily so. Do you
 13 recall--was this the first time that you were
 14 ordered to, the idea that an assertion that
 15 all patients had been contacted about the
 16 results was open to question and perhaps
 17 inaccurate?
 18 MS. MATTHEWS:
 19 A. There may have been an instance, I can't
 20 recall specifically, but there may have been
 21 an instance in the House of Assembly when the
 22 opposition may have raised it, but this would
 23 have been the first formalized, to my
 24 recollection, the first formalized recognition
 25 of that and it was as a result of the work

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1 that Mr. Thompson had undertaken on behalf of
 2 the government.
 3 COFFEY, Q.C.:
 4 Q. And what, if anything, was the effect of being
 5 so advised? Because afterwards he then--in
 6 the days following, he substantiates his
 7 doubts.
 8 MS. MATTHEWS:
 9 A. Right.
 10 COFFEY, Q.C.:
 11 Q. So what, if anything, was the effect within
 12 the Premier's office in that regard?
 13 MS. MATTHEWS:
 14 A. The immediate reaction would have been extreme
 15 frustration and disappointment that this was
 16 the case after we had been assured on so many
 17 occasions that all of the patients had been
 18 contacted. I think ultimately if you want to
 19 draw anything positive out of what has been a
 20 terrible situation, is that Mr. Thompson's
 21 work is hopefully going to ensure that these
 22 types of mistakes are avoided in the future.
 23 But at the time, I can say that we would have
 24 been very disappointed that we had been ill
 25 informed.

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1 COFFEY, Q.C.:
 2 Q. If we could, please, exhibit P-0956? Now this
 3 is a couple of e-mails of June 1st, 2007
 4 involving yourself and Ms. Mundon.
 5 MS. MATTHEWS:
 6 A. Yes.
 7 COFFEY, Q.C.:
 8 Q. And the first of them at 11:50, it's from Ms.
 9 Mundon, I believe to yourself. "Please see
 10 attached ad developed by Eastern Health which
 11 they plan to put in Saturday's Telegram."
 12 MS. MATTHEWS:
 13 A. Right.
 14 COFFEY, Q.C.:
 15 Q. "Along with community newspapers next week.
 16 Their purpose is to advise the public that
 17 patients were informed of ER/PR testing
 18 throughout the process. Please advise if you
 19 have any concerns ASAP." And you responded at
 20 noon to her, but to a number of others as
 21 well, "My only comment would be in the second
 22 paragraph I would add 'tests help determine
 23 treatment options for breast cancer patients
 24 after diagnosis has been given' or some words
 25 to that effect. Second, I don't know if this

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1 is possible, but is there some way of saying
 2 that 'although the media were not given
 3 information about the patients whose
 4 treatments was not affected, we did ensure
 5 that all patients were fully informed'. I
 6 think this is a very solid point that is being
 7 lost. Otherwise I think it is a very good ad.
 8 Signed, Elizabeth Matthews." So this was an
 9 ad that Eastern Health, I take it, was going
 10 to run in the beginning of June of 2007, after
 11 the Commission of Inquiry was announced?
 12 MS. MATTHEWS:
 13 A. Yes, that's right.
 14 COFFEY, Q.C.:
 15 Q. And do you know whether or not your suggestion
 16 in that paragraph here, "an assurance was
 17 included in the ad that we did ensure that all
 18 patients were fully informed"?
 19 MS. MATTHEWS:
 20 A. I'm trying to find a copy of the exact ad, but
 21 I'm very certain that those comments would
 22 have been addressed in the final ad.
 23 COFFEY, Q.C.:
 24 Q. And had they been there before?
 25 MS. MATTHEWS:

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1 A. I would have--I don't recall the draft now
 2 because I don't have it, but I'm assuming if I
 3 suggested adding them, that they weren't there
 4 before.
 5 COFFEY, Q.C.:
 6 Q. And those particular or that particular
 7 assertion in the ad proved to be problematic
 8 later on, on June 7th.
 9 MS. MATTHEWS:
 10 A. The second assertion?
 11 COFFEY, Q.C.:
 12 Q. Yes, the second assertion.
 13 MS. MATTHEWS:
 14 A. Yes, that's accurate.
 15 COFFEY, Q.C.:
 16 Q. June 7th.
 17 MS. MATTHEWS:
 18 A. That's right.
 19 COFFEY, Q.C.:
 20 Q. What led you to think or conclude yourself as
 21 of June 1st that all patients were fully
 22 informed?
 23 MS. MATTHEWS:
 24 A. Because I vigorously challenged that
 25 information and I was told repeatedly and

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1 unequivocally that all patients had been
 2 informed.
 3 COFFEY, Q.C.:
 4 Q. Well ma'am, in the circumstances then, knowing
 5 what you do now, had there been any
 6 consequence--well first, you understand that
 7 the assertions you were given were probably
 8 inaccurate?
 9 MS. MATTHEWS:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. How do you feel now about it, in the sense of
 13 having been given those assertions and gone
 14 out on a limb, as it were -
 15 MS. MATTHEWS:
 16 A. Uh-hm.
 17 COFFEY, Q.C.:
 18 Q. - and your advice, have there been any
 19 consequences, to your knowledge, for the
 20 people who gave the assertions?
 21 MS. MATTHEWS:
 22 A. I feel disappointed that I was given those
 23 assertions and they were inaccurate. I feel
 24 tenfold disappointed for the patients who were
 25 impacted by that misinformation because it

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1 certainly impacted them much more than it
 2 would have impacted me, personally. In terms,
 3 I guess is your question what has been done in
 4 terms, within the organization of Eastern
 5 Health?
 6 COFFEY, Q.C.:
 7 Q. Or the department, for that matter, because
 8 you were getting the assertions from the
 9 department itself.
 10 MS. MATTHEWS:
 11 A. Right, but I think in fairness to the
 12 department, they were getting the information
 13 directly from Eastern Health. I guess I can
 14 say that all I can say is that, you know,
 15 individuals over in Eastern Health I would
 16 hope have been dealt with appropriately. I
 17 would say too that--I would make a general
 18 comment that I don't think anybody involved in
 19 this situation from the Premier's office to
 20 the Department of Health and including Eastern
 21 Health, ever purposefully sat down and said to
 22 themselves how can we mislead patients? I don't
 23 believe that anyone ever did that, including
 24 Eastern Health. I think that there was a
 25 breakdown in systems over there that resulted

