

COMMISSION OF INQUIRY  
ON HORMONE RECEPTOR TESTING

BEFORE THE HONOURABLE JUSTICE CAMERON - COMMISSIONER

MAY 27, 2008

Appearances:

- Bernard Coffey, Q.C. . . . . . Commission Co-counsel
- Sandra Chaytor, Q.C. . . . . . Commission Co-counsel
- Rolf Pritchard/Mark Mills . . . . . Her Majesty in Right of NL
- Jane Hennebury . . . . . Doctors Kara Laing et al
- Daniel Simmons . . . . . 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

1 THE COMMISSIONER:  
 2 Q. Please be seated. Ms. Chaytor.  
 3 MS. MOIRA HENNESSEY, EXAMINATION BY SANDRA CHAYTOR, Q.C.  
 4 (CONT'D)  
 5 CHAYTOR, Q.C.:  
 6 Q. Good morning, Commissioner. Good morning, Ms.  
 7 Hennessey.  
 8 MS. HENNESSEY:  
 9 A. Good morning.  
 10 CHAYTOR, Q.C.:  
 11 Q. If I could have please, P-0163? Ms.  
 12 Hennessey, this is a series of e-mails that I  
 13 showed to you yesterday, and I just want to  
 14 take you to page five in the document. This  
 15 was, you’ll recall, the exchange between Tansy  
 16 Mundon and Carolyn Chaplin on September 30th,  
 17 2005 when the discussion about the matter now  
 18 going to become a public issue through The  
 19 Independent article. In Carolyn’s response to  
 20 Tansy, she writes "Thanks, Tansy. Are they,"  
 21 meaning Eastern Health, I understand, "are  
 22 they preparing revising briefing note. It has  
 23 been a while since they did one (I believe  
 24 late July)."  
 25 MS. HENNESSEY:

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- Certificate

1 A. Yes.  
 2 CHAYTOR, Q.C.:  
 3 Q. And at this point in time, it’s indicated  
 4 Carolyn Chaplin is now Director of  
 5 Communications at Executive Council. How  
 6 would Carolyn know when Eastern Health had  
 7 last completed a briefing note?  
 8 MS. HENNESSEY:  
 9 A. I don’t know specifically, but I would think  
 10 that the first reference could potentially be  
 11 related to the July 20th note prepared by  
 12 Eastern Health.  
 13 CHAYTOR, Q.C.:  
 14 Q. But how would Carolyn know there hadn’t been  
 15 one updated since then?  
 16 MS. HENNESSEY:  
 17 A. I would not know how she would know that.  
 18 CHAYTOR, Q.C.:  
 19 Q. Is there a way to go into the system, is there  
 20 a shared drive? Is there some way that she  
 21 would check that on the system?  
 22 MS. HENNESSEY:  
 23 A. I’m not aware of any shared drive between the  
 24 Department and the Executive Council.  
 25 CHAYTOR, Q.C.:

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1 Q. Okay, and I think when we left then, we were  
 2 following up as to your first briefing note  
 3 that you're involved in drafting on this  
 4 matter, and I believe that took place--that  
 5 was prepared October 3rd?  
 6 MS. HENNESSEY:  
 7 A. Yes.  
 8 CHAYTOR, Q.C.:  
 9 Q. And if we could look at P-0141 please? This  
 10 is the briefing note from Eastern Health which  
 11 you received on September 30th.  
 12 MS. HENNESSEY:  
 13 A. Right.  
 14 CHAYTOR, Q.C.:  
 15 Q. And it's basically a page and goes into the  
 16 second page. Ms. Hennessey, did you use this  
 17 briefing note from Eastern Health to assist in  
 18 the drafting of your briefing note on October  
 19 3rd?  
 20 MS. HENNESSEY:  
 21 A. Yes, I did.  
 22 CHAYTOR, Q.C.:  
 23 Q. And if we look then, please, at 0124, page  
 24 four.  
 25 MS. HENNESSEY:

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1 A. Yes.  
 2 CHAYTOR, Q.C.:  
 3 Q. And is this the briefing note that you  
 4 prepared that day?  
 5 MS. HENNESSEY:  
 6 A. Yes, it is.  
 7 CHAYTOR, Q.C.:  
 8 Q. Okay, if we scroll down to the bottom, we see  
 9 that it's prepared by Moira Hennessey and  
 10 approved by John Abbott. What does that mean,  
 11 that you've prepared it and Mr. Abbott has  
 12 approved it?  
 13 MS. HENNESSEY:  
 14 A. I would have prepared the draft of the  
 15 briefing note. The note would be reviewed by  
 16 Mr. Abbott. He may make some changes and the  
 17 note would come back to my office for the  
 18 actual typing of the changes.  
 19 CHAYTOR, Q.C.:  
 20 Q. Okay. So if Mr. Abbott had made any changes  
 21 to the note, you would be aware of it because  
 22 you would actually then have to do the  
 23 changes?  
 24 MS. HENNESSEY:  
 25 A. For the most part, I would be aware of the

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1 changes because he would either speak to me  
 2 directly about it. He would send them back,  
 3 you know, with a handwritten note on it, but  
 4 there were some occasions when the changes  
 5 were made by my secretary, like if I didn't  
 6 happen to be there. He may have sent a few  
 7 changes back and they would have been made.  
 8 Now she did her best to keep be advised of  
 9 those changes.  
 10 CHAYTOR, Q.C.:  
 11 Q. Yes. Now who would--what was the purpose, I  
 12 guess, of this briefing note? Where was it to  
 13 ultimately end up?  
 14 MS. HENNESSEY:  
 15 A. This briefing note, my understanding was that  
 16 it was a note that would have been provided to  
 17 the Minister and then provided--this was a  
 18 note that was requested by Cabinet  
 19 Secretariat.  
 20 CHAYTOR, Q.C.:  
 21 Q. Okay. Well, I think it's a similar note which  
 22 is done two days later, October 5th, for  
 23 Cabinet Secretariat.  
 24 MS. HENNESSEY:  
 25 A. The note on October 5th is Cabinet

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1 Secretariat's version of this note.  
 2 CHAYTOR, Q.C.:  
 3 Q. Yes, of this note.  
 4 MS. HENNESSEY:  
 5 A. Yes.  
 6 CHAYTOR, Q.C.:  
 7 Q. Which is mainly the content is the same.  
 8 MS. HENNESSEY:  
 9 A. Yes.  
 10 CHAYTOR, Q.C.:  
 11 Q. Okay. So would the Department not have  
 12 prepared a briefing note if Cabinet  
 13 Secretariat hadn't requested one?  
 14 MS. HENNESSEY:  
 15 A. I would think at this point in time, there  
 16 would have been a briefing note done, but I do  
 17 know that the note was requested by Cabinet  
 18 Secretariat.  
 19 CHAYTOR, Q.C.:  
 20 Q. Yes, and the trigger for the briefing note at  
 21 this point in time, I take it, was the story  
 22 becoming public?  
 23 MS. HENNESSEY:  
 24 A. Yes, it would have been.  
 25 THE COMMISSIONER:

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1 Q. I'm sorry, I think I missed a portion of your  
 2 answer.  
 3 MS. HENNESSEY:  
 4 A. Oh, sorry.  
 5 THE COMMISSIONER:  
 6 Q. No, that's quite all right. When this note  
 7 was prepared, it was prepared because you--as  
 8 I understand what you're saying is that even  
 9 if there had not been a request for a briefing  
 10 note in the circumstances, what had occurred  
 11 over the few days prior to this, you likely  
 12 would have prepared one in any event?  
 13 MS. HENNESSEY:  
 14 A. Yes, my thinking would be we would have  
 15 prepared one for the Minister at that time.  
 16 THE COMMISSIONER:  
 17 Q. Okay. But when you were preparing this  
 18 particular one, you knew that it was going to  
 19 Cabinet Secretariat?  
 20 MS. HENNESSEY:  
 21 A. Yes, I did.  
 22 THE COMMISSIONER:  
 23 Q. All right.  
 24 CHAYTOR, Q.C.:  
 25 Q. And I understood that, from your answer, to be

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1 because the story had now become--or this  
 2 issue had become a public--of a public  
 3 concern?  
 4 MS. HENNESSEY:  
 5 A. Yeah, this issue was in the public at that  
 6 time. Many times we do prepare notes for the  
 7 Minister when the issues are in the public, so  
 8 I would think a note would have been done that  
 9 day for the Minister, whether Cabinet  
 10 Secretariat had requested a note.  
 11 CHAYTOR, Q.C.:  
 12 Q. And of course, if we look at this briefing  
 13 note and compare it to the one that was sent  
 14 over from Eastern Health, it's quite similar  
 15 in places. For example, if we can just go  
 16 back for a moment to--if we look at the second  
 17 bullet, "in 2005, a patient initially tested  
 18 in 2002 with the DAKO system and reported as  
 19 ER/PR negative was retested with the Ventana  
 20 system and was positive for ER/PR receptors."  
 21 And if we go back for a moment to 0141, we see  
 22 the second paragraph "in 2005, a patient  
 23 initially tested" and it's basically quite  
 24 similar, in terms of the wording.  
 25 MS. HENNESSEY:

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1 A. Yes.  
 2 CHAYTOR, Q.C.:  
 3 Q. So I take it you relied on the September 30th  
 4 briefing note from Eastern Health?  
 5 MS. HENNESSEY:  
 6 A. Yes, I would have relied on that note. There  
 7 was a change in the fourth paragraph. I did,  
 8 in the original draft have information in with  
 9 respect to the equipment in that there was a--  
 10 the company was recommending additional  
 11 preventive maintenance.  
 12 CHAYTOR, Q.C.:  
 13 Q. Yes, so you're talking about the Ventana  
 14 visit?  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. Or the visit from the Ventana representative?  
 19 MS. HENNESSEY:  
 20 A. Yeah.  
 21 CHAYTOR, Q.C.:  
 22 Q. And you changed that then in your briefing  
 23 note. So if we go back to 0124, page four,  
 24 there we go. So you've indicated here "in  
 25 their written report, they stated they found

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1 the system to be operating as expected and  
 2 that the procedures used by technicians were  
 3 appropriate and as trained." Did you see that  
 4 written report from Ventana?  
 5 MS. HENNESSEY:  
 6 A. No, I did not.  
 7 CHAYTOR, Q.C.:  
 8 Q. You didn't have that at your disposal?  
 9 MS. HENNESSEY:  
 10 A. No.  
 11 CHAYTOR, Q.C.:  
 12 Q. And whose information, where would you have  
 13 gotten that information?  
 14 MS. HENNESSEY:  
 15 A. This information would have been from Eastern  
 16 Health and as I said, there was a statement in  
 17 my original draft of this note, I did have a  
 18 reference to the need for additional  
 19 preventive maintenance.  
 20 CHAYTOR, Q.C.:  
 21 Q. Yes, and if we look then at what other  
 22 information you had at your disposal, for  
 23 example, did you have the July 20th 2005  
 24 briefing note? Did you have that available to  
 25 you in preparing this?

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1 MS. HENNESSEY:  
 2 A. I think the note came to me sometime in  
 3 September. I don't recall exactly, but I  
 4 would have used the September 30th note to  
 5 prepare the October 3rd note.  
 6 CHAYTOR, Q.C.:  
 7 Q. So you would have had that, the July 20th  
 8 note, as well as the information forwarded on  
 9 September 30th from Eastern Health?  
 10 MS. HENNESSEY:  
 11 A. Yeah.  
 12 CHAYTOR, Q.C.:  
 13 Q. And then, of course, you also had your meeting  
 14 with Dr. Williams and Mr. Tilley?  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. On the same day that you prepared the note?  
 19 MS. HENNESSEY:  
 20 A. Right.  
 21 CHAYTOR, Q.C.:  
 22 Q. October 3rd. The July 20th 2005 briefing note  
 23 referred to the issue, the 2003 issue, which  
 24 was identified by Dr. Ejeckam.  
 25 MS. HENNESSEY:

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1 A. Yes.  
 2 CHAYTOR, Q.C.:  
 3 Q. But that's not carried forward in the October  
 4 3rd briefing note. Can you explain why?  
 5 MS. HENNESSEY:  
 6 A. Ms. Chaytor, I would have used--because of the  
 7 tight time frame I was under in getting this  
 8 note done that morning, I would have relied on  
 9 the most recent note that I had from Eastern  
 10 Health.  
 11 CHAYTOR, Q.C.:  
 12 Q. Yes, but the issue of--or the fact that some  
 13 issue having arisen in 2003, do you think that  
 14 would be an important fact to bring to the  
 15 attention to the Minister and carry forward in  
 16 the Minister's briefing notes?  
 17 MS. HENNESSEY:  
 18 A. In hindsight, I perhaps should have included  
 19 that in this, but because of the time factor,  
 20 I know I had a very short period of time to  
 21 prepare this briefing note, that I relied on  
 22 the most recent information that I had from  
 23 Eastern Health.  
 24 CHAYTOR, Q.C.:  
 25 Q. And on that point, Ms. Hennessey, you knew on-

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1 -or at least the Department knew September  
 2 30th that this was going to break, and I  
 3 appreciate you've told us that you weren't in  
 4 your office. But others certainly knew that  
 5 this issue was going to break on the Friday,  
 6 and the briefing note was forwarded over on  
 7 Friday from the Department, and I believe you  
 8 also received a version of it by e-mail from  
 9 Tansy, so I take it Tansy had received it as  
 10 well.  
 11 MS. HENNESSEY:  
 12 A. Yes.  
 13 CHAYTOR, Q.C.:  
 14 Q. But there wasn't any efforts over the weekend  
 15 to try and get together a briefing note?  
 16 MS. HENNESSEY:  
 17 A. I wasn't involved in the file that weekend.  
 18 CHAYTOR, Q.C.:  
 19 Q. The issue about Dr. Ejeckam then, that doesn't  
 20 appear then--it doesn't get carried forward in  
 21 any of the briefing notes. Is that correct?  
 22 MS. HENNESSEY:  
 23 A. That's not referenced in our briefing notes to  
 24 the Minister.  
 25 CHAYTOR, Q.C.:

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1 Q. If we could look, please, at 1436, and these  
 2 were your notes we looked at yesterday from  
 3 the meeting October 3rd 2005 with Dr.  
 4 Williams, Mr. Abbott, and Mr. Tilley, and  
 5 there's some numbers recorded here, "142 of  
 6 327 slides have been read and there's 35  
 7 conversions, represents about ten percent of  
 8 patients with potential for error." And I  
 9 understood from your evidence yesterday,  
 10 that's Dr. Williams providing that  
 11 information?  
 12 MS. HENNESSEY:  
 13 A. Yes, that's my recall.  
 14 CHAYTOR, Q.C.:  
 15 Q. And do you recall or was there any question  
 16 asked as to how was that ten percent  
 17 calculated?  
 18 MS. HENNESSEY:  
 19 A. I don't recall. I can remember looking at the  
 20 numbers, the 142 slides had been read and that  
 21 the 35--there were 35 conversions, which is a  
 22 higher percentage than ten percent.  
 23 CHAYTOR, Q.C.:  
 24 Q. Yes, that's right, okay. But there was no  
 25 question raised or asked of Dr. Williams at

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1 that time regarding that figure?  
 2 MS. HENNESSEY:  
 3 A. I don't recall specifically asking a question  
 4 that morning.  
 5 CHAYTOR, Q.C.:  
 6 Q. Okay, and if we just look back then to your  
 7 briefing note, back to 0124, page four,  
 8 please, and under current status, you have  
 9 included numbers.  
 10 MS. HENNESSEY:  
 11 A. Yes.  
 12 CHAYTOR, Q.C.:  
 13 Q. And you'll see that the numbers that are  
 14 included here, you write "Eastern Health has  
 15 collected and sent all negative samples from  
 16 1994 to 2004 for the St. John's hospitals for  
 17 retesting to Mount Sinai. 323 samples  
 18 reported as weakly positive to negative have  
 19 been sent." So that number is the same, the  
 20 323 have been sent, and then "to date, 153  
 21 samples have been reported by Mount Sinai. 73  
 22 have been reviewed and it appears that of  
 23 those, there are 16 to 20 individuals who  
 24 treatment could be impacted" and then if we  
 25 look back to 0141, this is the briefing note