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1 inaccurate information being relayed to the
 2 public and I think it's most unfortunate. In
 3 terms of what action has been taken within the
 4 organization of Eastern Health to deal with
 5 those issues, I know that from government's
 6 perspective, we have provided additional
 7 funding for quality assurance and those types
 8 of things and additional funding to deal with
 9 information management, but from the
 10 perspective of what's been done to deal with,
 11 I guess you're asking perhaps a human resource
 12 issue in terms of who--I can't answer that
 13 question, I don't know what action has been
 14 taken.
 15 COFFEY, Q.C.:
 16 Q. Have you made any inquiries in that regard?
 17 MS. MATTHEWS:
 18 A. No, I have not.
 19 COFFEY, Q.C.:
 20 Q. When you became aware at the end of the first
 21 week of June and going in throughout June of
 22 2007, that the assertion that all patients had
 23 been contacted, which you had had a hand in
 24 putting in an ad -
 25 MS. MATTHEWS:

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1 A. Right.
 2 COFFEY, Q.C.:
 3 Q. You became aware that that's not accurate.
 4 MS. MATTHEWS:
 5 A. Right.
 6 COFFEY, Q.C.:
 7 Q. Was any thought given by the government to
 8 actually running an ad or announcing to the
 9 public at that point that what you saw early
 10 in June is just wrong and some patients may
 11 not have been contacted and should perhaps,
 12 you know, anybody who might fall into that
 13 category should contact Eastern Health? To
 14 send out an alert, as it were.
 15 MS. MATTHEWS:
 16 A. Right, there was an advertisement I don't
 17 think was contemplated, but I do believe
 18 through the work of Mr. Thompson and in
 19 conjunction with the Minister, that it became
 20 evident and it was relayed to the public that
 21 not every patient had been contacted and it
 22 was in the public domain by virtue of the fact
 23 that patients were saying and advocates like
 24 the Cancer Society were saying that not
 25 everyone had been contacted, so that that

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1 became quite obvious in the public domain.
 2 COFFEY, Q.C.:
 3 Q. And I appreciate that Mr. Wiseman at some
 4 point, in fact months later, did say something
 5 to that effect, but at the time throughout the
 6 summer of 2007 -
 7 MS. MATTHEWS:
 8 A. Uh-hm.
 9 COFFEY, Q.C.:
 10 Q. Early fall of 2007, do you have any reason to
 11 believe that Mr. Wiseman made such an
 12 announcement?
 13 MS. MATTHEWS:
 14 A. Well I'm not a hundred percent certain. If
 15 you go back to Mr.--I assume you're basing
 16 this on Mr. Thompson's previous e-mail that
 17 you discussed.
 18 COFFEY, Q.C.:
 19 Q. Yeah, well that's just the first of them,
 20 there's a whole bunch after that I can refer
 21 you to.
 22 MS. MATTHEWS:
 23 A. Right. His initial, part of that initial e-
 24 mail was he was referring to all of the
 25 patients back in 2005. I think that as soon--

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1 the work Mr. Thompson was doing was very
 2 complex in terms of determining who exactly
 3 had been notified, who hadn't been, had anyone
 4 fallen through the cracks, and I think it was
 5 a very intense process for him in dealing with
 6 all of the records management that he had to
 7 deal with.
 8 COFFEY, Q.C.:
 9 Q. Um-hm.
 10 MS. MATTHEWS:
 11 A. And I think that once he had a very firm
 12 answer in his mind as to who was contacted
 13 when and who had potentially note been
 14 contacted, then that information was relayed
 15 publicly by either himself or the minister.
 16 I'm not--maybe both of them jointly.
 17 COFFEY, Q.C.:
 18 Q. I take it that was many, well a number of
 19 months later.
 20 MS. MATTHEWS:
 21 A. It was a few months later.
 22 COFFEY, Q.C.:
 23 Q. In its own way, not unlike the approach of
 24 Eastern Health, back in 2005 initially, in
 25 terms of them not being uncertain as to what

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1 exactly they were dealing with. And Mr.
 2 Thompson, in 2007 -
 3 MS. MATTHEWS:
 4 A. Right.
 5 COFFEY, Q.C.:
 6 Q. - wasn't certain, you've pointed out, in June
 7 probably that, as to how many may or may not
 8 have been contacted.
 9 MS. MATTHEWS:
 10 A. Well, there was a general understanding in the
 11 public, I believe at that time, that some
 12 people had not been contacted because patients
 13 had themselves said they had been contacted.
 14 And what government did at that time was we
 15 appointed Mr. Thompson to review -
 16 COFFEY, Q.C.:
 17 Q. Yes, and I appreciate that. He's off doing
 18 his job, but did the government at the time
 19 say anything publicly and if not, why not?
 20 MS. MATTHEWS:
 21 A. I can't recall if the minister said anything
 22 publicly or not. I guess from our perspective
 23 it might have been the case that it was
 24 publicly known at that time that not all
 25 patients had been contacted. Was there a

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1 specific statement? I can't recall
 2 specifically. I don't know every interview
 3 the minister had done at the time, but it was
 4 generally known then.
 5 COFFEY, Q.C.:
 6 Q. And you told the Commissioner, certainly from
 7 your perspective and it's apparent in the e-
 8 mail that you wanted to be, as you pointed
 9 out, 100 percent accurate in what you were
 10 telling the public, having told the public
 11 something, was there, from your perspective a
 12 corresponding duty to correct the record, as
 13 it were, if you became aware that what I've
 14 told the public is not 100 percent accurate.
 15 I mean, tell them the next day or the day
 16 after.
 17 MS. MATTHEWS:
 18 A. Right, I think it was in the public domain
 19 that it wasn't accurate at that time, it was
 20 widely known that not all of the patients had
 21 been contacted.
 22 COFFEY, Q.C.:
 23 Q. In terms of communicating in relation to this
 24 matter overall, we have, of course, the e-
 25 mails and I thank you for that--in preparing

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1 for the Commission and providing material, you
 2 were approached by whom to provide material?
 3 MS. MATTHEWS:
 4 A. You mean in terms of disclosure?
 5 COFFEY, Q.C.:
 6 Q. To gather up what material you had. Sure,
 7 sure.
 8 MS. MATTHEWS:
 9 A. I would have been asked by IT officials to
 10 search my e-mails files. I also would have
 11 relied upon them to do and to search my files
 12 in the office. I assume I would have been
 13 approached by Mr. Thompson's office because he
 14 was the liaison between government and the
 15 Commissioner.
 16 COFFEY, Q.C.:
 17 Q. Were you given any criterium, search
 18 criterium?
 19 MS. MATTHEWS:
 20 A. Anything and all related to--I can't recall
 21 specifically, but it would have been anything
 22 related to ER/PR, breast cancer screening,
 23 breast cancer testing, generally have a look
 24 at your files in the relevant periods of time,
 25 June '05 for example.