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1 again which was sent to you on September 30th  
 2 from Eastern Health, those are the figures  
 3 that are included there.  
 4 MS. HENNESSEY:  
 5 A. Yes.  
 6 CHAYTOR, Q.C.:  
 7 Q. 323, 153 samples have been reported. 73 have  
 8 been reviewed and it appears 16 to 20 have  
 9 converted. So obviously you took those  
 10 numbers from the briefing note that was  
 11 provided to you on September 30th, but those  
 12 figures aren't the same as what Dr. Williams  
 13 gave you on October the 3rd.  
 14 MS. HENNESSEY:  
 15 A. No.  
 16 CHAYTOR, Q.C.:  
 17 Q. Did that catch your attention?  
 18 MS. HENNESSEY:  
 19 A. Yes, it did and I did rely on the information  
 20 because Dr. Williams, if I recall correctly,  
 21 wasn't reading from, you know, a set of  
 22 information that he had in front of him, that  
 23 he was, you know, quoting the numbers as best  
 24 he could recall them at that time, so I did  
 25 rely on the written information from Eastern

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1 Health.  
 2 CHAYTOR, Q.C.:  
 3 Q. So Dr. Williams, in the meeting, didn't have  
 4 any written documentation that he was relying  
 5 on when giving you those numbers?  
 6 MS. HENNESSEY:  
 7 A. I don't recall him having a piece of paper  
 8 with numbers on it, so I did rely on the--I  
 9 mean, 147 and 153, it's not a big difference,  
 10 and the 147 may have been the most recent  
 11 information that he had at hand, but I did  
 12 rely on the written information from Eastern  
 13 Health.  
 14 CHAYTOR, Q.C.:  
 15 Q. And 73 having been reviewed, the numbers that  
 16 are different however though, it's 153 samples  
 17 have been reported, whereas he indicated that  
 18 142 of 327 slides have been read, and this is  
 19 saying here that 73 have been reviewed and 16  
 20 to 20 with changes. So did you question Dr.  
 21 Williams and say "well, we have written  
 22 documentation in the briefing note with  
 23 different numbers." Was there any questioning  
 24 of Dr. Williams around that?  
 25 MS. HENNESSEY:

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1 A. I don't recall specifically in the meeting. I  
 2 do recall when the meeting was over and I was  
 3 preparing the briefing note that I spoke to  
 4 the Deputy Minister about the data and it was--  
 5 the response that I got was to accept the  
 6 numbers that Eastern Health was providing. So  
 7 I made a decision to accept the ones that were  
 8 in the written material.  
 9 CHAYTOR, Q.C.:  
 10 Q. Okay, so you spoke to Mr. Abbott about this  
 11 discrepancy in the numbers?  
 12 MS. HENNESSEY:  
 13 A. Yes.  
 14 CHAYTOR, Q.C.:  
 15 Q. And Mr. Abbott asked you to accept the numbers  
 16 that Eastern Health was providing?  
 17 MS. HENNESSEY:  
 18 A. Yes.  
 19 CHAYTOR, Q.C.:  
 20 Q. And did you tell him "well, we've got two  
 21 different sets of numbers from Eastern Health.  
 22 That's my dilemma"?  
 23 MS. HENNESSEY:  
 24 A. Ms. Chaytor, I don't recall all the details  
 25 around that. I know it was in what I call the

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1 Minister's suite area. It wasn't in his  
 2 office, but I do recall him telling me to  
 3 accept the numbers that Eastern Health  
 4 provided, that they are their numbers.  
 5 CHAYTOR, Q.C.:  
 6 Q. And did you understand that to be on a general  
 7 go-forward basis or just with respect to this  
 8 particular briefing note?  
 9 MS. HENNESSEY:  
 10 A. I understood that to be on a go-forward basis,  
 11 so as we moved through the file, I accepted  
 12 numbers.  
 13 CHAYTOR, Q.C.:  
 14 Q. So whatever numbers were presented to you by  
 15 Eastern Health, you accepted them?  
 16 MS. HENNESSEY:  
 17 A. Yes, I did.  
 18 CHAYTOR, Q.C.:  
 19 Q. And you understood that to be on the  
 20 instruction from Mr. Abbott?  
 21 MS. HENNESSEY:  
 22 A. Yes, I did.  
 23 CHAYTOR, Q.C.:  
 24 Q. And I think we will come to one point in time  
 25 where you do do your own calculation and come

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1 up with a different number, and we'll talk  
 2 about that.  
 3 MS. HENNESSEY:  
 4 A. I did.  
 5 CHAYTOR, Q.C.:  
 6 Q. Yes, later on.  
 7 MS. HENNESSEY:  
 8 A. I think late I did do one or two calculations.  
 9 CHAYTOR, Q.C.:  
 10 Q. Yes.  
 11 MS. HENNESSEY:  
 12 A. I wasn't keen on doing calculations, because I  
 13 had been given direction to accept the numbers  
 14 as presented by Eastern Health.  
 15 CHAYTOR, Q.C.:  
 16 Q. Okay, and that was clear direction from Mr.  
 17 Abbott?  
 18 MS. HENNESSEY:  
 19 A. Yes, it was.  
 20 CHAYTOR, Q.C.:  
 21 Q. And -  
 22 MS. HENNESSEY:  
 23 A. And it was in October. It was around this  
 24 note.  
 25 CHAYTOR, Q.C.:

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1 Q. And did you have any discussion with Mr.  
 2 Abbott on that or you just accepted what he  
 3 instructed you to do?  
 4 MS. HENNESSEY:  
 5 A. I accepted what Mr. Abbott instructed me to  
 6 do. I worked very well with Mr. Abbott, but  
 7 when he took a position on files, I didn't  
 8 question his position.  
 9 THE COMMISSIONER:  
 10 Q. Just a point of clarification. When you say  
 11 you were instructed by Mr. Abbott to accept  
 12 the numbers that Eastern Health was providing  
 13 -  
 14 MS. HENNESSEY:  
 15 A. Yes.  
 16 THE COMMISSIONER:  
 17 Q. - I'm interpreting that to mean that you  
 18 accept the latest version of the numbers. So  
 19 if the numbers that Eastern Health provided to  
 20 you changed over time, you would accept the  
 21 latest figure that came from Eastern Health?  
 22 Is that right?  
 23 MS. HENNESSEY:  
 24 A. Yes, Commissioner, that was the information  
 25 when I was told to accept the numbers provided

Page 24

1 by Eastern Health. We did the best we could  
 2 to move the numbers out of any information  
 3 that came to us into our briefing notes.  
 4 CHAYTOR, Q.C.:  
 5 Q. Yes. And in this particular case, however,  
 6 though, the latest numbers came from Dr.  
 7 Williams?  
 8 MS. HENNESSEY:  
 9 A. Yes.  
 10 CHAYTOR, Q.C.:  
 11 Q. And you didn't use those numbers, you used  
 12 what was written in the briefing note?  
 13 MS. HENNESSEY:  
 14 A. Yes, I did.  
 15 CHAYTOR, Q.C.:  
 16 Q. Did it cause you or the deputy minister any  
 17 concern as to the reliability of the  
 18 information you were receiving from Eastern  
 19 Health when you compared that there were--that  
 20 there was a discrepancy in the numbers you  
 21 were getting this early?  
 22 MS. HENNESSEY:  
 23 A. I don't recall specifically. It was an  
 24 unusual approach because most of the files  
 25 that I have, when I have numbers come to me, I

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1 do do some analysis around it, but I did not,  
 2 I accepted the direction provided by the  
 3 deputy minister and I reported the numbers.  
 4 Now, I'm not saying I did a perfect job in  
 5 reporting numbers, and I mean, some of the  
 6 notes I prepared myself and some notes were  
 7 prepared by staff who work with me, but the  
 8 general premise on which we worked was to  
 9 accept the numbers provided by Eastern Health.  
 10 CHAYTOR, Q.C.:  
 11 Q. Yes. And, Ms. Hennessey, I want to be fair to  
 12 you on that. So I'm sensing from you that you  
 13 say it was an unusual approach. You were an  
 14 ADM?  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. I take it you were used to doing some analysis  
 19 yourself and not just regurgitating or  
 20 repeating information?  
 21 MS. HENNESSEY:  
 22 A. Right, yeah.  
 23 CHAYTOR, Q.C.:  
 24 Q. And this was unusual for you to be asked to  
 25 just accept information provided to you

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1 without that analysis?  
 2 MS. HENNESSEY:  
 3 A. It was an unusual approach. I mean, I was  
 4 given clear direction to accept the numbers  
 5 and report them, that they were Eastern  
 6 Health's numbers. But yes, to answer your  
 7 question, that on most of my files I would  
 8 have done some analysis.  
 9 CHAYTOR, Q.C.:  
 10 Q. Did that instruction go further than just the  
 11 numbers? Were you told--did you understand  
 12 that to be whatever information was being  
 13 forwarded to you by Eastern Health to accept,  
 14 was it more than just the numbers, was it the  
 15 overall information on this file?  
 16 MS. HENNESSEY:  
 17 A. The specific conversation was around the  
 18 numbers. With respect, as we moved through  
 19 the file, I had accepted--I mean, we felt  
 20 comfortable at the start of this file that  
 21 Eastern Health had put measures in place.  
 22 They had stopped the testing in St. John's;  
 23 they moved to retesting at Mount Sinai and to  
 24 send new cases to Mount Sinai; they were doing  
 25 some research into what was happening with

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1 ER/PR testing across Canada; and that they  
 2 were doing some, they were sending some test  
 3 results to Montreal; and that they were--they  
 4 had set up a tumor panel.  
 5 CHAYTOR, Q.C.:  
 6 Q. Yes.  
 7 MS. HENNESSEY:  
 8 A. To begin the review of test results when they  
 9 came back from Mount Sinai. So as you know,  
 10 this file was an operational matter for  
 11 Eastern Health. We did have some involvement  
 12 at key points in the file, but we weren't  
 13 involved, you know--every week -  
 14 CHAYTOR, Q.C.:  
 15 Q. Yes, I understand that.  
 16 MS. HENNESSEY:  
 17 A. - in Eastern Health we certainly got updates  
 18 from Eastern Health as we moved along through  
 19 the file.  
 20 CHAYTOR, Q.C.:  
 21 Q. Yes, and I'm just, in terms of, because you  
 22 are involved then in preparing other briefing  
 23 notes.  
 24 MS. HENNESSEY:  
 25 A. Yes.

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1 CHAYTOR, Q.C.:  
 2 Q. And I'm wondering if your approach, then,  
 3 carried through in terms of accepting whatever  
 4 information was provided by Eastern Health and  
 5 using that to formulate the briefing notes?  
 6 MS. HENNESSEY:  
 7 A. For the most part we would have relied on  
 8 information from Eastern Health to prepare our  
 9 briefing notes. Now, I might add to that  
 10 comment that, you know, there were different  
 11 staff involved in this file. For the most  
 12 part, the regional consultant prepared the  
 13 notes and staff are under, at times, under  
 14 considerable pressure when these notes are  
 15 being done, to turn them around pretty  
 16 quickly. So whether, you know, we may have  
 17 misinterpreted some information along the way,  
 18 that could have happened. We certainly do our  
 19 best to try and record the information as  
 20 accurately as we can. But we, you know, we  
 21 don't--we didn't operate in a perfect world  
 22 and we were dealing with a number of other  
 23 briefing notes besides this one. I know that  
 24 particular file, I was dealing with briefing  
 25 notes on 27 different files.

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1 CHAYTOR, Q.C.:

2 Q. Yes, okay. And we appreciate that.

3 COMMISSIONER:

4 Q. Sorry, Ms. Chaytor, can I just--you're

5 describing a process, and I want to understand

6 how the process works, perhaps other witnesses

7 have said the same thing, from your

8 perspective. When, as in this case, the issue

9 comes out of an authority, as I understand it,

10 the regional health authority provides

11 briefing note?

12 MS. HENNESSEY:

13 A. No, not necessarily. In this particular

14 situation the regional health authority did

15 provide a briefing note that we used as the

16 basis for our own. In many situations -

17 COMMISSIONER:

18 Q. They wouldn't have?

19 MS. HENNESSEY:

20 A. They're wouldn't have provided the briefing

21 note. That we would be calling the health

22 authority to get information to develop

23 briefing note.

24 COMMISSIONER:

25 Q. Okay. So in this case you had the advantage

Page 30

1 of the Eastern Health having already pulled

2 together information for you in the form of a

3 briefing note?

4 MS. HENNESSEY:

5 A. Yes, in this particular situation.

6 COMMISSIONER:

7 Q. And you were preparing a briefing note to go

8 on ultimately, as you understood it, to

9 cabinet secretariat?

10 MS. HENNESSEY:

11 A. Yes.

12 COMMISSIONER:

13 Q. Who would, in turn, prepare a briefing note?

14 MS. HENNESSEY:

15 A. Cabinet secretariat, if we provided a briefing

16 note to the cabinet secretariat, they would

17 review the briefing note, they may call back

18 to the department and ask some questions, and

19 then they would make any changes that they

20 wish to make in the original briefing note

21 that we sent.

22 COMMISSIONER:

23 Q. Okay. Well, I suppose that really comes down

24 to my point. Do you see what happens in

25 cabinet secretariat with your briefing note as

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1 cabinet secretariat clarifying questions that

2 come up in the minds of those who do the

3 analysis within that division and adding or

4 are cabinet secretariat taking--or is cabinet

5 secretariat taking your briefing note and

6 reworking it from a different perspective?

7 What's their role with your briefing note, I

8 suppose, is what I'm asking?

9 MS. HENNESSEY:

10 A. Cabinet secretariat does not rework, no, do a

11 reworking of our briefing note.

12 COMMISSIONER:

13 Q. Okay.

14 MS. HENNESSEY:

15 A. Our briefing note would go to cabinet

16 secretariat. They would review it from what

17 they call their lens, which--and they may come

18 back to the department and ask for some

19 clarification or some additional information.

20 They would incorporate that information into

21 the briefing note.

22 COMMISSIONER:

23 Q. Okay.

24 MS. HENNESSEY:

25 A. In some situations the notes do come back to

Page 32

1 the department and in other situations they

2 may not always come back.

3 COMMISSIONER:

4 Q. All right, thank you.

5 CHAYTOR, Q.C.:

6 Q. Okay, Ms. Hennessey, if we look at 0124, page

7 4, please? Continuing on under "Current

8 status" this is your briefing note.

9 MS. HENNESSEY:

10 A. Right.

11 CHAYTOR, Q.C.:

12 Q. Now the first bullet that I just pointed you

13 to indicates that Eastern Health had collected

14 and sent the samples for the St. John's

15 hospitals.

16 MS. HENNESSEY:

17 A. Yeah.

18 CHAYTOR, Q.C.:

19 Q. And then the second bullet indicates

20 laboratory directors in the province were

21 contacted over the past few months to submit

22 all negative ER and PR reports and samples for

23 the same time period for retesting to Eastern

24 Health and the process is under way. At this

25 point in time then if we look at this, it's



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1 now, well, I guess if you count the index case  
 2 as happening in April and not May, it's almost  
 3 six months since the index case conversion and  
 4 it's certainly five months since Eastern  
 5 Health launched the review that's under way.  
 6 Three months since the department became -  
 7 MS. HENNESSEY:  
 8 A. Yes.  
 9 CHAYTOR, Q.C.:  
 10 Q. - aware back in July. And when we look at the  
 11 first bullet and accepting those numbers, only  
 12 73 cases have been reviewed. It appears none  
 13 of those patients are yet contacted because in  
 14 your fourth bullet it outlines the plan of  
 15 sending letters, "is also sending letters to  
 16 the surgeons and attending physicians on the  
 17 16th, 20 individuals whose treatment could be  
 18 impacted."  
 19 MS. HENNESSEY:  
 20 A. Is this -  
 21 CHAYTOR, Q.C.:  
 22 Q. Was this time frame of concern to the  
 23 department?  
 24 MS. HENNESSEY:  
 25 A. Yes, it was becoming of some concern because

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1 we understood initially that the retesting  
 2 will be done by Mount Sinai within three to  
 3 four weeks and then shortly thereafter we were  
 4 advised that it was six to eight weeks and  
 5 then the number of test results, it was slow  
 6 from the department's perspective. And I can  
 7 remember raising a question about the length  
 8 of time that it was taking sometime during the  
 9 fall of that year, because the, I think there  
 10 was some workload capacity issues at Mount  
 11 Sinai which delayed the reporting of the  
 12 retesting results back to Eastern Health.  
 13 CHAYTOR, Q.C.:  
 14 Q. In the beginning of October, and it's now  
 15 broken, of course, in the media, as well.  
 16 MS. HENNESSEY:  
 17 A. Right.  
 18 CHAYTOR, Q.C.:  
 19 Q. You submit this briefing note to the minister?  
 20 MS. HENNESSEY:  
 21 A. Yes.  
 22 CHAYTOR, Q.C.:  
 23 Q. And this briefing note or the content of this  
 24 briefing note is also put in a briefing note  
 25 to cabinet secretariat?