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1 COFFEY, Q.C.:
 2 Q. I take it that there are some e-mails
 3 involving text messaging that are not captured
 4 by the e-mail systems in the sense of not -
 5 MS. MATTHEWS:
 6 A. Pins you would be referring to?
 7 COFFEY, Q.C.:
 8 Q. Pins.
 9 MS. MATTHEWS:
 10 A. Yes, that's right.
 11 COFFEY, Q.C.:
 12 Q. Do you use pinning?
 13 MS. MATTHEWS:
 14 A. Yes, I do, yes.
 15 COFFEY, Q.C.:
 16 Q. Did you use it, do you recall, in relation to
 17 the ER/PR matter?
 18 MS. MATTHEWS:
 19 A. I don't recall using it in relation. That's
 20 not to say I may not have sent a pin to a
 21 director saying, are you available for a phone
 22 call? I literally sent thousands of e-mail
 23 every month. So, I may have, but on the
 24 substance of an issue like this, I wouldn't
 25 typically use pin as a mode of communication.

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1 COFFEY, Q.C.:
 2 Q. So, I take it then you're not aware of any
 3 such pin messages that you can recall, but
 4 have not been produced to the Commission?
 5 MS. MATTHEWS:
 6 A. No, no, not at all.
 7 COFFEY, Q.C.:
 8 Q. Okay. Thank you. Those are the questions I
 9 have, Commissioner.
 10 THE COMMISSIONER:
 11 Q. Thank you, Mr. Coffey. Mr. Simmons?
 12 MS. ELIZABETH MATTHEWS, EXAMINATION BY MR. DANIEL SIMMONS
 13 MR. SIMMONS:
 14 Q. Good afternoon, Ms. Matthews, I'm Dan Simmons,
 15 I'm the lawyer here for Eastern Health.
 16 MS. MATTHEWS:
 17 A. Good afternoon.
 18 MR. SIMMONS:
 19 Q. I don't have very much for you. You've told
 20 us a little while ago about the events of May
 21 of 2007. And I believe you told us that there
 22 had been a loss of confidence in Eastern
 23 Health, certainly on the part of the minister,
 24 Mr. Wiseman and, I believe you said on the
 25 part of Cabinet, following the Cabinet

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1 presentation.
 2 MS. MATTHEWS:
 3 A. Right.
 4 MR. SIMMONS:
 5 Q. And did I take you to say on the part of the
 6 premier as well?
 7 MS. MATTHEWS:
 8 A. Yes.
 9 MR. SIMMONS:
 10 Q. Okay. And I believe you told us that the
 11 primary reason at that point for the loss of
 12 confidence then was that it had become
 13 publicly known that there was a larger numbers
 14 of tests that had changed than the number that
 15 had been released in December by Eastern
 16 Health which had been the number of patients
 17 who had treatments changed.
 18 MS. MATTHEWS:
 19 A. Right.
 20 MR. SIMMONS:
 21 Q. Right, one was 177 and another was three
 22 hundred and some odd.
 23 MS. MATTHEWS:
 24 A. Right.
 25 MR. SIMMONS:

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1 Q. And that was the primary factor at that point
 2 that influenced the loss of confidence in
 3 Eastern Health, was it?
 4 MS. MATTHEWS:
 5 A. Um-hm.
 6 MR. SIMMONS:
 7 Q. Okay. Now, you were referred earlier to a
 8 briefing note from August of '06 which you
 9 looked at -
 10 MS. MATTHEWS:
 11 A. Right.
 12 MR. SIMMONS:
 13 Q. - and saw and it had all those numbers in it,
 14 didn't it?
 15 MS. MATTHEWS:
 16 A. It did, yes.
 17 MR. SIMMONS:
 18 Q. And that briefing note was known within
 19 government as far up as your position within
 20 government. It had come to you.
 21 MS. MATTHEWS:
 22 A. Yes.
 23 MR. SIMMONS:
 24 Q. Yes. So, it would have been known in your
 25 office, in the Department of Health?

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1 MS. MATTHEWS:
 2 A. Yes.
 3 MR. SIMMONS:
 4 Q. Which it had passed through.
 5 MS. MATTHEWS:
 6 A. Yes.
 7 MR. SIMMONS:
 8 Q. And in Cabinet Secretariat, which it had
 9 passed through.
 10 MS. MATTHEWS:
 11 A. Yes, that's accurate, yes.
 12 MR. SIMMONS:
 13 Q. And you're aware also, I believe, that in
 14 December of '06 Eastern Health had provided
 15 the full materials for their technical media
 16 briefing to the Department of Health?
 17 MS. MATTHEWS:
 18 A. Right.
 19 MR. SIMMONS:
 20 Q. And that there was some circulation of those
 21 materials within government as well?
 22 MS. MATTHEWS:
 23 A. Yes.
 24 MR. SIMMONS:
 25 Q. Were you aware of that?

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1 MS. MATTHEWS:
 2 A. Yes.
 3 MR. SIMMONS:
 4 Q. And through media monitoring, we also know
 5 that there were media reports following that
 6 briefing that Eastern Health had not released
 7 the total number of changed tests.
 8 MS. MATTHEWS:
 9 A. Right.
 10 MR. SIMMONS:
 11 Q. But had released the total number of treatment
 12 changes.
 13 MS. MATTHEWS:
 14 A. Right.
 15 MR. SIMMONS:
 16 Q. Right. So, all that information was known
 17 within government by mid December of 2006.
 18 MS. MATTHEWS:
 19 A. Right.
 20 MR. SIMMONS:
 21 Q. Okay. So, my question then coming from that
 22 is, in May of '07 when there was such a loss
 23 in confidence of Eastern Health because
 24 Eastern Health had not released the larger
 25 number of treatment changes, did any of the

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1 people who you heard talk about that express
 2 to you any loss of confidence in any way in
 3 respect of government because of government's
 4 knowledge of those numbers and government
 5 taking no action to either release them or
 6 cause Eastern Health to release them earlier?
 7 MS. MATTHEWS:
 8 A. Right. I'll go back first to the August
 9 briefing note that I had received. And I
 10 would say again and I believe I said it
 11 earlier that when I read that briefing note,
 12 because I wasn't seized of this issue on a
 13 daily basis and I wasn't intimately aware of
 14 the numbers and all of those sorts of things,
 15 I would have read the briefing note as an
 16 update. There was nothing in that note that
 17 indicated that these numbers had changed. So,
 18 really from my perspective, I just--it had
 19 been over a span of several years and the
 20 specific numbers just would not have jumped
 21 out at me. So, from that perspective, when
 22 the technical briefing happened in December, I
 23 just would not have made the connection
 24 between those two notes.
 25 MR. SIMMONS:

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1 Q. Yes.
 2 MS. MATTHEWS:
 3 A. And I guess I would say that at that time we
 4 didn't hear from--so, I wouldn't have known
 5 the magnitude personally of the difference in
 6 the two numbers. And at that time we were
 7 still depending upon the Department of Health.
 8 They were managing the file in conjunction
 9 with Eastern Health and we did not hear from
 10 anyone in the department, specifically, I
 11 guess, the minister. As I said, the first
 12 time a minister ever contacted our office was
 13 in May of '07 and that was really the impetus
 14 that--that was really, I guess, the point at
 15 which we kind of said, okay, we've got a
 16 serious issue here. And back in December that
 17 had never been brought to the premier's office
 18 attention.
 19 MR. SIMMONS:
 20 Q. Yeah, I understand that and you've told us
 21 that before, but my question is in May of '07
 22 you heard, you told us that you gathered from
 23 three different sources that there's a loss of
 24 confidence in Eastern Health; the premier, the
 25 minister and Cabinet.

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1 MS. MATTHEWS:
 2 A. Right.
 3 MR. SIMMONS:
 4 Q. And my question simply is, from any of those
 5 sources was there any expression of a similar
 6 loss in confidence with either the Department
 7 of Health, Cabinet Secretariat or anyone in
 8 government because people within government
 9 had had all the same information and had not
 10 acted on it.
 11 MS. MATTHEWS:
 12 A. Right. I think the minister--it was a
 13 different minister at that time, understand.
 14 So, I think the minister at that time was very
 15 concerned about it and he had expressed a
 16 concern that had not previously been
 17 expressed. I likely would have had a
 18 conversation with Tansy just to ask her to
 19 walk me through the events of December and why
 20 that number wasn't necessarily, why it didn't
 21 resonate with them. And what I would have
 22 been told by her was that at that time they
 23 still had confidence in Eastern Health and
 24 they left the technical briefing to them. In
 25 hindsight, should the minister have asked

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1 someone to be at the technical briefing? It
 2 would have avoided a lot of the problems that
 3 unfolded afterwards, but that didn't happen.
 4 So, I can't really judge, you know, the
 5 decision in the department at that time
 6 because I wasn't there.
 7 MR. SIMMONS:
 8 Q. Right.
 9 MS. MATTHEWS:
 10 A. But I do know that Tansy said that she had
 11 confidence in what they were going to give.
 12 You know, they were doing a technical briefing
 13 and she felt, even though perhaps it wasn't in
 14 the briefing materials that they sent over,
 15 that technical briefings are pretty
 16 freewheeling and it may have come up, that
 17 number. But then as obviously in subsequent
 18 coverage, you see that not all of those
 19 numbers had been raised. Tansy probably had
 20 the expectation that maybe it could have.
 21 When she saw that it wasn't, I can't really
 22 fault her because I don't really know the
 23 circumstances that she was going through at
 24 that time. And I know that generally
 25 speaking, she is probably one of the most

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1 conscientious directs that I've every had the
 2 experience to work with. So -
 3 MR. SIMMONS:
 4 Q. I'm not asking for you view on this.
 5 MS. MATTHEWS:
 6 A. Okay.
 7 MR. SIMMONS:
 8 Q. And do I take it then that the answer is no,
 9 you heard no on express any loss of confidence
 10 about anyone's involvement in this other than
 11 Eastern Health's?
 12 MS. MATTHEWS:
 13 A. Do you mean we lost confidence in the
 14 Department?
 15 MR. SIMMONS:
 16 Q. Yes.
 17 MS. MATTHEWS:
 18 A. Is that the question?
 19 MR. SIMMONS:
 20 Q. Or anyone other than Eastern Health. Anyone
 21 who'd been involved, because we've seen
 22 various players in government that had
 23 knowledge of what Eastern Health--the same
 24 numbers that Eastern Health had.
 25 MS. MATTHEWS:

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1 A. Right.
 2 MR. SIMMONS:
 3 Q. And the means to know what Eastern Health had
 4 released in the public.
 5 MS. MATTHEWS:
 6 A. Right.
 7 MR. SIMMONS:
 8 Q. The means to know what the reaction had been
 9 in the media to it.
 10 MS. MATTHEWS:
 11 A. I don't recall anyone expressing a loss of
 12 confidence in anyone else. I definitely would
 13 have had a conversation with Ms. Mundon, in
 14 terms of what happened back then, but I
 15 personally hadn't lost confidence in her and
 16 she would have been my main point of contact.
 17 MR. SIMMONS:
 18 Q. Okay, good. Thank you very much.
 19 MS. MATTHEWS:
 20 A. Thank you.
 21 THE COMMISSIONER:
 22 Q. Mr. Browne?
 23 MR. BROWNE:
 24 Q. Thank you, Commissioner. I have no questions
 25 for Ms. Matthews. Thank you.

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1 MS. MATTHEWS:
 2 A. Thank you.
 3 THE COMMISSIONER:
 4 Q. Ms. O'Dea?
 5 MS. O'DEA:
 6 Q. We have no questions.
 7 THE COMMISSIONER:
 8 Q. Ms. Newbury?
 9 MS. NEWBURY:
 10 Q. No questions.
 11 THE COMMISSIONER:
 12 Q. Ms. Russell?
 13 MS. RUSSELL:
 14 Q. No questions.
 15 MR. PIKE:
 16 Q. No questions for Ms. Matthews. Thank you,
 17 Commissioner.
 18 THE COMMISSIONER:
 19 Q. Mr. Pritchard.
 20 MS. ELIZABETH MATTHEWS, EXAMINATION BY MR. ROLF PRITCHARD
 21 MR. PRITCHARD:
 22 Q. Thank you, Commissioner. Good afternoon, Ms.
 23 Matthews.
 24 MS. MATTHEWS:
 25 A. Good afternoon.