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1 MS. HENNESSEY:  
 2 A. Yes.  
 3 CHAYTOR, Q.C.:  
 4 Q. Did anyone come back to you and discuss that  
 5 as a concern about how long this process is  
 6 taking and how little progress appears to have  
 7 been made up to this point in time?  
 8 MS. HENNESSEY:  
 9 A. I don't recall whether anyone spoke to me  
 10 specifically about it. I can remember, you  
 11 know, getting concern from the patients'  
 12 perspective, myself, that the retesting was  
 13 taking longer than anticipated at Mount Sinai.  
 14 CHAYTOR, Q.C.:  
 15 Q. And did you have discussions with Mr. Abbott  
 16 or anyone else in the department about your  
 17 concern?  
 18 MS. HENNESSEY:  
 19 A. I think we may have spoke about it briefly,  
 20 but I can't recall the details around it so I  
 21 don't want to say for sure that we did discuss  
 22 it. I know I did see -  
 23 CHAYTOR, Q.C.:  
 24 Q. And did Mr. Abbott appear to share your  
 25 concern?

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1 MS. HENNESSEY:  
 2 A. I don't recall.  
 3 CHAYTOR, Q.C.:  
 4 Q. Ms. Hennessey, you're also, you're the ADM, of  
 5 course, for board services?  
 6 MS. HENNESSEY:  
 7 A. Yes.  
 8 CHAYTOR, Q.C.:  
 9 Q. Which includes responsibility for all four -  
 10 MS. HENNESSEY:  
 11 A. Yes.  
 12 CHAYTOR, Q.C.:  
 13 Q. - authorities. According to this briefing  
 14 note now, the beginning of October, it's only  
 15 the St. John's specimens that have been sent  
 16 to Mount Sinai?  
 17 MS. HENNESSEY:  
 18 A. Yes.  
 19 CHAYTOR, Q.C.:  
 20 Q. And there's--it's in progress or the process  
 21 is under way to receive other samples. Did  
 22 you have any contact with the other three  
 23 authorities to inquire as to the status on  
 24 their end and why the samples weren't being  
 25 sent?

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1 MS. HENNESSEY:  
 2 A. No, I didn't have any direct contact with the  
 3 other health authorities. That was being done  
 4 through Eastern Health.  
 5 CHAYTOR, Q.C.:  
 6 Q. And were any inquiries made by the department  
 7 as to whether or not the other authorities  
 8 needed any support or assistance in this  
 9 matter?  
 10 MS. HENNESSEY:  
 11 A. I don't recall, but I mean, the other health  
 12 authorities usually when they need some  
 13 additional assistance in managing files, they  
 14 would normally be in contact with the  
 15 department. I mean, they also have the  
 16 flexibility within their own global operating  
 17 budgets to, you know, provide additional  
 18 assistance on specific files if they felt it  
 19 was necessary.  
 20 CHAYTOR, Q.C.:  
 21 Q. In preparing this briefing note, did you  
 22 solicit any information from the other three  
 23 authorities?  
 24 MS. HENNESSEY:  
 25 A. No, I didn't.

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1 CHAYTOR, Q.C.:  
 2 Q. Okay. And why not?  
 3 MS. HENNESSEY:  
 4 A. We were--I would have been relying on  
 5 information being provided by Eastern Health  
 6 to the department at that time.  
 7 CHAYTOR, Q.C.:  
 8 Q. In preparing any of the briefing notes, and we  
 9 will see that there are a number that you're  
 10 involved in, certainly in improving.  
 11 MS. HENNESSEY:  
 12 A. Yeah.  
 13 CHAYTOR, Q.C.:  
 14 Q. Did you ever contact the other authorities to  
 15 receive information from them on this issue?  
 16 MS. HENNESSEY:  
 17 A. No. The information in our briefing notes  
 18 would have been prepared based on information  
 19 provided to us by Eastern Health.  
 20 CHAYTOR, Q.C.:  
 21 Q. And why is that, Ms. Hennessey, why was there  
 22 no contact with the other authorities on this  
 23 issue?  
 24 MS. HENNESSEY:  
 25 A. Eastern Health was managing this file. It was

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1 an operational file at Eastern Health, so we  
 2 would have relied on information and provided  
 3 by Eastern Health to assist us in preparing  
 4 our materials.  
 5 CHAYTOR, Q.C.:  
 6 Q. But you clearly understood that the other  
 7 authorities would be responsible for gathering  
 8 up their own specimens and sending them?  
 9 MS. HENNESSEY:  
 10 A. Yes, they would be sending their specimens  
 11 back to Eastern Health and Eastern Health was  
 12 processing, you know, packaging the specimens  
 13 and sending them to Mount Sinai.  
 14 CHAYTOR, Q.C.:  
 15 Q. And if there was any delay on the part of the  
 16 other three authorities in getting those  
 17 specimens in, Eastern Health, I take it, would  
 18 have no, they would have no control over that?  
 19 MS. HENNESSEY:  
 20 A. Well, Eastern Health, I think if they sensed  
 21 that there was an undue delay, that they would  
 22 have made a contact back with each of the  
 23 health authorities.  
 24 CHAYTOR, Q.C.:  
 25 Q. Okay. And in terms of patient contact, then,

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1 down the road, who did you understand was  
 2 responsible for that for the patients outside  
 3 of Eastern Health's jurisdiction?  
 4 MS. HENNESSEY:  
 5 A. I understood, rightly or wrongly, that Eastern  
 6 Health was the contact for the patients.  
 7 CHAYTOR, Q.C.:  
 8 Q. Okay. For all the patients across the  
 9 province?  
 10 MS. HENNESSEY:  
 11 A. Yeah. I did learn that that was not the case.  
 12 CHAYTOR, Q.C.:  
 13 Q. And how far into the process was it before you  
 14 learned that?  
 15 MS. HENNESSEY:  
 16 A. I do not--I seem to recall that it was late in  
 17 the process.  
 18 CHAYTOR, Q.C.:  
 19 Q. As late as -  
 20 MS. HENNESSEY:  
 21 A. When I learned that the other health  
 22 authorities were making contact with the  
 23 patients.  
 24 CHAYTOR, Q.C.:

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1 Q. And could that have been as late as May, 2007?  
 2 MS. HENNESSEY:  
 3 A. Yes. I do not recall--now, I guess with  
 4 respect to these notes, I would not have been  
 5 the contact with Eastern Health in the  
 6 preparation of these notes, that there would  
 7 have been staff who worked with me would have  
 8 been having the discussions with Eastern  
 9 Health.  
 10 CHAYTOR, Q.C.:  
 11 Q. Other than this particular one?  
 12 MS. HENNESSEY:  
 13 A. Yes, yeah -  
 14 CHAYTOR, Q.C.:  
 15 Q. The October 3rd one?  
 16 MS. HENNESSEY:  
 17 A. - there was as a couple of notes that I did -  
 18 CHAYTOR, Q.C.:  
 19 Q. Yes.  
 20 MS. HENNESSEY:  
 21 A. - myself, but a number of the notes would have  
 22 been prepared by staff. And I guess unless a  
 23 specific question was asked on that point, we  
 24 may not have gotten clear information around  
 25 that. I seem to recall that my--I became

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1 aware, or my recall on it was that the other  
 2 health authorities were notifying patients in,  
 3 it was late in the fall, it was in the spring  
 4 of 2007.  
 5 CHAYTOR, Q.C.:  
 6 Q. Yes, when you became aware of that?  
 7 MS. HENNESSEY:  
 8 A. Yeah.  
 9 CHAYTOR, Q.C.:  
 10 Q. And what you're saying is that other than the  
 11 couple of notes that I'll take you through,  
 12 including this October 3rd, you weren't having  
 13 direct contact, necessarily, with Eastern  
 14 Health to receive the information for the  
 15 preparation of the briefing notes, you were  
 16 relying on other staff in the department to do  
 17 that?  
 18 MS. HENNESSEY:  
 19 A. That's our usual process. I mean, there would  
 20 have been occasions that I would have had some  
 21 contact with Eastern Health, but I would not  
 22 have had direct contact myself on every note  
 23 that would have been prepared on this file.  
 24 CHAYTOR, Q.C.:  
 25 Q. And continuing on then with this briefing note

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1 and the second bullet on the top of page 5.  
 2 "Eastern Health is also sending letters to the  
 3 surgeons and other attending physicians on the  
 4 16th to 20 individuals whose treatment could  
 5 be impacted based on the Mount Sinai testing  
 6 results. The physicians will then determine  
 7 the follow-up action for these patients. And  
 8 the focus is on notifying physicians of the  
 9 live patients regarding the findings." Did  
 10 you understand, at this point in time, that  
 11 only those patients whose treatment could be  
 12 impacted were being contacted?  
 13 MS. HENNESSEY:  
 14 A. At this point in time, if I look at my  
 15 briefing note now, that would be my  
 16 understanding. As I mentioned earlier in this  
 17 testimony, that the process of notifying  
 18 patients, I was not clear on throughout the  
 19 process.  
 20 CHAYTOR, Q.C.:  
 21 Q. And this, your earlier note -  
 22 MS. HENNESSEY:  
 23 A. Yes.  
 24 CHAYTOR, Q.C.:  
 25 Q. - of August 5th, I take it you're referring

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1 to.  
 2 MS. HENNESSEY:  
 3 A. Yeah.  
 4 CHAYTOR, Q.C.:  
 5 Q. And now this briefing note appears to indicate  
 6 that the patients whose treatment could be  
 7 impacted will be receiving letters.  
 8 MS. HENNESSEY:  
 9 A. Yes.  
 10 CHAYTOR, Q.C.:  
 11 Q. There will be letters sent to their surgeons  
 12 or attending physicians. Did you understand  
 13 whether there'd be any contact with those  
 14 whose treatment, perhaps, would not be  
 15 changing?  
 16 MS. HENNESSEY:  
 17 A. At this point in time I think my understanding  
 18 would have been that the patients whose  
 19 treatments were impacted were being notified.  
 20 I know subsequent to this, Eastern Health did,  
 21 as I understand it, begin a process of  
 22 notifying all patients.  
 23 CHAYTOR, Q.C.:  
 24 Q. Later in October?  
 25 MS. HENNESSEY:

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1 A. Yes.

2 CHAYTOR, Q.C.:

3 Q. And the second last bullet indicates "that an

4 external peer review by the chief pathologist

5 of the British Columbia Cancer Institute and

6 the chief technologist from Mount Sinai

7 Hospital was conducted, September 15th to the

8 22nd, 2005, to review current practices and

9 procedures within the laboratory service.

10 Debriefing was held after each review and a

11 full report from each is expected within the

12 next few weeks." Did you or anyone else in

13 the department, to your knowledge, request any

14 information as to the results of the reviews

15 that had been conducted back in September?

16 MS. HENNESSEY:

17 A. I did request -

18 CHAYTOR, Q.C.:

19 Q. At this point in time.

20 MS. HENNESSEY:

21 A. At this point?

22 CHAYTOR, Q.C.:

23 Q. At this point in time, learning that the

24 debriefing had taken place, did you or anyone

25 else request the information from those

Page 46

1 reviews?

2 MS. HENNESSEY:

3 A. On October 3rd when this note was done, I

4 don't recall asking for an update.

5 CHAYTOR, Q.C.:

6 Q. And when this was submitted to the Minister,

7 was there any inquiry back to you from the

8 Minister or through Mr. Abbott as to the

9 outcome of the reviews?

10 MS. HENNESSEY:

11 A. No, there wasn't at that point.

12 CHAYTOR, Q.C.:

13 Q. And if we could go then please to, actually I

14 can do it here, the next page, 124, page 6,

15 and this is then the briefing note which we

16 understand was prepared for Cabinet

17 Secretariat and it's copied to the Premier,

18 Mr. Reid, Mr. Crawley, Ms. Matthews and a

19 number of other people, Robert Thompson, you

20 see the names in the right-hand corner?

21 MS. HENNESSEY:

22 A. This is the note that--this is Cabinet

23 Secretariat's version of our note.

24 CHAYTOR, Q.C.:

25 Q. Of your note.

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1 MS. HENNESSEY:

2 A. Yes.

3 CHAYTOR, Q.C.:

4 Q. So you submitted your note, is that right,

5 October 3rd note and then this has turned into

6 a note for Cabinet Secretariat, is that how

7 that works? Because it indicates at the end

8 that it is prepared by yourself and Mr. Abbott

9 and reviewed by B. Cooper and S. MacDonald of

10 Cabinet Secretariat.

11 MS. HENNESSEY:

12 A. This note per se wasn't prepared by me or

13 approved by Mr. Abbott. The October 3rd note

14 was the note that was prepared by me and

15 approved by Mr. Abbott. This note is Cabinet

16 Secretariat's version of our note. This would

17 have been--they added some additional

18 information, there's a couple of points where

19 they did add the line about the issue, which

20 was not in our note. They added the

21 information about the--in the last bullet in

22 the background section, they added the

23 information about CBC's website carrying the

24 story and they, in the very last bullet where

25 it says "Dr. Williams has done an interview

Page 48

1 with NTV today." Today would have been

2 October 3rd, not October 5th.

3 CHAYTOR, Q.C.:

4 Q. Right, okay. So what you're saying is most of

5 the information, other than those things that

6 you've pointed out, was provided to you

7 through your October 3rd briefing note.

8 MS. HENNESSEY:

9 A. Yes.

10 CHAYTOR, Q.C.:

11 Q. And they added the issue, as you say and the

12 issue is identified as being "media coverage

13 regarding potential breast cancer diagnostic

14 errors within Eastern Health region."

15 MS. HENNESSEY:

16 A. And just my comment that it wasn't a

17 diagnostic error, that might have been some of

18 the reporting that was going on about it

19 because ER/PR testing is done after a breast

20 cancer diagnosis.

21 CHAYTOR, Q.C.:

22 Q. And that was not your wording?

23 MS. HENNESSEY:

24 A. That was not my wording, no.

25 CHAYTOR, Q.C.:

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1 Q. Did anyone from Cabinet Secretariat, either  
 2 Mr. Cooper or Ms. MacDonald, did they call you  
 3 and--or anyone from Cabinet Secretariat call  
 4 you to get clarification on any of the  
 5 information you provided?  
 6 MS. HENNESSEY:  
 7 A. I believe Mr. Cooper may have called, but I  
 8 don't recall the specifics around it. It  
 9 wouldn't be unusual for somebody from Cabinet  
 10 Secretariat to call when we send notes over if  
 11 they wanted some additional information.  
 12 CHAYTOR, Q.C.:  
 13 Q. So you believe he may have called, do you  
 14 recall anything about your discussion or what  
 15 points that he wished clarification regarding?  
 16 MS. HENNESSEY:  
 17 A. No, I don't.  
 18 CHAYTOR, Q.C.:  
 19 Q. Did he or anyone else at Cabinet Secretariat  
 20 ask for any explanation as to the external  
 21 reviews that were conducted?  
 22 MS. HENNESSEY:  
 23 A. Not that I do recall.  
 24 CHAYTOR, Q.C.:  
 25 Q. And I take it you did not see this, even

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1 though it says "prepared by you" you didn't  
 2 see this note?  
 3 MS. HENNESSEY:  
 4 A. I can't say I didn't see it because, as I  
 5 said, sometimes the notes come back to us, the  
 6 final notes and sometimes they don't.  
 7 CHAYTOR, Q.C.:  
 8 Q. Where would they end up if it came back to  
 9 you?  
 10 MS. HENNESSEY:  
 11 A. Where would it end up?  
 12 CHAYTOR, Q.C.:  
 13 Q. Yes, would you have a copy of it?  
 14 MS. HENNESSEY:  
 15 A. It should be in my file.  
 16 CHAYTOR, Q.C.:  
 17 Q. And did you have a copy of it in your file?  
 18 MS. HENNESSEY:  
 19 A. I'd have to check for you.  
 20 CHAYTOR, Q.C.:  
 21 Q. I take it we have whatever was in your file?  
 22 MS. HENNESSEY:  
 23 A. Yeah.  
 24 CHAYTOR, Q.C.:  
 25 Q. So you don't know whether or not you received

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1 a copy back or not?  
 2 MS. HENNESSEY:  
 3 A. I don't recall the details specifically back  
 4 in October 2005 whether this note came back to  
 5 me.  
 6 CHAYTOR, Q.C.:  
 7 Q. At this point in time then, Ms. Hennessey, did  
 8 you understand that you are tasked with this  
 9 file for the department?  
 10 MS. HENNESSEY:  
 11 A. No, I can't say that I was fully tasked with  
 12 this file for the department, I would view  
 13 this as a file that I certainly would have  
 14 contributed information to and that at  
 15 different points in the file I was involved in  
 16 it; at other points, based on my recollection  
 17 that the Deputy Minister was dealing with the  
 18 file. For example, the November 17th, 2005  
 19 briefing with the Minister, I was not involved  
 20 in that briefing.  
 21 CHAYTOR, Q.C.:  
 22 Q. Yes, and we'll come to that, so if Mr. Abbott  
 23 has stated or suggested that you were tasked  
 24 with the monitoring and management of this  
 25 issue, that wasn't made clear to you at the