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1 MR. PRITCHARD:
 2 Q. Ms. Matthews, I'd like to--I just have a few
 3 questions for you. The first one I wanted to
 4 ask you about concerned the events, some of
 5 the events that took place on July the 19th of
 6 2005, and I wonder if we could be shown again
 7 the document at No. 0312, please? All right,
 8 0312 is that package of e-mails that we looked
 9 at this morning regarding the 19th of July and
 10 I wanted to take you to page five, and I had
 11 the impression this morning that you had
 12 wanted to comment at greater length about this
 13 particular e-mail and to explain what it was
 14 you had or had not said to the Premier and why
 15 that might have been. So I want to give you
 16 that opportunity now to complete your
 17 explanation.
 18 MS. MATTHEWS:
 19 A. I guess I would just like to clarify that, and
 20 again, I hate to sound repetitive but to put
 21 some context around how the Premier's office
 22 operates and the any number of issues that
 23 could come to us on any given day, and again,
 24 not to minimize the significance of this
 25 issue, because I think, you know, any time

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1 there is an issue that concerns the health
 2 care of the people of this province, it's
 3 something that everyone is concerned about,
 4 including the Premier's office.
 5 So we obviously would have been very
 6 concerned when we had received the first e-
 7 mail, but when we had received subsequent
 8 information that no action was required and
 9 that the issue would be minimized, then it's
 10 very likely that had I not seen the Premier in
 11 the intervening period from when I received
 12 the first notification to when I received the
 13 subsequent notification, there's a likelihood
 14 that I would not have passed that information
 15 along, just because, you know, we get a crisis
 16 in our office every week, sometimes several
 17 times a week, and it turns out, after the
 18 fact, upon reflection, with more information,
 19 to be significantly diminished. So that's
 20 just the nature of how our office works.
 21 So when this second e-mail would have
 22 come over and would have been eventually
 23 relayed to me, as it would have been through
 24 the chief of staff from Mr. Thompson, that
 25 really would have just moved the issue off of

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1 our radar screen from high alert to really
 2 just an FYI that there could be an issue and
 3 it's being handled.
 4 MR. PRITCHARD:
 5 Q. Okay. So I think in your evidence you said
 6 earlier that you don't have a specific
 7 recollection of having either discussed this
 8 with the Premier or not discussed it with the
 9 Premier, but -
 10 MS. MATTHEWS:
 11 A. That's right.
 12 MR. PRITCHARD:
 13 Q. - I gather from what you've told us, your
 14 sense is that if you had seen him in the time
 15 between the two e-mails, you likely told him?
 16 MS. MATTHEWS:
 17 A. That's right.
 18 MR. PRITCHARD:
 19 Q. But if you didn't see him until after this
 20 particular e-mail, you may not have raised it
 21 with him?
 22 MS. MATTHEWS:
 23 A. That's right.
 24 MR. PRITCHARD:
 25 Q. Okay. The other thing I wanted to come back

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1 to, and Mr. Simmons, a few minutes ago, was
 2 asking you about the issue of lack of
 3 confidence and who had lack of confidence in
 4 who and what around the events that unfolded
 5 in May of 2007 and I was getting a little
 6 confused by the way that--by the questioning
 7 and answering that was going back and forth,
 8 so I want to be clear now. When you speak to
 9 a lack of confidence in May of 2007, what is
 10 the cause of that lack of confidence?
 11 MS. MATTHEWS:
 12 A. The cause for me of that lack of confidence
 13 was the revelation in a media report that
 14 numbers that had not been--the magnitude of
 15 the numbers that had been withheld from the
 16 media at the technical briefing, which had
 17 happened in December of the previous year.
 18 MR. PRITCHARD:
 19 Q. Okay. Thank you, Ms. Matthews. Those are all
 20 my questions.
 21 MS. MATTHEWS:
 22 A. Thank you.
 23 MS. ELIZABETH MATTHEWS, EXAMINATION BY MADAM COMMISSIONER
 24 THE COMMISSIONER:
 25 Q. Ms. Matthews, on the point just raised by Mr.

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1 Pritchard, so do I take it that up until the
 2 time that indeed the Commission was
 3 established, the Government of Newfoundland
 4 had no concerns about the handling of the
 5 testing or anything arising concerning the
 6 conversion of so many people within Eastern
 7 Health? Your concerns were solely in terms of
 8 how the communications was handled?
 9 MS. MATTHEWS:
 10 A. I wouldn't say that nobody in Government had
 11 that concern. I would imagine that somebody
 12 in the Department of Health who was involved
 13 with the file would have--and it would have
 14 been my--I would have taken comfort in the
 15 fact that somebody, a professional within the
 16 Department of Health, would have been dealing
 17 with those issues specific to what happened in
 18 the lab. I'm not sure if that answers your
 19 question.
 20 THE COMMISSIONER:
 21 Q. Well, it just seems to me that the message I'm
 22 getting from what you said, and I want to make
 23 sure that I'm understanding you clearly, is
 24 that the--what caused the Government of
 25 Newfoundland to step in to what, as you had

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1 described it was essentially an operational
 2 issue within Eastern Health, was really one
 3 thing and that is the failure to include in
 4 the numbers given at a briefing numbers that
 5 subsequently were revealed in the media from
 6 the source of the Court action.
 7 MS. MATTHEWS:
 8 A. I think it would have been a culmination of
 9 small things and that was the proverbial straw
 10 that broke the camel's back. It was--as I
 11 recalled earlier, Ms. Mundon had expressed to
 12 me frustration in dealing with Eastern Health
 13 and getting information from them back in late
 14 '06, and I know that there was generally -
 15 THE COMMISSIONER:
 16 Q. But was that information about--we've heard
 17 from other sources, for example, there was
 18 some concern, of course, about notification of
 19 patients, but that seemed to come a little
 20 later in the piece, but what I'm--the
 21 impression I'm getting from the conversations
 22 today between you and Mr. Coffey and Mr.
 23 Simmons and Mr. Pritchard is that really at no
 24 point was the Government--was there anything
 25 done that caused the Government to have