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1 time?  
 2 MS. HENNESSEY:  
 3 A. I was certainly doing, you know, monitoring of  
 4 the issue. I was certainly responsible for  
 5 providing the House of Assembly briefing  
 6 notes, but I didn't feel that I had full  
 7 responsibility for the file.  
 8 CHAYTOR, Q.C.:  
 9 Q. You didn't feel that you did.  
 10 MS. HENNESSEY:  
 11 A. No.  
 12 CHAYTOR, Q.C.:  
 13 Q. And you felt that you shared that, I take it,  
 14 from what you're saying with Mr. Abbott?  
 15 MS. HENNESSEY:  
 16 A. Yes, I did, yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. And who defined what your role in this matter  
 19 was going to be?  
 20 MS. HENNESSEY:  
 21 A. I felt my primary role was in providing the  
 22 briefing notes as we moved through the file.  
 23 CHAYTOR, Q.C.:  
 24 Q. And who defined that for you? How did you  
 25 come to understand what it is that you're

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1 supposed to do, as opposed to what Mr. Abbott  
 2 is supposed to do on this matter?  
 3 MS. HENNESSEY:  
 4 A. I guess it was just my interpretation on what  
 5 was happening.  
 6 CHAYTOR, Q.C.:  
 7 Q. So that wasn't clearly set out for you?  
 8 MS. HENNESSEY:  
 9 A. No.  
 10 CHAYTOR, Q.C.:  
 11 Q. At no point in time did Mr. Abbott say,  
 12 "Moir, here's what I need you to be doing and  
 13 here's what I'm going to do on this matter"?  
 14 MS. HENNESSEY:  
 15 A. No, that wasn't clearly set out. That's why,  
 16 you know, I certainly contributed to this file  
 17 and I certainly have, you know, share the  
 18 responsibility for this file, but I never felt  
 19 throughout the process that I had full  
 20 responsibility for the file.  
 21 CHAYTOR, Q.C.:  
 22 Q. And I take it from what you've already told  
 23 the Commissioner that you did not attend all  
 24 meetings on the file?  
 25 MS. HENNESSEY:

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1 A. No, the meetings with Eastern Health, the  
 2 meetings that I'm aware of that took place  
 3 with Eastern Health were on July 21st, 2005;  
 4 August 5, 2005; August 15th, 2005; November  
 5 17th, 2005; November 23rd, 2006 and May 15th,  
 6 2007. And I would have attended three of  
 7 those meetings, the two in August, 2005 and  
 8 the May 15th, 2007 meeting.  
 9 CHAYTOR, Q.C.:  
 10 Q. And do you feel -  
 11 MS. HENNESSEY:  
 12 A. Now I would have been involved in the  
 13 briefings with, you know, internal briefings -  
 14 CHAYTOR, Q.C.:  
 15 Q. On matters.  
 16 MS. HENNESSEY:  
 17 A. - during House of Assembly sessions.  
 18 CHAYTOR, Q.C.:  
 19 Q. And were you privy to all communications on  
 20 the matter within the department?  
 21 MS. HENNESSEY:  
 22 A. I'm not sure I understand.  
 23 CHAYTOR, Q.C.:  
 24 Q. Did you take part in all the, you're saying  
 25 that you would have been involved in briefings

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1 within the department, particularly around the  
 2 House of Assembly and briefing notes. Were  
 3 you involved in all meetings internally or  
 4 other communications within the department on  
 5 the issue, to your knowledge?  
 6 MS. HENNESSEY:  
 7 A. Depending upon the minister of the day, their  
 8 approach to dealing with briefings was  
 9 different when Minister Ottenheimer was the  
 10 Health Minister. I do not recall being in  
 11 specific briefings with him on this file.  
 12 When Minister Osborne and Minister Osborne  
 13 sort of, I guess, structured the briefing  
 14 process, that he--when the House of Assembly  
 15 was in session and there may have been other  
 16 briefings in between, but when the House was  
 17 in session that there were daily briefings  
 18 with the Minister, some of them were--they may  
 19 have been, you know, 45 minutes long and they  
 20 would have been briefings on a number of  
 21 topics that may have been, you know, of  
 22 interest to the public or the media at the  
 23 time. And when Minister Wiseman came to the  
 24 department, there were--and continued to be,  
 25 daily briefings when the House of Assembly is

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1 in session.  
 2 CHAYTOR, Q.C.:  
 3 Q. And you would take part in those?  
 4 MS. HENNESSEY:  
 5 A. Yes, when I'm available.  
 6 CHAYTOR, Q.C.:  
 7 Q. If you were available.  
 8 MS. HENNESSEY:  
 9 A. And if I'm not available, then one of the  
 10 staff who works with me usually participates.  
 11 CHAYTOR, Q.C.:  
 12 Q. And then I take it your staff member would  
 13 then inform you or apprise you of what had  
 14 taken place in the briefing?  
 15 MS. HENNESSEY:  
 16 A. Yes, that would have occurred, I can't say  
 17 that every day -  
 18 CHAYTOR, Q.C.:  
 19 Q. No, that's fair enough, but that would be the  
 20 normal process. If you're not there, you  
 21 would send a delegate?  
 22 MS. HENNESSEY:  
 23 A. Yes, but every day I'm not sure that there was  
 24 an exchange of information between myself and  
 25 the staff when we came out of every single

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1 briefing. The pace in the department is quite  
 2 busy and -  
 3 CHAYTOR, Q.C.:  
 4 Q. I understand that, but you would expect that  
 5 your staff would inform you of anything that  
 6 was of import?  
 7 MS. HENNESSEY:  
 8 A. If there was something major, certainly that  
 9 the Minister wanted done with the file, yes,  
 10 and I do have the person who was on this file,  
 11 I found her very good, so I'm pretty confident  
 12 that if there was something of significance  
 13 that the Minister would have wanted me or her  
 14 to do, that I would have been informed.  
 15 CHAYTOR, Q.C.:  
 16 Q. And who is that?  
 17 MS. HENNESSEY:  
 18 A. That would have been Beverly Griffiths.  
 19 CHAYTOR, Q.C.:  
 20 Q. And at one point in time it appeared that, was  
 21 it a Ms. Morris was involved in your briefing  
 22 notes, Debbie Morris?  
 23 MS. HENNESSEY:  
 24 A. Yes, it was.  
 25 CHAYTOR, Q.C.:

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1 Q. And then later that switched to Ms. Griffiths.  
 2 Why would that be?  
 3 MS. HENNESSEY:  
 4 A. It may have been a situation where Ms.  
 5 Griffiths was busy on other files and Ms.  
 6 Morris was the substitute for a period of  
 7 time.  
 8 CHAYTOR, Q.C.:  
 9 Q. So you would look to--Ms. Griffiths was your  
 10 main staff person involved?  
 11 MS. HENNESSEY:  
 12 A. Ms. Griffiths was the main staff person.  
 13 CHAYTOR, Q.C.:  
 14 Q. So in terms of who was dealing then with the  
 15 file, I just wanted to get some sense on that  
 16 within the department. Would it be fair to  
 17 say that at different points in time and  
 18 thinking now of communication and the flow of  
 19 communication, whether it's from Eastern  
 20 Health or within the department, it would be  
 21 fair to say that either yourself or Mr. Abbott  
 22 or perhaps the director of communications,  
 23 Tansy Mundon would have had communications on  
 24 the file?  
 25 MS. HENNESSEY:

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1 A. She would have had some communications with  
 2 her counterpart at Eastern Health on the file.  
 3 CHAYTOR, Q.C.:  
 4 Q. And how about Mr. Hynes, Darrell Hynes, would  
 5 he have been involved in communications on the  
 6 file as well?  
 7 MS. HENNESSEY:  
 8 A. I don't know whether he would have been  
 9 involved extensively on communications, I know  
 10 when Mr. Osborne was our Minister that he was  
 11 his policy advisor, so he was involved in  
 12 meetings on various files.  
 13 CHAYTOR, Q.C.:  
 14 Q. So primarily, I take it then yourself and Mr.  
 15 Abbott and sometimes Tansy Mundon would be  
 16 involved in the communications on the file.  
 17 MS. HENNESSEY:  
 18 A. Yes, and Ms. Griffiths would have been in  
 19 contact with respect to the updating of  
 20 briefing notes.  
 21 CHAYTOR, Q.C.:  
 22 Q. And she would have contacts, I take it, with  
 23 Eastern Health on the briefing notes from time  
 24 to time?  
 25 MS. HENNESSEY:

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1 A. Yes, she would. I guess when I look back now  
 2 there was a number of people, similar to  
 3 Eastern Health, there was a number of people  
 4 involved in the file. If I was to do it  
 5 again, I think I would have done it  
 6 differently now. I mean, my time, the time  
 7 that I had available to devote to this file  
 8 would be impacted by the number of files that  
 9 I was managing and while this one was  
 10 certainly an important file, there's only a  
 11 certain amount of time that I would be able to  
 12 commit to one file, as I said to you, during  
 13 that fall I had a number of files related to  
 14 the House of Assembly, I think it was about  
 15 27, that was on 27 different topics.  
 16 CHAYTOR, Q.C.:  
 17 Q. Yes.  
 18 MS. HENNESSEY:  
 19 A. And then during that fall as well there was a  
 20 couple of new processes introduced within the  
 21 government that took time away from my--I  
 22 mean, we had to balance the requirements  
 23 within the--our internal organization with the  
 24 need to maintain current information from the  
 25 health authorities.

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1 CHAYTOR, Q.C.:

2 Q. So in terms of, I just want to explore that

3 with you a bit about what you would have done

4 differently and what I'm looking at, the

5 number of people who would have been involved

6 in different communications on the matter.

7 Was there any process set up amongst you where

8 you could exchange information or have--so

9 that you would know what was the latest

10 information that, for example, Mr. Abbott knew

11 on the file. Was there any formal process put

12 in place so that you would communicate with

13 one another?

14 MS. HENNESSEY:

15 A. There wasn't a formal process per se in place,

16 you know, with respect to whether that I was

17 doing a monthly meeting with Mr. Abbott, there

18 wasn't that structure.

19 CHAYTOR, Q.C.:

20 Q. And when we look at over the course of the

21 ER/PR issue coming into the department, up

22 until certainly May of 2007 and there were

23 three ministers in that time period.

24 MS. HENNESSEY:

25 A. Yes.

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1 CHAYTOR, Q.C.:

2 Q. And three deputy ministers, and do you think

3 in hindsight when you're saying you would have

4 done something different, would it be

5 preferable to have had one staff person or a

6 couple of staff people tasked with the

7 responsibility to ensure continuity and

8 consistency, I guess, in the information that

9 was coming into the department and flowing out

10 of the department?

11 MS. HENNESSEY:

12 A. That certainly would be my view that this, you

13 know, was a, what I would view a, you know,

14 serious issue in the health system. And we

15 did not assign staff specifically to it. In

16 hindsight, if I had to do it over again, I

17 guess if it's a lesson learned for me that in

18 the future with events of this nature that I

19 don't think we should be loading them on staff

20 who already have a significant workload. I

21 think Ms. Griffiths in particular because in

22 addition her responsibilities for Eastern

23 Health that she certainly had a significant

24 role to play with with respect to our

25 aboriginal health issues. So, there was a lot

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1 of demands on her time; there were a lot of

2 demands on my time. Now, I think with respect

3 to some of the larger issues that the

4 department is handling, we would all be better

5 served if we had put one or two individuals

6 and certainly in hindsight, I would have seen

7 the need to certainly link a physician to this

8 file.

9 CHAYTOR, Q.C.:

10 Q. And a physician you're saying, as well.

11 MS. HENNESSEY:

12 A. Yes.

13 CHAYTOR, Q.C.:

14 Q. Okay. Well, in that regard, has there been

15 any change of practice within the department?

16 I'm sure you deal with significant issues on a

17 fairly regular basis, perhaps not of this

18 magnitude, but has there been any change in

19 practice in that now a key person is assigned

20 to a significant issue?

21 MS. HENNESSEY:

22 A. I can't say that there's been a significant

23 change in practice.

24 CHAYTOR, Q.C.:

25 Q. Okay. And have you, in your own assignment of

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1 files, made any change in your practice?

2 MS. HENNESSEY:

3 A. With respect to how I handle files?

4 CHAYTOR, Q.C.:

5 Q. And how people are assigned to deal with

6 matters.

7 MS. HENNESSEY:

8 A. I do my best to try and assign the files to an

9 individuals, but there's a number of factors

10 that come into play if they are called away,

11 you know, if they're on vacation or they're

12 called away to another priority for the

13 department, then that reduces the time that

14 they have available to commit to this file.

15 We don't have--I can't say that we've really

16 done a good job in putting a structure around

17 how we would manage files where there are

18 adverse outcomes.

19 CHAYTOR, Q.C.:

20 Q. Okay. If we could look, please, then at P-

21 1417, page six please, I'm sorry I said the

22 wrong number, it's P-1477 and page six, here

23 we go. I'm not sure, Ms. Hennessey, if you've

24 had a chance to see this document. These are

25 apparently notes which were taken by Mr.



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1 Hynes. We have his handwritten version. And  
 2 actually his handwritten version is here and  
 3 this is a typed version of his notes from  
 4 executive meetings.  
 5 MS. HENNESSEY:  
 6 A. Right.  
 7 CHAYTOR, Q.C.:  
 8 Q. And this is a document that we didn't have in  
 9 our possession when we met with you. This is  
 10 something we received last week. October 7,  
 11 2005 and it appears there was an executive  
 12 meeting and one of his bullets is "breast  
 13 cancer issue, need for protocols to address  
 14 situation, how board reacts versus our  
 15 reaction". Do you recall being present at the  
 16 executive meeting within the department on  
 17 that date and the discussion around this  
 18 issue?  
 19 MS. HENNESSEY:  
 20 A. I don't recall the discussion around this  
 21 issue.  
 22 CHAYTOR, Q.C.:  
 23 Q. Okay. And do you have any recollection as to  
 24 what this refers to? Whether or not there was  
 25 any discussion at any point in time around the

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1 need for protocols to address the situation  
 2 and "how the board reacts versus our", I take  
 3 it that means the department's reaction?  
 4 MS. HENNESSEY:  
 5 A. I'm not able to comment on this.  
 6 CHAYTOR, Q.C.:  
 7 Q. Okay. So, if you were present at this  
 8 meeting, you'd have no recollection of this  
 9 issue or that this issue being addressed  
 10 later. Do you know whether or not there were  
 11 any protocols developed to address the  
 12 situation?  
 13 MS. HENNESSEY:  
 14 A. Not that I'm aware of.  
 15 CHAYTOR, Q.C.:  
 16 Q. And October 7, 2005, is this the first time  
 17 that this issue is raised at an executive  
 18 meeting?  
 19 MS. HENNESSEY:  
 20 A. It could have been. I mean, our executive  
 21 does not meet regularly during the summer,  
 22 period. Whether it was raised in September, I  
 23 don't remember.  
 24 CHAYTOR, Q.C.:  
 25 Q. Okay. If we could look at P-0804, please?

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1 And this is an e-mail to you from Mr. Abbott  
 2 and it's October 12, 2005 and it originates  
 3 from e-mail from Mr. Reid regarding a friend  
 4 of his or a friend of a friend. Do you recall  
 5 this exchange and what it was about?  
 6 MS. HENNESSEY:  
 7 A. I seem to recall that Mr. Reid wrote with  
 8 respect to a friend of his and her experiences  
 9 with respect to this issue.  
 10 CHAYTOR, Q.C.:  
 11 Q. Okay. And it's about--one of the things that  
 12 she's referring to here is about patient  
 13 contacts and who would be contacted. And  
 14 you'll see down in the middle of the page she  
 15 really had three concerns. First, I guess  
 16 being that the mistake is a serious one that  
 17 will have an impact on hundreds of women and  
 18 their families. She believes she would never  
 19 have been told if she did not ask. We  
 20 understand she was confirmed negative. Did  
 21 not press for information about her own  
 22 medical condition. The question is not just  
 23 that those with changed results be told, but  
 24 that all be told. It is their right to expect  
 25 this level of disclosure and respect. And the

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1 retesting is taking time as Mount Sinai is  
 2 very busy and this is time that many women do  
 3 not have and she doesn't think it's good  
 4 enough to wait and other efforts to be made.  
 5 And this does get relayed to you from the  
 6 deputy minister, you're copied on that e-mail.  
 7 MS. HENNESSEY:  
 8 A. Right.  
 9 CHAYTOR, Q.C.:  
 10 Q. Did you do anything in follow-up on that  
 11 issue?  
 12 MS. HENNESSEY:  
 13 A. I did not do any follow-up on this issue  
 14 because the Deputy Minister was dealing with  
 15 Mr. Reid on it.  
 16 CHAYTOR, Q.C.:  
 17 Q. So you understood that Mr. Abbott was  
 18 following up on this?  
 19 MS. HENNESSEY:  
 20 A. Yes.  
 21 CHAYTOR, Q.C.:  
 22 Q. And in terms of the issue of all patients to  
 23 be contacted, did you follow up with Eastern  
 24 Health or anyone else on that, the issue that  
 25 she's raising here, she's concerned that not

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1 everyone was going to be contacted. If she  
 2 hadn't gone looking for her information, she  
 3 wouldn't know. Did you have any follow up on  
 4 that?  
 5 MS. HENNESSEY:  
 6 A. I didn't step in to this particular issue  
 7 because the Deputy Minister was dealing with  
 8 Mr. Reid on it.  
 9 CHAYTOR, Q.C.:  
 10 Q. And so do you understand that the Deputy  
 11 Minister followed up on this issue?  
 12 MS. HENNESSEY:  
 13 A. I don't know whether he had any contact with  
 14 Eastern Health on the issue. The approach  
 15 used here is a bit different than what our  
 16 normal approach would be with respect to  
 17 contacting Eastern Health.  
 18 CHAYTOR, Q.C.:  
 19 Q. Okay. Tell me that then. How was it  
 20 different?  
 21 MS. HENNESSEY:  
 22 A. Well, I guess from my perspective, when an  
 23 inquiry comes into the Department, that we  
 24 would follow--we would contact Eastern Health  
 25 and advise that the inquiry had been made,

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1 would outline the issues that were being  
 2 raised and then ask Eastern Health to do the  
 3 follow up back with the individual.  
 4 CHAYTOR, Q.C.:  
 5 Q. Okay. So the normal approach would be--when  
 6 you say "we" the normal approach would be that  
 7 you would make that contact?  
 8 MS. HENNESSEY:  
 9 A. I wouldn't necessarily myself make the  
 10 contact, but our normal process when an  
 11 inquiry would come to our attention -  
 12 CHAYTOR, Q.C.:  
 13 Q. The Department you mean, our attention?  
 14 MS. HENNESSEY:  
 15 A. Well, I can only speak to the Regional Health  
 16 branch that I have responsibility for.  
 17 CHAYTOR, Q.C.:  
 18 Q. Yes, okay.  
 19 MS. HENNESSEY:  
 20 A. That if an inquiry comes, oftentimes if it  
 21 comes in through the client services inquiries  
 22 officer or comes from the Minister's office,  
 23 that the inquiry--I mean, for the client  
 24 services inquiries officer, if someone is  
 25 calling on a routine matter, looking for

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1 general information related to the health  
 2 system, that individual would follow through  
 3 and just provide the information. If it's an  
 4 inquiry related to a specific health issue,  
 5 many times she would engage the regional  
 6 consultant responsible for the area. The  
 7 consultant would take the inquiry, call  
 8 Eastern Health, outline what the concerns were  
 9 and ask Eastern Health to get back to the  
 10 individual. Sometimes Eastern Health would  
 11 come back to us, but our general practice is  
 12 that we would prefer that the health authority  
 13 go back to the individual who's raising the  
 14 concern because they would have a more  
 15 detailed working knowledge of what was  
 16 happening than the Department would.  
 17 CHAYTOR, Q.C.:  
 18 Q. Okay, and so how was the approach different  
 19 here?  
 20 MS. HENNESSEY:  
 21 A. Well, I think in this particular situation  
 22 that the Deputy Minister referred Mr. Reid  
 23 directly to the health authority.  
 24 CHAYTOR, Q.C.:  
 25 Q. Okay, and we also see on this e-mail that it's

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1 yourself, Mr. Reid and Sheree MacDonald, this  
 2 e-mail goes to her as well. Who's Sheree  
 3 MacDonald?  
 4 MS. HENNESSEY:  
 5 A. Sheree MacDonald would have been working in  
 6 Cabinet Secretariat at the time.  
 7 CHAYTOR, Q.C.:  
 8 Q. Okay, and what significance would that have,  
 9 the e-mail being sent to Ms. MacDonald?  
 10 MS. HENNESSEY:  
 11 A. I'm not sure whether there's a particular  
 12 reason why that would have been sent. I'm  
 13 just wondering was the original e-mail sent  
 14 from Mr. Reid to Sheree.  
 15 CHAYTOR, Q.C.:  
 16 Q. And I can't tell from this exhibit whether  
 17 that's the case or not. If we could have,  
 18 please, 0859? This is an e-mail exchange then  
 19 following, I believe it's the same date,  
 20 October 12th 2005.  
 21 MS. HENNESSEY:  
 22 A. Right.  
 23 CHAYTOR, Q.C.:  
 24 Q. And it's sent as high priority from Tansy to  
 25 Darrell Hynes and others, including Minister

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1 Ottenheimer and Mr. Abbott and yourself.  
 2 MS. HENNESSEY:  
 3 A. Yes.  
 4 CHAYTOR, Q.C.:  
 5 Q. And then you e-mail the group back and say  
 6 "FYI, as Tansy says CBC is back and we expect  
 7 that the volume of media inquiries and quick  
 8 responses will pick up again" and Tansy had  
 9 made that comment, "in case we didn't realize  
 10 that CBC was back, they are." What did you  
 11 understand--what's the significance to that of  
 12 CBC being back?  
 13 MS. HENNESSEY:  
 14 A. I think at that point in time, CBC may--they  
 15 may have been on strike or a walk out and that  
 16 they had returned to work. I mean, my memory  
 17 is foggy on this particular point, and that  
 18 the--there may then be an increase in the  
 19 number of media inquiries to the Minister's  
 20 office on various health matters.  
 21 CHAYTOR, Q.C.:  
 22 Q. Okay, and so I take it there hadn't been too  
 23 much contact from CBC and this is just  
 24 referencing that, that they're now back with a  
 25 number of issues?

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1 MS. HENNESSEY:  
 2 A. Yes, and I think it was with respect to issues  
 3 in general, not specific to this file.  
 4 CHAYTOR, Q.C.:  
 5 Q. Yes. There's a number listed here, and I  
 6 think one of which is the ER/PR issue, CBC  
 7 Radio, Mark Quinn. During the whole handling  
 8 of the issue, I know I asked you yesterday if  
 9 when you first learned of the issue, if you  
 10 felt that there was--it was being treated  
 11 confidentially, and you didn't get that sense  
 12 that this was confidential, but did you have  
 13 any sense along the way that the Department or  
 14 others involved in the issue were looking to  
 15 keep it as low profile as possible?  
 16 MS. HENNESSEY:  
 17 A. I can't say that I had that general sense. I  
 18 mean, normally, I mean, the Minister is  
 19 accountable to the public, you know, for the  
 20 health service. At the end of the day, the  
 21 Minister is the person accountable to the  
 22 public for the delivery of health services to  
 23 the people of the province. I mean, the  
 24 health portfolio is fairly broad. There are a  
 25 number of media inquiries come regularly to

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1 the department on various files. And that the  
 2 ministers are open to doing interviews on the  
 3 various files.  
 4 CHAYTOR, Q.C.:  
 5 Q. In an e-mail I showed you yesterday, of  
 6 course, early on, July 19, 2005 the last e-  
 7 mail in the exchange back from Carolyn Chaplin  
 8 where she indicates that any public  
 9 announcement when this issue did go public  
 10 that it was possible that the significance  
 11 would be minimized or words to that effect.  
 12 Did you ever hear that kind of sentiment  
 13 expressed in the department?  
 14 MS. HENNESSEY:  
 15 A. I'm not aware of that. I have to speak from -  
 16 CHAYTOR, Q.C.:  
 17 Q. Yes, your own knowledge.  
 18 MS. HENNESSEY:  
 19 A. - I said that, you know, that the--there are a  
 20 number of media inquiries come to the  
 21 department regularly and, you know, to the  
 22 best of my knowledge, the ministers are quite  
 23 open to speaking to the media.  
 24 CHAYTOR, Q.C.:  
 25 Q. And that was true of all three ministers that

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1 you worked with on this file?  
 2 MS. HENNESSEY:  
 3 A. That's--yeah and I can't recall specifically  
 4 on this file, but generally, you know, the  
 5 ministers that I've worked with, that they  
 6 were open and still continue to be open to  
 7 speaking to the media and providing  
 8 information on various health matters.  
 9 CHAYTOR, Q.C.:  
 10 Q. And with respect specifically to this issue,  
 11 did you ever get that sense from anyone else  
 12 other than the ministers? Did you ever get  
 13 that sense within the department that there  
 14 was an effort to keep the issue under the  
 15 radar?  
 16 MS. HENNESSEY:  
 17 A. I don't recall, as we moved through this file  
 18 any more than other files. I mean, we  
 19 anticipate the ministers having to speak to  
 20 various health matter and certainly when the  
 21 House of Assembly is in session that that's  
 22 the forum where the ministers are accountable  
 23 to the public for public services and  
 24 programs.  
 25 CHAYTOR, Q.C.:

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1 Q. Okay. If we could have then, please, P-1438.  
 2 And this again is minutes of executive  
 3 committee meeting. This one is October 14,  
 4 2007. So, I take it that the executive  
 5 committee meets every week?  
 6 MS. HENNESSEY:  
 7 A. Yes, for the most part the executive committee  
 8 meets on Friday mornings. We don't meet every  
 9 week during the year. The meetings are  
 10 certainly reduced during the summertime and  
 11 they meetings, for the most part, don't occur  
 12 unless a deputy is there. We're in a little  
 13 bit of a different situation now where our  
 14 deputy is not available. So, we did do an  
 15 executive meeting last Friday morning.  
 16 CHAYTOR, Q.C.:  
 17 Q. Yes, this period of time in particular I'm  
 18 wondering about. And yourself and Mr. Abbott  
 19 are in attendance as is Tansy Mundon.  
 20 MS. HENNESSEY:  
 21 A. Yes.  
 22 CHAYTOR, Q.C.:  
 23 Q. So, director of communication attends these  
 24 meetings, I take it?  
 25 MS. HENNESSEY:

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1 A. Yes.  
 2 CHAYTOR, Q.C.:  
 3 Q. And Mr. Hynes is also present. The minister  
 4 doesn't attend?  
 5 MS. HENNESSEY:  
 6 A. No, he doesn't. The minister, certainly if  
 7 there's some particular issue that the  
 8 minister wants to speak to the full executive  
 9 on it, he or she certainly, you know, has  
 10 attended on specific issues, but it's not a  
 11 regular occurrence for the minister to -  
 12 CHAYTOR, Q.C.:  
 13 Q. Do you know if the minister ever attended with  
 14 respect to the ER/PR issue?  
 15 MS. HENNESSEY:  
 16 A. I don't recall the minister being there on  
 17 that issue.  
 18 CHAYTOR, Q.C.:  
 19 Q. At any point in time.  
 20 MS. HENNESSEY:  
 21 A. No.  
 22 CHAYTOR, Q.C.:  
 23 Q. Okay. And number 17 on your agenda was the  
 24 ER/PR retesting and the executive discussed  
 25 the current status of this ongoing issue and

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1 that's all that's written there. Do you have  
 2 any recollection as to what was discussed at  
 3 that time or any concerns expressed regarding  
 4 the handling of the issue?  
 5 MS. HENNESSEY:  
 6 A. I would think just because of the timing that  
 7 there probably was some general discussion  
 8 around the, that the ER/PR issue was now, I  
 9 guess, had become a bigger public issue.  
 10 CHAYTOR, Q.C.:  
 11 Q. And I take it, Ms. Hennessey, that if you  
 12 weren't in on all discussions or meetings,  
 13 this would be an opportunity for a sharing of  
 14 information.  
 15 MS. HENNESSEY:  
 16 A. Yes, it would be.  
 17 CHAYTOR, Q.C.:  
 18 Q. So that everybody could be brought up to speed  
 19 as to the latest developments on the issue?  
 20 MS. HENNESSEY:  
 21 A. This particular situation, yes, that's the  
 22 general purpose of our executive meetings is  
 23 to provide--I mean, there is a structure to  
 24 our meetings and then it's an opportunity for  
 25 various executive people to raise various

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1 matters.  
 2 CHAYTOR, Q.C.:  
 3 Q. And we only have minutes though of two  
 4 meetings in which it was on the agenda.  
 5 MS. HENNESSEY:  
 6 A. Right.  
 7 CHAYTOR, Q.C.:  
 8 Q. Although we do have notes from Mr. Hynes on  
 9 two other meetings. Was the issue a regular  
 10 item on the agenda or was it sometimes and  
 11 sometimes not.  
 12 MS. HENNESSEY:  
 13 A. This issue was not a regular -  
 14 CHAYTOR, Q.C.:  
 15 Q. It wasn't.  
 16 MS. HENNESSEY:  
 17 A. - agenda item.  
 18 CHAYTOR, Q.C.:  
 19 Q. Okay. If we could then at P-1439, please.  
 20 And this is the other set of minutes that we  
 21 have and again, this is October 28, 2005 and  
 22 you and Mr. Abbott, Ms. Mundon and Mr. Hynes  
 23 are all present and number five on the agenda  
 24 was the ER/PR retesting. And Tansy Mundon

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1 noted Eastern Region is not keeping her in the  
 2 loop on communication issues. She was unaware  
 3 of the interview Dr. Williams did on "Out of  
 4 the Fog", Tansy Mundon to e-mail John Abbott  
 5 regarding this issue, John Abbott to follow-up  
 6 with Mr. Tilley.  
 7 What do you recall being discussed around  
 8 that issue?  
 9 MS. HENNESSEY:  
 10 A. With respect to, I don't know if I can speak  
 11 specifically to that issue, but when the  
 12 health authorities are speaking to the media  
 13 on various health matters that the department  
 14 wishes to be kept apprised of that because  
 15 many times when a health authority speaks on a  
 16 health matter, that there could be a follow-up  
 17 request for the minister to speak to the  
 18 matter.  
 19 CHAYTOR, Q.C.:  
 20 Q. Okay. Was there anything else other than the  
 21 issue raised by Ms. Mundon? Was there  
 22 anything else discussed at that point in time  
 23 about the ER/PR retesting?  
 24 MS. HENNESSEY:  
 25 A. I don't recall.