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1 concern about Eastern Health’s handling of the
 2 testing issue, as opposed to Eastern Health’s
 3 handling of communications issues, whether it
 4 be communications with the public, with the
 5 media, or the problems with notification of
 6 patients?
 7 MS. MATTHEWS:
 8 A. Right. I would answer that by saying from my
 9 perspective it was a communications issue.
 10 That was the issue that really shook the
 11 confidence of the public. Having said that,
 12 it was Cabinet who determined to call the
 13 Commission of Inquiry and it was Cabinet who
 14 developed the terms of reference, and I think
 15 that if you--as you would well know, the very
 16 first--I believe the first item in the terms
 17 of reference is about the testing process. So
 18 I would think that -
 19 THE COMMISSIONER:
 20 Q. It is indeed.
 21 MS. MATTHEWS:
 22 A. - at that Cabinet meeting, and I was in and
 23 out of the Cabinet meeting for a variety of
 24 reasons, but at the Cabinet meeting, when the
 25 decision was made to call the Inquiry, I would

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1 imagine that it was--from my perspective, it
 2 was the communications issue, because that’s
 3 my realm of expertise. From Cabinet’s
 4 perspective, I would imagine that they looked
 5 at the presentation that was given to them as
 6 a whole and they made their decisions
 7 accordingly.
 8 THE COMMISSIONER:
 9 Q. Okay.
 10 MS. MATTHEWS:
 11 A. So from Cabinet’s perspective, and again I
 12 can’t really speak for them, but I would
 13 imagine that it was the picture as a whole
 14 that was presented to them in that Cabinet
 15 briefing that ultimately led them to call the
 16 Commission of Inquiry.
 17 THE COMMISSIONER:
 18 Q. Okay. Now when issues come to the Premier’s
 19 office, I just need--because you are a
 20 communications person, it would seem, I
 21 suppose, self-evident that your analysis of
 22 issues would be in terms of communications.
 23 MS. MATTHEWS:
 24 A. Right.
 25 THE COMMISSIONER:

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1 Q. Whether or not things are being properly
 2 communicated, effectively communicated, how
 3 the public is perceiving actions taken or not
 4 taken by government, etcetera, etcetera. I’m
 5 still not sure I understand what, if you will,
 6 ratcheted up an issue so that it goes from
 7 being issue perhaps in a Crown corporation,
 8 issue that the department which is responsible
 9 deals with, issue which gets to the Premier’s
 10 office.
 11 MS. MATTHEWS:
 12 A. Right.
 13 THE COMMISSIONER:
 14 Q. Except for your expression somewhere along the
 15 way that it’s sort of a gut reaction that it’s
 16 that big, I really have no feel for how it
 17 gets that far within the government system,
 18 and I suppose, I’m thinking are you looking at
 19 things from one perspective and is there
 20 somebody else in the Premier’s office who may
 21 be looking at it from another perspective and
 22 things might get there for a number of
 23 different reasons through different routes?
 24 MS. MATTHEWS:
 25 A. Yes, I think that would happen. From a

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1 communications perspective, things would
 2 ultimately come through me, and it would be
 3 done in consultation with the chief of staff
 4 and other senior members in the office. For
 5 example, if there was a constituency issue,
 6 that’s not something that I would particularly
 7 be involved in. That’s something that other
 8 members in the Premier’s office staff would be
 9 involved in. So if there was a particularly
 10 pertinent issue in the Premier’s district, for
 11 example, the decision on whether or not that
 12 would be brought to the Premier would be made
 13 by someone other than myself. But in terms of
 14 when an issue generally reaches the Premier’s
 15 office, I think there are hundreds and
 16 hundreds of issues that actually reach the
 17 Premier’s office every year because we get
 18 hundreds of briefing notes. It’s when--it’s
 19 more about the decision of when the Premier’s
 20 office will intervene themselves into an
 21 issue, and really it’s, you know, based upon a
 22 few things. As you mentioned, it would be
 23 based upon your gut reaction, you know, how
 24 big is this. But more so, you depend very
 25 heavily upon departments to handle their own

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1 issues, and I think that's what we did up to a
 2 point with this issue, and when public
 3 confidence was lost and government's
 4 confidence was lost in Eastern Health, that
 5 was when we intervened.

6 THE COMMISSIONER:
 7 Q. So it's--is it a question of how important it
 8 is in the public or what your perception of
 9 what's happening is from the perspective of
 10 whichever floor it is that the Premier's
 11 office and the Cabinet Secretariat is on,
 12 what, eighth, ninth, whatever?

13 MS. MATTHEWS:
 14 A. It's not necessarily how important the issue
 15 is in the public, because we often leave very
 16 public issues in the domain of the
 17 departments. Ministers deal with their own
 18 issues. A health care issue in particular is
 19 something that we would leave to health care
 20 professionals, just by virtue of the fact that
 21 it is a health care issue, and as I said
 22 earlier, there are patient confidentiality
 23 issues and physician patient relationships
 24 that really are best left to those experts,
 25 and in that respect, the Premier's office

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1 would certainly expect to be kept abreast of
 2 issues and kept informed about what's going
 3 on, to a certain extent, but we would
 4 certainly leave the details of that file to
 5 the department.

6 Some files that would absolutely be in
 7 the realm of the Premier's office would be
 8 issues on which the Premier has a lead:
 9 federal provincial relations; issues between
 10 provinces in terms of some of the major issues
 11 that Premiers would deal with at the Council
 12 of the Federation, for example.

13 THE COMMISSIONER:
 14 Q. Yeah, but they would naturally fall there and
 15 not necessarily, perhaps with the exception of
 16 the Minister of Intergovernmental Affairs, if
 17 there's still such a being, naturally fall
 18 within departments, like Health or whatever.

19 MS. MATTHEWS:
 20 A. Right.

21 THE COMMISSIONER:
 22 Q. But what I'm interested in is how something
 23 moves from Health or Tourism or Justice,
 24 wherever, to be something that's big enough
 25 and maybe, I don't know whether size is

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1 important or not, to be something that really
 2 the Premier steps in on?