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1 CHAYTOR, Q.C.:  
 2 Q. Okay.  
 3 THE COMMISSIONER:  
 4 Q. Is there a protocol, a directive, a  
 5 communication or something between the  
 6 department and the health authorities which  
 7 conveys to the health authorities the idea  
 8 that this should be done?  
 9 MS. HENNESSEY:  
 10 A. With respect to keeping the department  
 11 apprised of -  
 12 THE COMMISSIONER:  
 13 Q. Yes, of communications?  
 14 MS. HENNESSEY:  
 15 A. I don't believe there would have been a  
 16 written directive.  
 17 THE COMMISSIONER:  
 18 Q. Well, are you confident that all authorities  
 19 would know that if they're making public  
 20 pronouncements on things, they have to, in  
 21 effect, advise the department?  
 22 MS. HENNESSEY:  
 23 A. Generally, I think the health authorities  
 24 would be aware of that.  
 25 THE COMMISSIONER:

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1 Q. But we're not sure how they got that notion?  
 2 MS. HENNESSEY:  
 3 A. No, I think that they would have gotten it  
 4 through informal communications.  
 5 THE COMMISSIONER:  
 6 Q. All right.  
 7 CHAYTOR, Q.C.:  
 8 Q. If we could look please then at P-0096. Ms.  
 9 Hennessey, perhaps while we're bringing that  
 10 up, what do you recall being your next  
 11 involvement in this matter?  
 12 MS. HENNESSEY:  
 13 A. I think my next involvement would have been a  
 14 preparation of this, I know it went for the  
 15 House of Assembly opening.  
 16 CHAYTOR, Q.C.:  
 17 Q. Okay. And so the House of Assembly then is  
 18 opening in November, I take it. Yes,  
 19 generally, it opens the early part of  
 20 November.  
 21 CHAYTOR, Q.C.:  
 22 Q. Okay. And so you would have been involved in  
 23 trying to prepare briefing note for the House  
 24 of Assembly briefing book?  
 25 MS. HENNESSEY:

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1 A. Yes.  
 2 CHAYTOR, Q.C.:  
 3 Q. And what did you do in preparation for that?  
 4 MS. HENNESSEY:  
 5 A. With respect to that particular note, do you  
 6 mind if I refer to -  
 7 CHAYTOR, Q.C.:  
 8 Q. Sure. Well, what I've got up here is then P-  
 9 0096, if that assists your memory.  
 10 MS. HENNESSEY:  
 11 A. Oh sorry, this is--I would have made a contact  
 12 with Eastern Health to get some current  
 13 information on the file.  
 14 CHAYTOR, Q.C.:  
 15 Q. Okay. And I believe your contact was on  
 16 November 3, 2005 and you contacted Mr. Tilley  
 17 directly?  
 18 MS. HENNESSEY:  
 19 A. Yes, I did.  
 20 CHAYTOR, Q.C.:  
 21 Q. Okay. And what was your purpose then in  
 22 contacting Mr. Tilley at that time?  
 23 MS. HENNESSEY:  
 24 A. At that time it was to get an update from  
 25 Eastern Health in order to prepared a briefing

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1 note for the minister.  
 2 CHAYTOR, Q.C.:  
 3 Q. And you write to Mr. Tilley, would this have  
 4 been done then on your own initiation or would  
 5 somebody have asked you to do this?  
 6 MS. HENNESSEY:  
 7 A. As we go into the House of Assembly, I mean,  
 8 we are asked to identify issues that could  
 9 potentially get raised in the House of  
 10 Assembly and we submit our list to the  
 11 director of communications who reviews the  
 12 lists, if I recall correctly with the deputy  
 13 minister and we finalize a list of briefing  
 14 notes that will be prepared. That would be  
 15 done by every branch within the department.  
 16 CHAYTOR, Q.C.:  
 17 Q. Okay. And you write to Mr. Tilley on November  
 18 3 and you say, "Hi George", so I take it you  
 19 know Mr. Tilley fairly well?  
 20 MS. HENNESSEY:  
 21 A. Yes, I do.  
 22 CHAYTOR, Q.C.:  
 23 Q. "Can you give me an update on the contacting  
 24 of patients? Where are we and when will all  
 25 patients be contacted? We need to ensure that

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1 the minister can state all patients have been  
 2 contacted when the House opens later this  
 3 month". So, first of all, on that why was  
 4 that important, that the minister be able to  
 5 state that all patients have been contacted?  
 6 MS. HENNESSEY:  
 7 A. I think it would be important from the  
 8 minister's perspective, from the department's  
 9 perspective that patients would be aware of  
 10 what was happening with respect to their  
 11 personal information.  
 12 CHAYTOR, Q.C.:  
 13 Q. And was this the first then contact that you  
 14 made since your October contact on that issue,  
 15 the status of the contacting and the patients?  
 16 MS. HENNESSEY:  
 17 A. It could very easily have been the next  
 18 contact that I made with Eastern Health.  
 19 CHAYTOR, Q.C.:  
 20 Q. Okay. And then you go on to say, "also have  
 21 you received the report from the chief  
 22 pathologist at the BC cancer institute and the  
 23 chief technologist at Mount Sinai. If yes,  
 24 can you give me a quick update to reflect in  
 25 the minister's House of Assembly note.

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1 Thanks, Moira".  
 2 Now, Ms. Hennessey, of course, back in  
 3 October you were told that the reviewers had  
 4 been in in September.  
 5 MS. HENNESSEY:  
 6 A. Right.  
 7 CHAYTOR, Q.C.:  
 8 Q. They had been debriefed and that their reports  
 9 were expected shortly thereafter.  
 10 MS. HENNESSEY:  
 11 A. Yes.  
 12 CHAYTOR, Q.C.:  
 13 Q. So, you're following up, I take it, on that.  
 14 MS. HENNESSEY:  
 15 A. Yes, I would have been.  
 16 CHAYTOR, Q.C.:  
 17 Q. And you're wondering if the reports are back  
 18 and what you can then put in the briefing note  
 19 regarding that. And then Mr. Tilley's  
 20 response to you is that he's in Ottawa. "I  
 21 know a briefing meeting has been set with the  
 22 minister on November 17 to brief him for the  
 23 House. In the meantime, if there is some  
 24 immediate need, you have in the interim, I ask  
 25 that you touch back with Bob Williams" and he

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1 sends you that response at 2:15 the same day.  
 2 And then if we can look at, please 1440.  
 3 THE COMMISSIONER:  
 4 Q. Just before we leave this, can we go back to  
 5 the questions on the bottom there? You ask  
 6 two questions. The first one is "can you give  
 7 me an update on the contacting patients, where  
 8 are we and when will the patients be  
 9 contacted", which is a question. And then you  
 10 say, "we need to ensure that the minister can  
 11 state all patients have been contacted when  
 12 the House opens later this month". What was  
 13 the reason of adding that statement to the  
 14 question which is "are they contacted"? Are  
 15 you--it seems to me when I'm reading that, I  
 16 can interpret it in various ways and I'm just  
 17 wondering what you meant by it?  
 18 MS. HENNESSEY:  
 19 A. At that point I think I was trying to get some  
 20 sense from Mr. Tilley whether all the patients  
 21 had been contacted.  
 22 THE COMMISSIONER:  
 23 Q. Yes, which you do in your sentence there, you  
 24 say, "can you give me an update on the  
 25 contacting of patients, where are we and when

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1 will all the patients be contacted" which is  
 2 kind of--and what's your timeline for this  
 3 contact.  
 4 MS. HENNESSEY:  
 5 A. Yes.  
 6 THE COMMISSIONER:  
 7 Q. And then there's the last sentence and the  
 8 question is, were you sending a message or  
 9 asking a question, I think it what I'm asking.  
 10 MS. HENNESSEY:  
 11 A. I think I was sending a message, but I'm not  
 12 in a position where I could direct a health  
 13 authority.  
 14 THE COMMISSIONER:  
 15 Q. I suppose that's what I'm saying. If I'm  
 16 reading that letter, I can--or reading that  
 17 note, one way of interpreting that is to say  
 18 to Mr. Tilley who you're saying you can't  
 19 direct to do something, I, Minister, will want  
 20 to be able to say that everybody has been  
 21 contacted when he stands up to answer a  
 22 question in the House of Assembly.  
 23 MS. HENNESSEY:  
 24 A. Yeah.  
 25 THE COMMISSIONER:

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1 Q. This is my heads up to you to make sure  
 2 everybody has been contacted before that date  
 3 occurs.  
 4 MS. HENNESSEY:  
 5 A. That would have been -  
 6 THE COMMISSIONER:  
 7 Q. Or was there another message?  
 8 MS. HENNESSEY:  
 9 A. No, I think the message was one that we would  
 10 have hoped, at that point in time, that there  
 11 would have been a contact made.  
 12 THE COMMISSIONER:  
 13 Q. Okay. So this was your sort of polite way of  
 14 saying to Mr. Tilley, make sure that's done  
 15 before the House opens?  
 16 MS. HENNESSEY:  
 17 A. Yes, I'm not--as I said, I'm not in a position  
 18 -  
 19 THE COMMISSIONER:  
 20 Q. Position to tell him.  
 21 MS. HENNESSEY:  
 22 A. - to tell a health authority what to do, but  
 23 it was certainly -  
 24 THE COMMISSIONER:  
 25 Q. Well, let me just put it this way, if the

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1 Minister were writing him, the Minister might  
 2 say make sure that that's done before the  
 3 House opened, but from your position, the best  
 4 you could do was to say the Minister would  
 5 like to be in the position to say that?  
 6 MS. HENNESSEY:  
 7 A. Yes, that's correct.  
 8 THE COMMISSIONER:  
 9 Q. And Mr. Tilley, knowing enough, should know  
 10 that what you're really saying is make sure  
 11 you do that, or you got a problem.  
 12 MS. HENNESSEY:  
 13 A. It would be difficult for me to speculate on  
 14 how Mr. Tilley interpreted -  
 15 THE COMMISSIONER:  
 16 Q. Well, except that you're the one that's  
 17 sending the message, so I was just wanting to  
 18 make clear that I understood what message you  
 19 were sending to Mr. Tilley.  
 20 MS. HENNESSEY:  
 21 A. The message that I was sending was a hope that  
 22 all the patients would have been notified at  
 23 that time.  
 24 THE COMMISSIONER:  
 25 Q. All right, thank you. Now you were moving us

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1 on to another -  
 2 CHAYTOR, Q.C.:  
 3 Q. Actually, let's look at P-0097, please, and  
 4 this is--so Mr. Tilley had suggested if you  
 5 need anything urgently, then you could contact  
 6 Dr. Williams.  
 7 MS. HENNESSEY:  
 8 A. Yes.  
 9 CHAYTOR, Q.C.:  
 10 Q. And it appears that you in fact do that at  
 11 2:56 p.m. You send Dr. Williams an e-mail, so  
 12 less than 45 minutes or around 45 minutes  
 13 later, you're e-mailing Dr. Williams, and he's  
 14 "Hi, Bob" and you've told us before that you  
 15 know him, and I take it you know Dr. Williams  
 16 well enough that you'd pick up the phone and  
 17 phone him and call him if you needed any  
 18 information?  
 19 MS. HENNESSEY:  
 20 A. Yes, I certainly do.  
 21 CHAYTOR, Q.C.:  
 22 Q. And you ask him, "can you please provide me an  
 23 update on where you are with the contacting of  
 24 patients. I understand the process is ongoing  
 25 and there have been some problems." So Ms.

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1 Hennessey, Mr. Tilley's advice had been well,  
 2 we're going to brief the Minister anyhow  
 3 November 17th, but if you need something more  
 4 urgently than that, contact Dr. Williams.  
 5 MS. HENNESSEY:  
 6 A. Right.  
 7 CHAYTOR, Q.C.:  
 8 Q. So I take it you determined that you couldn't  
 9 wait until November 17th?  
 10 MS. HENNESSEY:  
 11 A. Well, I was preparing a briefing note for the  
 12 Minister going into the House of Assembly, so  
 13 no, I didn't wait.  
 14 CHAYTOR, Q.C.:  
 15 Q. Okay, and your first statement here, and  
 16 again, you're following up about the  
 17 contacting of the patients and you're saying  
 18 "I understand the process is ongoing and there  
 19 have been some problems." Who did you  
 20 understand that from and what problems did you  
 21 understand were being encountered?  
 22 MS. HENNESSEY:  
 23 A. I think there may have been some difficulties  
 24 in reaching some of the patients, but I don't  
 25 recall, Ms. Chaytor, the specifics around

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1 that. It's over two years ago.  
 2 CHAYTOR, Q.C.:  
 3 Q. Yes, I understand that. So you understood  
 4 that there were problems in the process of  
 5 contacting?  
 6 MS. HENNESSEY:  
 7 A. Yes.  
 8 CHAYTOR, Q.C.:  
 9 Q. And I take it that information--where would  
 10 you have received that information? Where  
 11 would it have come from?  
 12 MS. HENNESSEY:  
 13 A. It may have come from previous conversation  
 14 with someone at Eastern Health or somebody  
 15 within my office having a conversation with  
 16 someone at Eastern Health.  
 17 CHAYTOR, Q.C.:  
 18 Q. And had you shared that understanding with Mr.  
 19 Abbott or the Minister, that there had been  
 20 trouble or problems encountered in contacting  
 21 the patients?  
 22 MS. HENNESSEY:  
 23 A. I don't recall specifically.  
 24 CHAYTOR, Q.C.:  
 25 Q. You go on then to ask Dr. Williams "also, have

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1 you received the report from the B.C.  
 2 pathologist and the Mount Sinai technologist?  
 3 If yes, what is the general finding(s)? While  
 4 I know you are briefing the Minister later  
 5 this month, we have to complete the first  
 6 draft of the House of Assembly briefing note  
 7 by tomorrow. I will then update it after the  
 8 meeting with the Minister." So you're asking  
 9 Dr. Williams whether he's received the report  
 10 from the B.C. pathologist and the technologist  
 11 who did the reviews and what the general  
 12 findings were, and why would you be looking  
 13 for that information, Ms. Hennessey?  
 14 MS. HENNESSEY:  
 15 A. I would have been looking for that  
 16 information, one, to put it in the briefing  
 17 note, but also to provide some sense to the  
 18 Minister as to what the B.C. pathologist and  
 19 the Mount Sinai technologist may have found.  
 20 CHAYTOR, Q.C.:  
 21 Q. And what did you expect their findings to be  
 22 able to shed light on? What information would  
 23 you expect that to be of assistance to the  
 24 Minister? What do you think would be of  
 25 assistance to the Minister in what the

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1 findings of the external reviewers?  
 2 MS. HENNESSEY:  
 3 A. I guess it would be just some sense as to what  
 4 the general findings were and what some of the  
 5 general recommendations were and what measures  
 6 that Eastern Health was putting in place to  
 7 address them.  
 8 CHAYTOR, Q.C.:  
 9 Q. Now it is the general findings, is what you're  
 10 asking for?  
 11 MS. HENNESSEY:  
 12 A. Yes.  
 13 CHAYTOR, Q.C.:  
 14 Q. What did you understand the reviewers were  
 15 doing?  
 16 MS. HENNESSEY:  
 17 A. I understood that the reviewers were--they had  
 18 made a site visit and were looking at the  
 19 review of the ER--the section of the  
 20 laboratory as it related to ER/PR testing to  
 21 try and identify some of the issues that may  
 22 have arisen that resulted in the changes in  
 23 test results.  
 24 CHAYTOR, Q.C.:  
 25 Q. Okay. So you were expecting that it would



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1 have shed light on what the issues were, the  
 2 background -  
 3 MS. HENNESSEY:  
 4 A. Yes.  
 5 CHAYTOR, Q.C.:  
 6 Q. - giving rise to the problems with the  
 7 testing?  
 8 MS. HENNESSEY:  
 9 A. Yeah.  
 10 CHAYTOR, Q.C.:  
 11 Q. Did anybody ask you to obtain that  
 12 information?  
 13 MS. HENNESSEY:  
 14 A. I don't recall whether anyone specifically  
 15 asked me to get that information. I certainly  
 16 would have been--we knew that the reviewers  
 17 had been here in September, that hopefully  
 18 that would assist Eastern Health to try and  
 19 identify what some of the issues were and  
 20 provide some recommendations, and I was just  
 21 following up in order to update the Minister  
 22 and prepare the House note.  
 23 CHAYTOR, Q.C.:  
 24 Q. So you think this was -  
 25 MS. HENNESSEY:

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1 A. Whether someone specifically asked me to  
 2 contact Eastern Health, I don't remember.  
 3 CHAYTOR, Q.C.:  
 4 Q. But you think this is your own initiative to  
 5 ask about the general findings?  
 6 MS. HENNESSEY:  
 7 A. It could very well have been, or I think--if I  
 8 think about it now, it was probably my own  
 9 initiative then because the briefing note on  
 10 November 5th, it just has prepared by me on it  
 11 and there's no approved by on it and I seem to  
 12 recall--I wouldn't put the Deputy Minister's  
 13 name on the bottom of a note if he had been  
 14 available at the time.  
 15 CHAYTOR, Q.C.:  
 16 Q. Okay, so you probably took this on your own  
 17 initiative without the Deputy Minister being  
 18 aware?  
 19 MS. HENNESSEY:  
 20 A. I'm inclined to think so, Ms. Chaytor, but  
 21 some of these details are very hard for me to  
 22 remember, given the lapse in time.  
 23 CHAYTOR, Q.C.:  
 24 Q. Did anybody ever ask you not to pursue that  
 25 line of questioning?