3 MS. MATTHEWS:
 4 A. It has to be a pretty significant issue before
 5 the Premier involves himself. As I said
 6 earlier, the Premier's involvement is the
 7 exception, rather than the rule and I know
 8 that sometimes there's a public perception put
 9 out there that the Premier has a very top down
 10 approach to running government, but if you're
 11 within our government, you'll know that the
 12 Premier relies very heavily upon his ministers
 13 to do their job and to run their departments.
 14 If an issue shakes public confidence, there's
 15 an issue where public confidence is shaken, as
 16 it was in something that's as important as a
 17 health care system, then that will eventually
 18 involve the Premier's intervention. If a
 19 minister requests assistance, perhaps on a
 20 file, you know, the Premier may step in or if
 21 a minister calls me and says, for example, I
 22 worked in the Department of Fisheries, so I
 23 had a fair bit of knowledge of the seal
 24 industry, so for example, I became more
 25 actively involved probably than typical on

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1 that particular file and again, it was because
 2 the Premier was the face of the issue from a
 3 national and international perspective.

4 THE COMMISSIONER:
 5 Q. Okay, and on this matter of loss of public
 6 confidence, how does one assess whether or not
 7 there's a loss of public confidence?

8 MS. MATTHEWS:
 9 A. Again, I don't think there's a barometer that
 10 you can look at, you know, on paper that says
 11 public confidence has been lost. It's very
 12 much intuition. You can sense what the public
 13 mood is. You can't always just rely upon
 14 media reporting of an issue to know that
 15 public confidence has been lost. You talk to
 16 people. I talk to my friends, I talk to my
 17 family, the people in our staff talk to their
 18 friends and family. You hear from people on
 19 the outside, people start calling the
 20 Premier's office. You just have that
 21 intuitive sense that this issue is very big
 22 and that public confidence is very clearly
 23 shaken.

24 THE COMMISSIONER:
 25 Q. Okay, and then just one point of

1 clarification. In respect of the events of
 2 early July--or not early, mid July, 2005, as I
 3 understand it between the conversation that
 4 you remember with Carolyn Chaplin, although as
 5 I understand it, you don't really remember the
 6 details of the conversation, to the story
 7 breaking in The Independent.

8 MS. MATTHEWS:

9 A. Right.

10 THE COMMISSIONER:

11 Q. You have no independent--wrong word, but
 12 nonetheless that's the best word, recollection
 13 of anything--as I understood your evidence
 14 this morning, essentially you're saying this
 15 is what I would have done with this issue?

16 MS. MATTHEWS:

17 A. Yes.

18 THE COMMISSIONER:

19 Q. You really don't have any independent
 20 recollection of events between July 19th and
 21 September 30th?

22 MS. MATTHEWS:

23 A. That's right.

24 THE COMMISSIONER:

25 Q. After the first phone call.

1 Q. Okay. And did you ask Ms. Mundon at that time
 2 during that conversation or at any time,
 3 really, what she knew about Eastern Health's
 4 refusal in December of '06 to provide
 5 conversion numbers publicly? Did you ever ask
 6 Ms. Mundon, were you aware Tansy that this
 7 happened? That they were doing this?

8 MS. MATTHEWS:

9 A. I don't know if I had--if we got into those
 10 specific details. I imagine that I would
 11 have, but I can't recall specifically what
 12 Tansy would have said other than that she felt
 13 that Eastern Health was going to be
 14 forthcoming in that technical briefing, in
 15 terms of the information the media were
 16 seeking.

17 COFFEY, Q.C.:

18 Q. And have you, before coming here today, have
 19 you had the opportunity to review the kind of
 20 package, December 11th, 2006 briefing
 21 materials?

22 MS. MATTHEWS:

23 A. I've looked at those briefing materials in
 24 preparation for this Commission, yes.

25 COFFEY, Q.C.:

1 MS. MATTHEWS:
 2 A. That's right, I don't have--I just know how I
 3 would have dealt with the issue intuitively,
 4 but you're absolutely correct.

5 THE COMMISSIONER:

6 Q. I just wanted to clarify that particular
 7 point.

8 MS. MATTHEWS:

9 A. Yes.

10 THE COMMISSIONER:

11 Q. Do you have anything arising, Mr. Coffey?

12 MS. ELIZABETH MATTHEWS, RE-DIRECT EXAMINATION BY BERNARD

13 COFFEY, Q.C.

14 COFFEY, Q.C.:

15 Q. Yes, I do. Ms. Matthews, in responding to Mr.
 16 Simmons, you did refer to a conversation since
 17 this all broke in the media May 15th, 2007,
 18 since that time that you had with Ms. Mundon?

19 MS. MATTHEWS:

20 A. Uh-hm.

21 COFFEY, Q.C.:

22 Q. About what was known back in December of '06?

23 MS. MATTHEWS:

24 A. Yes.

25 COFFEY, Q.C.:

1 Q. And you would be aware that they were
 2 forwarded to Ms. Mundon on the morning of
 3 December 11th?

4 MS. MATTHEWS:

5 A. Yes.

6 COFFEY, Q.C.:

7 Q. And you were aware that questions, it is
 8 question 9 and answer 9 they specifically
 9 spell out that they're not going to give out a
 10 conversion rate?

11 MS. MATTHEWS:

12 A. Right.

13 COFFEY, Q.C.:

14 Q. Conversion numbers. So had you ever gone to
 15 Ms. Mundon, because she received that material
 16 on December 11th, 2006, have you ever since
 17 gone to Ms. Mundon and asked her, in light of
 18 your earlier conversation, Tansy, how is it
 19 that this is there -

20 MS. MATTHEWS:

21 A. Right.

22 COFFEY, Q.C.:

23 Q. - on December 11th, and you have indicated to
 24 me that apparently you didn't know about it?

25 MS. MATTHEWS:

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1 A. I would have only seen those documents since
 2 I've been preparing for the Commission and Ms.
 3 Mundon has been on maternity leave for quite
 4 some time, so I haven't had any contact with
 5 her at all. So I wouldn't have had the
 6 opportunity to ask her that question.
 7 COFFEY, Q.C.:
 8 Q. But your understanding at the time, in May of
 9 '07, when this broke, that's probably the time
 10 you would have spoken to Ms. Mundon in the
 11 immediate aftermath.
 12 MS. MATTHEWS:
 13 A. Yes, that's right.
 14 COFFEY, Q.C.:
 15 Q. You understood from her or the impression you
 16 had from her or understood from her, is she
 17 had not been aware until May of '07 that the
 18 numbers hadn't been given out?
 19 MS. MATTHEWS:
 20 A. That's generally my recollection that she, she
 21 wasn't really aware if they had given them or
 22 not and maybe it had come up, I think she had
 23 probably said maybe it had come up during the
 24 technical briefing, but not necessarily
 25 included in the briefing materials. I can't