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1 MS. HENNESSEY:  
 2 A. No, they didn't.  
 3 CHAYTOR, Q.C.:  
 4 Q. If we could look at P-0098, please, and this  
 5 is an e-mail then from Ms. Predham to you the  
 6 following day, November 4th, and she also  
 7 sends the e-mail to Dr. Williams and copies  
 8 his assistant re: ER/PR update. "Hi, Moira.  
 9 Understand you were speaking to Dr. Williams  
 10 and require an update as to our communications  
 11 efforts regarding the ER/PR situation and the  
 12 following represents 611 individuals. Some of  
 13 those individuals have had--have more" I think  
 14 that should be "than one sample sent." So  
 15 there's 611 individuals, and she breaks that  
 16 down into certain categories for you.  
 17 Now she indicates at the beginning of her  
 18 e-mail that she understands you had been  
 19 speaking to Dr. Williams. Do you recall,  
 20 after sending your e-mail on November 3rd,  
 21 that you had a discussion with Dr. Williams?  
 22 MS. HENNESSEY:  
 23 A. I certainly spoke to Dr. Williams a few times  
 24 during this file, so I would think if Heather  
 25 Predham is indicating that I was speaking to

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1 Dr. Williams, I would have been.  
 2 CHAYTOR, Q.C.:  
 3 Q. And do you recall in your conversation with  
 4 Dr. Williams that he answered your questions  
 5 regarding the general findings from the  
 6 external reviews?  
 7 MS. HENNESSEY:  
 8 A. I don't recall specifically, but I think one  
 9 of the messaging in--one of the messages in a  
 10 piece of information in the November 5th note  
 11 would indicate that the problem had not been  
 12 identified at that time.  
 13 CHAYTOR, Q.C.:  
 14 Q. Okay, and you take it you would have received  
 15 that information from Dr. Williams?  
 16 MS. HENNESSEY:  
 17 A. Yes, I think so.  
 18 CHAYTOR, Q.C.:  
 19 Q. And I'll take you to that reference in the  
 20 briefing note. And Ms. Predham has given you  
 21 some detail here.  
 22 MS. HENNESSEY:  
 23 A. Yes.  
 24 CHAYTOR, Q.C.:  
 25 Q. And this e-mail is at five p.m. on Friday,

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1 November 4th, and it continues at the end with  
 2 "I understand that Dr. Williams has attempted  
 3 to reach you to discuss the quality review.  
 4 He will be following up with you on Monday. If  
 5 you need further information, I will be happy  
 6 to get it to you." And then if we could look  
 7 please at P-1441, and Ms. Hennessey, this is  
 8 an e-mail--your reply is at the top, but the  
 9 e-mail from Ms. Predham, and I take it you  
 10 know Ms. Predham fairly well as well? You  
 11 know Ms. Predham?  
 12 MS. HENNESSEY:  
 13 A. I know Ms. Predham. I don't know her well like  
 14 I know Dr. Williams and Mr. Tilley.  
 15 CHAYTOR, Q.C.:  
 16 Q. Okay. She's e-mailing to Dr. Williams and to  
 17 yourself, and this is November 4th 2005, 4:59  
 18 p.m. So it's one minute before her other e-  
 19 mail to you and this one is going to your  
 20 blackberry address, and if we read down  
 21 through it, it's basically all the same  
 22 content in a different format as the other  
 23 one. But if we go back just for a second to  
 24 P-0098, this one is one minute later at your  
 25 gov.nl address and has more detail, and

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1 includes this information regarding patients  
 2 from St. Pierre and the point about Dr.  
 3 Williams having attempted to reach you. Do  
 4 you know why you received these two somewhat  
 5 similar e-mails from Ms. Predham within a  
 6 minute of one another?  
 7 MS. HENNESSEY:  
 8 A. No, I don't know why. I think one may have  
 9 been just an update of another.  
 10 CHAYTOR, Q.C.:  
 11 Q. Well, one--they're basically the same, except  
 12 if we could just go back then to 1441, you  
 13 might just want to keep them both open,  
 14 Registrar, or diminished. This one ends  
 15 without all of the information. Do you know  
 16 what the significance is of a letter at the  
 17 end of the communication, the W? Have you  
 18 seen that on other e-mails?  
 19 MS. HENNESSEY:  
 20 A. No, I don't.  
 21 CHAYTOR, Q.C.:  
 22 Q. Okay, all right, and this particular e-mail  
 23 exchange, we've received this from Ms.  
 24 Predham. These are copies from Ms. Predham,  
 25 and I understand you have not been able to

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1 find your copies of these e-mails. Is that  
 2 right?  
 3 MS. HENNESSEY:  
 4 A. I don't--I couldn't find them when we were  
 5 providing information to the Commission.  
 6 CHAYTOR, Q.C.:  
 7 Q. Okay. So those weren't--you weren't able to  
 8 find them on the government's system, this e-  
 9 mail exchange?  
 10 MS. HENNESSEY:  
 11 A. I wasn't able to find this particular e-mail.  
 12 CHAYTOR, Q.C.:  
 13 Q. Ms. Hennessey, are there other e-mails that  
 14 you feel are missing from your communications  
 15 on this issue?  
 16 MS. HENNESSEY:  
 17 A. Ms. Chaytor, initially I did my own e-mail  
 18 search and I provided the information that I  
 19 could find. Then subsequent to that, the  
 20 government did a search of my e-mail.  
 21 CHAYTOR, Q.C.:  
 22 Q. Yes, okay. But I'm just thinking in terms of  
 23 messages that you recollect or communications  
 24 that you recollect which--for example, this  
 25 one from Ms. Predham--are there others that

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1 you have a sense there were more, but you no  
 2 longer have them in your system?  
 3 MS. HENNESSEY:  
 4 A. I don't have a general sense. I think that  
 5 you would have--now, unless I go back and do a  
 6 further search of my e-mail.  
 7 CHAYTOR, Q.C.:  
 8 Q. I'm just wondering based on your own  
 9 recollections of, you know, back and forth and  
 10 information to Eastern Health or to others  
 11 within the Department, if you have the sense  
 12 that well perhaps there are others that may no  
 13 longer exist?  
 14 MS. HENNESSEY:  
 15 A. I don't have a general sense that there's e-  
 16 mails missing, but, you know, if you're asking  
 17 me to go back and search my e-mails again, I  
 18 certainly can.  
 19 CHAYTOR, Q.C.:  
 20 Q. No, I understand that has been done. I'm just  
 21 wondering if there's anything that's not--that  
 22 you can recall which doesn't exist in e-mails  
 23 traffic that may, at some point, have been.  
 24 Like there's nothing sticks out in your mind,  
 25 I take it, that -

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1 MS. HENNESSEY:  
 2 A. There's nothing that sticks out in my mind.  
 3 CHAYTOR, Q.C.:  
 4 Q. - you received information through e-mail  
 5 which no longer is on your system?  
 6 MS. HENNESSEY:  
 7 A. No, but I certainly am quite prepared to go  
 8 have another look if you wish me to do so.  
 9 CHAYTOR, Q.C.:  
 10 Q. I understand that's been done.  
 11 MS. HENNESSEY:  
 12 A. Yeah.  
 13 THE COMMISSIONER:  
 14 Q. Ms. Chaytor, wherever you can find a  
 15 convenient spot, we'll take the morning break.  
 16 CHAYTOR, Q.C.:  
 17 Q. Okay, thank you. Well, perhaps we can end  
 18 there for now.  
 19 THE COMMISSIONER:  
 20 Q. All right. Take 15 minutes.  
 21 (RECESS)  
 22 THE COMMISSIONER:  
 23 Q. Please be seated. Ms. Chaytor.  
 24 CHAYTOR, Q.C.:  
 25 Q. Thank you, Commissioner. If we could bring up

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1 again, please, 1441? This is the e-mail that  
 2 you received from Ms. Predham.  
 3 MS. HENNESSEY:  
 4 A. Yes.  
 5 CHAYTOR, Q.C.:  
 6 Q. And I was asking you about the fact that you  
 7 received two very similar e-mails within a  
 8 minute of each other, and this one appears--  
 9 this is the earlier one and it appears to end  
 10 without completion. Ms. Hennessey, do you  
 11 either use your blackberry to send or receive  
 12 pin messages?  
 13 MS. HENNESSEY:  
 14 A. I don't use my blackberry for pin messages.  
 15 CHAYTOR, Q.C.:  
 16 Q. And at this period of time, had you used or  
 17 received pin messaging?  
 18 MS. HENNESSEY:  
 19 A. I have in the past received pin messages.  
 20 CHAYTOR, Q.C.:  
 21 Q. Yes, and at this period of time, in 2005?  
 22 MS. HENNESSEY:  
 23 A. I don't recall using pin messaging at that  
 24 time.  
 25 CHAYTOR, Q.C.:

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1 Q. You don't recall or--so what period of time  
 2 did you use pin messaging and when did you  
 3 stop pin messaging?  
 4 MS. HENNESSEY:  
 5 A. I don't know if I can recall specifically.  
 6 It's a good while since I've used pin  
 7 messaging.  
 8 CHAYTOR, Q.C.:  
 9 Q. And is this a pin message?  
 10 MS. HENNESSEY:  
 11 A. No, this is not a pin message.  
 12 CHAYTOR, Q.C.:  
 13 Q. This is not a pin message?  
 14 MS. HENNESSEY:  
 15 A. No. I mean, this information, I would have  
 16 received on my desktop, as far as I know.  
 17 CHAYTOR, Q.C.:  
 18 Q. This one is coming to you on your blackberry.  
 19 MS. HENNESSEY:  
 20 A. Okay.  
 21 CHAYTOR, Q.C.:  
 22 Q. This one, see how it's coming to you on your  
 23 blackberry?  
 24 MS. HENNESSEY:  
 25 A. Yeah, I wouldn't have received a pin message

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1 from Eastern Health.  
 2 CHAYTOR, Q.C.:  
 3 Q. Have you ever received pin messages from  
 4 Eastern Health?  
 5 MS. HENNESSEY:  
 6 A. No, I haven't.  
 7 CHAYTOR, Q.C.:  
 8 Q. Okay, and have you used pin messaging in  
 9 dealing with the ER/PR issue?  
 10 MS. HENNESSEY:  
 11 A. No, not that I can recall.  
 12 CHAYTOR, Q.C.:  
 13 Q. Now if we could look at, please, P-0098? It's  
 14 the longer version of the message, and this  
 15 one appears that it did go to your desktop.  
 16 It's the gov.nl address, and this is where she  
 17 indicates that Dr. Williams is attempting to  
 18 reach you regarding the quality review. He's  
 19 going to follow up on Monday, and I believe  
 20 you indicated that, in your evidence earlier  
 21 this morning, you believe that Dr. Williams  
 22 did speak with you or you spoke with Dr.  
 23 Williams?  
 24 MS. HENNESSEY:  
 25 A. Yes.

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1 CHAYTOR, Q.C.:

2 Q. Okay, and what do you recall in that

3 discussion with Dr. Williams?

4 MS. HENNESSEY:

5 A. Ms. Chaytor, I don't recall the details of the

6 discussions with Dr. Williams at that time.

7 CHAYTOR, Q.C.:

8 Q. Okay. Now he's going to follow up. You had

9 two main questions?

10 MS. HENNESSEY:

11 A. Yes.

12 CHAYTOR, Q.C.:

13 Q. One was the patient contact and how that's

14 going.

15 MS. HENNESSEY:

16 A. Right.

17 CHAYTOR, Q.C.:

18 Q. And Ms. Predham has given you -

19 MS. HENNESSEY:

20 A. The information on that.

21 CHAYTOR, Q.C.:

22 Q. - some detail on that.

23 MS. HENNESSEY:

24 A. Right.

25 CHAYTOR, Q.C.:

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1 Q. Through those e-mails. And the thing that Dr.

2 Williams is going to follow up with you or his

3 attempting to call you about is the second

4 question, I take it, about the findings,

5 general findings from the two reviews.

6 MS. HENNESSEY:

7 A. Yes.

8 CHAYTOR, Q.C.:

9 Q. So is that what you recall discussing with Dr.

10 Williams?

11 MS. HENNESSEY:

12 A. I don't recall the details around this

13 particular issue, but there is a reference in

14 our briefing note of November 7th which would

15 lead me to conclude that it would have come

16 from information provided by Dr. Williams.

17 CHAYTOR, Q.C.:

18 Q. So other than what reference you then have in

19 the briefing note, you have no recollection of

20 any discussion with Dr. Williams to answer

21 your question of what were the general

22 findings?

23 MS. HENNESSEY:

24 A. No, I don't have any clear recollection of

25 that discussion.

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1 THE COMMISSIONER:

2 Q. Or even recall having a discussion with him

3 about this?

4 MS. HENNESSEY:

5 A. I would think if Dr.--if Heather's e-mail says

6 that Dr. Williams would follow up with me on

7 Monday, I found Dr. Williams to be reliable,

8 so I would tend to think that he did call me.

9 CHAYTOR, Q.C.:

10 Q. Well, it says he will be following up with you

11 on Monday.

12 MS. HENNESSEY:

13 A. Yes.

14 CHAYTOR, Q.C.:

15 Q. And she's writing this on the Friday.

16 MS. HENNESSEY:

17 A. Friday, yes.

18 CHAYTOR, Q.C.:

19 Q. So what's your recollection though? Do you

20 recall that you actually spoke with Dr.

21 Williams?

22 MS. HENNESSEY:

23 A. I can't recall specifically whether I spoke to

24 him on that Monday, but I did speak to Dr.

25 Williams during that time period.

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1 CHAYTOR, Q.C.:

2 Q. And did your discussions concern your question

3 of what were the general findings from the

4 external reviewers?

5 MS. HENNESSEY:

6 A. I would tend to think that that perhaps was

7 the focus, but I don't recall.

8 CHAYTOR, Q.C.:

9 Q. And why do you tend to think that was the

10 focus?

11 MS. HENNESSEY:

12 A. Because when I sent the e-mail asking the

13 question, I would tend to think that we would

14 have discussed that matter.

15 CHAYTOR, Q.C.:

16 Q. And in terms of any detail around that

17 discussion and what Dr. Williams told you,

18 you're not able to say?

19 MS. HENNESSEY:

20 A. No, I don't recall the details. There are

21 certain periods during this file when my

22 recall is better than others.

23 CHAYTOR, Q.C.:

24 Q. Ms. Hennessey, if Dr. Williams had--have you

25 since seen the external review reports?

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1 MS. HENNESSEY:  
 2 A. No, I haven't.  
 3 CHAYTOR, Q.C.:  
 4 Q. You've never seen them.  
 5 MS. HENNESSEY:  
 6 A. No.  
 7 CHAYTOR, Q.C.:  
 8 Q. Okay. If we could bring up P-0046, please?  
 9 And this report is dated October 17th, 2005  
 10 and it is the report of Dr. Banerjee. It's  
 11 the actual report here, the cover page.  
 12 MS. HENNESSEY:  
 13 A. Right.  
 14 CHAYTOR, Q.C.:  
 15 Q. So this is the first time you're seeing this  
 16 document?  
 17 MS. HENNESSEY:  
 18 A. Yes, it is.  
 19 CHAYTOR, Q.C.:  
 20 Q. Okay. I'm just going to take you through some  
 21 of the things. You'll see as I'm scrolling  
 22 down here, he has a number of headings, and  
 23 then he comes to conclusions about the reasons  
 24 for test failure. "1. Is the DAKO system  
 25 faulty? This is unlikely as there are many

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1 laboratories using the DAKO system  
 2 successfully. The reason for test failure was  
 3 most likely due to a lack of test  
 4 optimization, including antigen retrieval  
 5 method and antibody detection system  
 6 titration, as positive controls showed weak  
 7 staining and general and internal controls  
 8 failed in all of the false negative cases.  
 9 Is the Ventana system too sensitive?" is  
 10 number two. "There is no evidence that the  
 11 Ventana system creates false positive results.  
 12 3. Is there a problem with tissue  
 13 fixation? There appears to be inadequate  
 14 attention paid by the grossing pathologists to  
 15 the thickness of the tissue slices, quality  
 16 and adequacy of fixation, and there is no  
 17 standardized fixation protocol. 4. Inadequate  
 18 or no attention is being paid by the reporting  
 19 pathologist to the status of internal  
 20 controls," and then 6, which should be 5,  
 21 "inappropriate choice of blocks with no  
 22 representative normal ductal epithelium," and  
 23 "7. better education required for  
 24 technologists, pathologists and clinicians  
 25 about the pitfalls of IHC and the importance

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1 of quality control interpretation of IHC  
 2 results." And then he has a list of other  
 3 system flaws, seven other things notes there.  
 4 If your discussion had included Dr.  
 5 Williams pointing these things out to you, do  
 6 you think you would recall that?  
 7 MS. HENNESSEY:  
 8 A. I think I would recall some of this.  
 9 CHAYTOR, Q.C.:  
 10 Q. So your e-mail is November 3rd. So the  
 11 beginning of November, any discussion you had  
 12 with Dr. Williams, is it fair to conclude that  
 13 you were not told the findings from this  
 14 report?  
 15 MS. HENNESSEY:  
 16 A. I would not have been--I do not recall being  
 17 told any of these details.  
 18 CHAYTOR, Q.C.:  
 19 Q. Do you recall being told any detail?  
 20 MS. HENNESSEY:  
 21 A. No, I can't recall.  
 22 CHAYTOR, Q.C.:  
 23 Q. If you had been told the findings from the  
 24 reports, is that something you think you would  
 25 recall?