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1 say with certainty that she said that, but I
 2 do seem to recall that that was her analysis.
 3 COFFEY, Q.C.:
 4 Q. Looking back on it now, she appear to be at
 5 all clear, even in a response to you, as to
 6 whether or not she knew or not in December of
 7 '06, that Eastern Health had refused to give
 8 out the number?
 9 MS. MATTHEWS:
 10 A. No, I'm -
 11 COFFEY, Q.C.:
 12 Q. I'm trying to get some sense, as the director
 13 of communications here for the Premier's
 14 office, of having recounted this conversation
 15 you had with Ms. Mundon about this.
 16 MS. MATTHEWS:
 17 A. Right.
 18 COFFEY, Q.C.:
 19 Q. What did you understand her to be conveying to
 20 you in May of '07 about what she knew in June
 21 of--in December of '06?
 22 MS. MATTHEWS:
 23 A. I think at that time in May we were just so--
 24 it was a rather hectic and intense period and
 25 I think we were just so consumed with dealing,

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1 managing the issue and calling the Commission,
 2 I can't say with certainty what Tansy would
 3 have relayed to me about what she knew back in
 4 December. I know that they were aware that
 5 the department, I know the Minister was
 6 briefed, I believe on the total numbers, the
 7 full conversion rate and I never heard from
 8 the Minister or anyone at that time expressing
 9 any concern about what had come out of the
 10 technical briefing and I really can't say to
 11 what--speak to what Ms. Mundon knew during
 12 that period of time. I guess she would
 13 probably be the best one to answer that
 14 question.
 15 COFFEY, Q.C.:
 16 Q. Oh, and we'll be asking her, I'm just asking
 17 you if you can recall actually asking her
 18 about it.
 19 MS. MATTHEWS:
 20 A. Right.
 21 COFFEY, Q.C.:
 22 Q. And if so, what her response was, that's what
 23 I'm asking.
 24 MS. MATTHEWS:
 25 A. I have vague recollections of it, but as I

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1 said, it was such a hectic time and she left
 2 shortly after that to go on maternity leave,
 3 so I wouldn't be able to say with certainty.
 4 COFFEY, Q.C.:
 5 Q. In response to a question Mr. Pritchard put to
 6 you and it's following on a question as well
 7 that the Commissioner asked, Mr. Pritchard
 8 showed you that second e-mail, the 2:37 p.m.
 9 e-mail of July 19th, it's page 5, P-0312, and
 10 you've told Mr. Pritchard that well, if I had
 11 not told Mr. Williams about this, about the
 12 subject of the first e-mail, the 10:32 one,
 13 and I received this before I got around to
 14 telling Mr. Williams, I would not have told
 15 him about the first one or -
 16 MS. MATTHEWS:
 17 A. I very likely would not have told him.
 18 COFFEY, Q.C.:
 19 Q. Would not have?
 20 MS. MATTHEWS:
 21 A. Yes, that's right.
 22 COFFEY, Q.C.:
 23 Q. Okay.
 24 MS. MATTHEWS:
 25 A. If I had not seen him in the intervening

1 period between the first and second
 2 notification to our office.
 3 COFFEY, Q.C.:
 4 Q. If you had seen him in between and had told
 5 him -
 6 MS. MATTHEWS:
 7 A. Yes.
 8 COFFEY, Q.C.:
 9 Q. When you became aware of the contents of the
 10 second e-mail, what, if anything, would you
 11 have done?
 12 MS. MATTHEWS:
 13 A. I would have told him about the contents of
 14 that e-mail as well.
 15 COFFEY, Q.C.:
 16 Q. And if Ms. Chaplin did speak to you, as she's
 17 told the Commissioner, on July 21st in the
 18 manner in which she says she did, and you were
 19 told then about what she then knew, the state
 20 of affairs as it stood July 21, would you have
 21 then told that to the Premier?
 22 MS. MATTHEWS:
 23 A. Again, I don't recall her calling me that day
 24 at all, so I would only be speculating if I
 25 answered that question.

1 THE COMMISSIONER:
 2 Q. Thank you very much, Ms. Matthews, for your
 3 contribution.
 4 MS. MATTHEWS:
 5 A. Thank you very much.
 6 THE COMMISSIONER:
 7 Q. 9:30 in the morning, thank you.

1 COFFEY, Q.C.:
 2 Q. But if she did, is it the sort of thing--in
 3 the same way -
 4 MS. MATTHEWS:
 5 A. It depends on what she told me in the
 6 conversation and I can't recall what she had
 7 told me in that conversation. It's likely I
 8 could have updated him, but if information was
 9 still in flux and they were still trying to
 10 determine what the situation is, depending on
 11 if the Premier was in the office that day, I
 12 have no way of knowing that right now, I could
 13 certainly check, but there are a number of
 14 factors that would influence whether or not I
 15 would have told him, so I can't really
 16 speculate whether or not I would have told
 17 him.
 18 COFFEY, Q.C.:
 19 Q. It might be of some assistance if you can
 20 provide that information to Mr. Pritchard and
 21 he could pass that on to us.
 22 MS. MATTHEWS:
 23 A. Sure.
 24 COFFEY, Q.C.:
 25 Q. Okay, thank you very much for your appearance.

1 CERTIFICATE
 2 I, Judy Moss, hereby certify that the foregoing is
 3 a true and correct transcript in the matter of the
 4 Commission of Inquiry on Hormone Receptor Testing,
 5 heard on the 10th day of June, A.D., 2008 before
 6 the Honourable Justice Margaret A. Cameron,
 7 Commissioner, at the Commission of Inquiry, St.
 8 John's, Newfoundland and Labrador and was
 9 transcribed by me to the best of my ability by
 10 means of a sound apparatus.
 11 Dated at St. John's, Newfoundland and Labrador
 12 this 10th day of June, A.D., 2008
 13 Judy Moss

Inquiry on Hormone Receptor Testing

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