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1 MS. HENNESSEY:  
 2 A. I think I would recall if some of this detail  
 3 was shared with me.  
 4 CHAYTOR, Q.C.:  
 5 Q. Ms. Hennessey, we know from correspondence of  
 6 Dr. Carter, at one point she described the  
 7 external review reports as being fairly  
 8 damning reports. Were you ever given the  
 9 sense that the external reviews had been very  
 10 critical of the laboratory and the work of the  
 11 pathologists and perhaps technologists?  
 12 MS. HENNESSEY:  
 13 A. I can't say I was given that sense.  
 14 CHAYTOR, Q.C.:  
 15 Q. If we could look at, please, 0124, page eight,  
 16 and this is the briefing note then, Ms.  
 17 Hennessey, that you prepare, and it's prepared  
 18 by yourself  
 19 MS. HENNESSEY:  
 20 A. Yes.  
 21 CHAYTOR, Q.C.:  
 22 Q. And nobody approved it.  
 23 MS. HENNESSEY:  
 24 A. No.  
 25 CHAYTOR, Q.C.:

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1 Q. And it's November 7th, 2005. So that e-mail  
 2 exchange that I showed to you would have been  
 3 November 3rd through 4th.  
 4 MS. HENNESSEY:  
 5 A. Yes.  
 6 CHAYTOR, Q.C.:  
 7 Q. When you were looking for the information for  
 8 your briefing note, and November 7th then, if  
 9 you had your discussion on the Monday with Dr.  
 10 Williams, I take it it would have been the day  
 11 that you're preparing your note or the day  
 12 your note is finalized. Is that correct?  
 13 MS. HENNESSEY:  
 14 A. Yes.  
 15 CHAYTOR, Q.C.:  
 16 Q. And you've written in this briefing note,  
 17 after identifying the issue, the anticipated  
 18 questions, "how did this happen? What is  
 19 being done to correct this problem?" and then  
 20 you come down under your second bullet, "the  
 21 problem was discovered in May and a quality  
 22 review began immediately. Determining what  
 23 happened with the testing of tissue samples is  
 24 critical and a priority for Eastern Health and  
 25 this government. The situation is disturbing

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1 for all of us." And then under suggested  
 2 responses, "there are a number of steps in the  
 3 testing process. Any problem in any step can  
 4 cause a problem with the test results. When  
 5 the problem is identified, changes in policies  
 6 and practices may be necessary to minimize any  
 7 recurrence of inconsistent test results."  
 8 Now Ms. Hennessey, is this the reference  
 9 that you were referring to in your answers to  
 10 my question?  
 11 MS. HENNESSEY:  
 12 A. The one on the--the first one under the other  
 13 suggested response, yes.  
 14 CHAYTOR, Q.C.:  
 15 Q. Okay, "when the problem is identified"  
 16 MS. HENNESSEY:  
 17 A. Yes.  
 18 CHAYTOR, Q.C.:  
 19 Q. So what does that tell you, in terms of the  
 20 information you received from Dr. Williams?  
 21 MS. HENNESSEY:  
 22 A. It tells--my sense of what it tells me is that  
 23 Eastern Health was still trying to identify  
 24 what caused the problem.  
 25 CHAYTOR, Q.C.:

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1 Q. And you are indicating that "determining what  
 2 happened is critical and a priority for the  
 3 government and for Eastern Health"?  
 4 MS. HENNESSEY:  
 5 A. Yes.  
 6 CHAYTOR, Q.C.:  
 7 Q. And you've included in the anticipated  
 8 question, "how did this happen?"  
 9 MS. HENNESSEY:  
 10 A. Yes.  
 11 CHAYTOR, Q.C.:  
 12 Q. And this briefing note again is intended for  
 13 the Minister to be able to answer questions in  
 14 the House of Assembly?  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. So whatever discussion you had with Dr.  
 19 Williams, you were left with the impression  
 20 that the general findings of the external  
 21 review did not help identify the problem?  
 22 MS. HENNESSEY:  
 23 A. That's certainly my--by rereading this note  
 24 now that I think that they were still trying  
 25 to identify the problem and that they would be

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1 introducing some changes in their practices  
 2 once the problem was confirmed.  
 3 CHAYTOR, Q.C.:  
 4 Q. And whatever the findings were, because your  
 5 question had been very specific, "what are the  
 6 general findings?" were you told the findings  
 7 from the external reviews?  
 8 MS. HENNESSEY:  
 9 A. I was not told the details that you just  
 10 showed me.  
 11 CHAYTOR, Q.C.:  
 12 Q. But were you told anything?  
 13 MS. HENNESSEY:  
 14 A. I don't recall specifics around -  
 15 CHAYTOR, Q.C.:  
 16 Q. What do you recall?  
 17 MS. HENNESSEY:  
 18 A. I don't--I have to say I don't recall, Ms.  
 19 Chaytor, what the information that was  
 20 provided to me by Dr. Williams that morning.  
 21 CHAYTOR, Q.C.:  
 22 Q. So the best you can do in your evidence to the  
 23 Commissioner is say that looking back now over  
 24 the briefing note and what you put in the  
 25 briefing note, you were left with the

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1 impression that the problem had yet to be  
 2 identified?  
 3 MS. HENNESSEY:  
 4 A. Certainly based on that briefing note, I would  
 5 certainly have had that impression at that  
 6 time.  
 7 CHAYTOR, Q.C.:  
 8 Q. So Ms. Hennessey, I want to understand if it's  
 9 that you understood the reviews were complete?  
 10 MS. HENNESSEY:  
 11 A. Yes.  
 12 CHAYTOR, Q.C.:  
 13 Q. You did understand that?  
 14 MS. HENNESSEY:  
 15 A. Yes.  
 16 CHAYTOR, Q.C.:  
 17 Q. That the reports had been received?  
 18 MS. HENNESSEY:  
 19 A. Yes.  
 20 CHAYTOR, Q.C.:  
 21 Q. That the general findings were available, but  
 22 that it had shed no light on the problem with  
 23 the ER/PR testing?  
 24 MS. HENNESSEY:  
 25 A. I don't know if I could say that. I know that

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1 the reports had been received. That they, you  
 2 know, would have provided some information to  
 3 Eastern Health based on this note. My sense  
 4 is that the core problem had not been  
 5 identified at that time.  
 6 CHAYTOR, Q.C.:  
 7 Q. And that was based on the reviews? Your  
 8 question was what were the findings of the  
 9 reviews. So if that question hadn't been  
 10 answered, would you be continuing to ask that  
 11 question?  
 12 MS. HENNESSEY:  
 13 A. With respect to what happened?  
 14 CHAYTOR, Q.C.:  
 15 Q. Well, with respect to the general findings.  
 16 If you hadn't been given the answer, would we  
 17 expect to see you asking that question again?  
 18 MS. HENNESSEY:  
 19 A. Yeah, I think the--as we move further along  
 20 that the--our notes identify some of the  
 21 recommendations that came out of the review.  
 22 But, no, I don't recall and I still don't have  
 23 a clear understanding of what happened.  
 24 CHAYTOR, Q.C.:  
 25 Q. And other than that e-mail on November the

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1 3rd, did you ever ask?  
 2 MS. HENNESSEY:  
 3 A. Ms. Chaytor, I don't remember.  
 4 COMMISSIONER:  
 5 Q. Ms. Hennessey, I'm wondering if you can  
 6 perhaps approach it a slightly different way  
 7 and give me some assistance on this because  
 8 what you have here is a situation where you've  
 9 asked for the results of a report.  
 10 MS. HENNESSEY:  
 11 A. Yes.  
 12 COMMISSIONER:  
 13 Q. And on the basis--and you communicated with  
 14 Eastern Health.  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 COMMISSIONER:  
 18 Q. We have a reply back which indicates that just  
 19 that Dr. Williams will talk to you about the  
 20 aspect which relates to the reports.  
 21 MS. HENNESSEY:  
 22 A. Yes.  
 23 COMMISSIONER:  
 24 Q. And you indicate you're fairly confident he  
 25 would have done so, he's very good at doing

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1 that kind of thing?  
 2 MS. HENNESSEY:  
 3 A. He's very good at returning my calls.  
 4 COMMISSIONER:  
 5 Q. Okay. All right. So, what I hear you saying  
 6 is it's likely that Dr. Williams spoke to me,  
 7 and you can say this is what I put in my  
 8 briefing note. As I understand it, you're  
 9 also saying I don't remember the conversation,  
 10 but on the basis of the briefing note this is  
 11 what I conclude?  
 12 MS. HENNESSEY:  
 13 A. Yes.  
 14 COMMISSIONER:  
 15 Q. But as Ms. Chaytor is rightfully pointing out  
 16 to you, you had asked him a specific question,  
 17 you'd asked him in terms of the reports which  
 18 you had anticipated, based on prior  
 19 communication, they would then have in their  
 20 position?  
 21 MS. HENNESSEY:  
 22 A. Yeah, I would anticipate that they have the  
 23 reports. I didn't anticipate seeing the  
 24 reports.  
 25 COMMISSIONER:

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1 Q. Okay. But you did anticipate that they would  
 2 have them?  
 3 MS. HENNESSEY:  
 4 A. Yes.  
 5 COMMISSIONER:  
 6 Q. And you asked them, Eastern Health,  
 7 essentially what were the key messages coming  
 8 out of those reports?  
 9 MS. HENNESSEY:  
 10 A. Yes.  
 11 COMMISSIONER:  
 12 Q. Then you write your briefing note?  
 13 MS. HENNESSEY:  
 14 A. Yes.  
 15 COMMISSIONER:  
 16 Q. In which you do not say what the key messages  
 17 are coming out of the reports.  
 18 MS. HENNESSEY:  
 19 A. No, I -  
 20 COMMISSIONER:  
 21 Q. Is that fair?  
 22 MS. HENNESSEY:  
 23 A. That's correct. Dr. Williams didn't walk me  
 24 down through all of the details that you just  
 25 shared with me in the report.

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1 COMMISSIONER:  
 2 Q. So are you remembering--are you saying that he  
 3 didn't do that because you don't remember him  
 4 having done it so or do you remember enough of  
 5 the conversation to know that he didn't do  
 6 that? You see, when you read your briefing  
 7 note.  
 8 MS. HENNESSEY:  
 9 A. Yes.  
 10 COMMISSIONER:  
 11 Q. Then it looks like, on the face of it, that  
 12 the problem has not yet been identified, they  
 13 don't know what went wrong at Eastern Health.  
 14 MS. HENNESSEY:  
 15 A. That's right, by reading my briefing note,  
 16 that's what -  
 17 COMMISSIONER:  
 18 Q. Okay. And what I need to know is whether or  
 19 not you got that from Dr. Williams' remarks to  
 20 you?  
 21 MS. HENNESSEY:  
 22 A. I would think that's what I would have gotten,  
 23 but I don't recall specifically, Commissioner,  
 24 to be able to say that definitively. But  
 25 that, you know, if that's the response that we

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1 prepared at that time, that, I think, would  
 2 have been my understanding.  
 3 COMMISSIONER:  
 4 Q. Now, there's another step in this. Did you  
 5 get that, which you may or may not be able to  
 6 answer, but I think it's fairly important, is  
 7 that because Dr. Williams might have said to  
 8 you, for example, there are all kinds of  
 9 things that can lead you to the same  
 10 conclusions, for example, if somebody had said  
 11 to you, well, I don't know what's in the  
 12 report, but once the problem is identified,  
 13 we're going to take the steps to correct it.  
 14 That's one way of interpreting this.  
 15 MS. HENNESSEY:  
 16 A. I think Dr. Williams certainly would have  
 17 known what was in the reports.  
 18 COMMISSIONER:  
 19 Q. Well, that's what I need to know, whether or  
 20 not you were being told anything which  
 21 indicated that either the content of the  
 22 reports would lead you to this or was he  
 23 saying I can't tell you what's in the reports,  
 24 but I can assure you that as soon as we figure  
 25 out what went wrong, we'll fix it? Or was he

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1 saying we still don't know what's wrong, but  
 2 when we figure it out, we're going to fix it?  
 3 You see, there are all kinds of possibilities  
 4 that can lead to the same thing coming in your  
 5 briefing note.  
 6 MS. HENNESSEY:  
 7 A. Right.  
 8 COMMISSIONER:  
 9 Q. And it's rather important to figure out what  
 10 happened in the middle. So if you're able to  
 11 assist us, we'd very much appreciate it.  
 12 MS. HENNESSEY:  
 13 A. Well, I seem to recall when--the comment there  
 14 about there's a number of steps in the testing  
 15 process, there was a reference to that there  
 16 being 40 steps in the testing process and that  
 17 anything could go wrong in these steps that  
 18 could, you know, cause a problem with the  
 19 testing. When I read on, I mean, I would have  
 20 to read there that the problem had not been--  
 21 or my interpretation of what I was told was  
 22 that the problem still had not been clearly  
 23 identified and that when it was, that they may  
 24 need to implement changes in their policies  
 25 and practices. I think that's what I would



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1 have to conclude from what I've written there.  
 2 COMMISSIONER:  
 3 Q. Do you recall at any point anybody saying to  
 4 you I cannot tell you what's in the reports?  
 5 MS. HENNESSEY:  
 6 A. No, I do not recall anyone telling me that.  
 7 COMMISSIONER:  
 8 Q. Sorry, Ms. Chaytor, I've interrupted again.  
 9 CHAYTOR, Q.C.:  
 10 Q. Thank you, Commissioner. In answering the  
 11 Commissioner's questions, you indicated that  
 12 you didn't anticipate seeing the reports. Why  
 13 not?  
 14 MS. HENNESSEY:  
 15 A. I understood that these were quality reviews  
 16 that were done internal to that organization  
 17 and that they would take the reviews and  
 18 implement the recommendations.  
 19 CHAYTOR, Q.C.:  
 20 Q. And who gave you that understanding?  
 21 MS. HENNESSEY:  
 22 A. With respect to the access to the quality  
 23 reviews?  
 24 CHAYTOR, Q.C.:  
 25 Q. Yes, that you wouldn't anticipate seeing them

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1 because you understood they were quality  
 2 reviews, who -  
 3 MS. HENNESSEY:  
 4 A. That's right.  
 5 CHAYTOR, Q.C.:  
 6 Q. Where did you receive that?  
 7 MS. HENNESSEY:  
 8 A. I mean, I understood that these types of  
 9 reviews are internal to an organization and  
 10 they are protected under the Evidence Act.  
 11 CHAYTOR, Q.C.:  
 12 Q. Okay. And did you have that understanding  
 13 prior to this issue of ER/PR?  
 14 MS. HENNESSEY:  
 15 A. I think generally I knew that there was a  
 16 section in the Evidence Act related to quality  
 17 or peer reviews.  
 18 CHAYTOR, Q.C.:  
 19 Q. Okay. And so you've had a fairly lengthy  
 20 career in the Department of Health and within  
 21 the health profession. Have you ever  
 22 encountered a situation where the department  
 23 requested information from a health authority  
 24 around a quality review and was told that they  
 25 wouldn't provide it?

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1 MS. HENNESSEY:  
 2 A. I mean, we would--with respect to quality  
 3 reviews done in the health authorities, I  
 4 mean, these would be internal to their  
 5 organizations. We would, I think, be made  
 6 aware of some of the general findings, but we  
 7 would not expect to see the reviews.  
 8 CHAYTOR, Q.C.:  
 9 Q. Okay. My question being whether or not the  
 10 department ever asked for such information  
 11 from a health authority and were told they  
 12 could not have the information?  
 13 MS. HENNESSEY:  
 14 A. I don't recall asking specific question, you  
 15 know, to give me a copy of the review.  
 16 CHAYTOR, Q.C.:  
 17 Q. Okay. So I take it that you're not aware of  
 18 any situation where the department ever  
 19 requested information arising from a quality  
 20 review and were told by a health authority  
 21 they couldn't have the information?  
 22 MS. HENNESSEY:  
 23 A. I don't, I don't recall being told we couldn't  
 24 have some information around the general  
 25 findings or recommendations in a review, but I

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1 don't recall ever asking specifically for the  
 2 report, reports of this nature to be sent to  
 3 the department.  
 4 CHAYTOR, Q.C.:  
 5 Q. Were you aware that both Minister Ottenheimer  
 6 and Mr. Abbott expected to receive copies of  
 7 the reports?  
 8 MS. HENNESSEY:  
 9 A. I don't recall being in a discussion where  
 10 they indicated to me that they were expecting  
 11 to receive these reports.  
 12 CHAYTOR, Q.C.:  
 13 Q. Did you ever share your view with them as to  
 14 the protection that you understood was  
 15 afforded the reports?  
 16 MS. HENNESSEY:  
 17 A. No, I don't recall a discussion around that  
 18 topic.  
 19 CHAYTOR, Q.C.:  
 20 Q. If we could look back then at your briefing  
 21 note. There's just a couple of more points  
 22 here. Under "Background" and there's a number  
 23 of numbers again. And I take it these are the  
 24 numbers that you received from Ms. Predham?  
 25 MS. HENNESSEY:

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1 A. Yes, they were.  
 2 CHAYTOR, Q.C.:  
 3 Q. Okay. And again, you've put them into the  
 4 briefing note, so you've accepted their  
 5 numbers. And included in the third bullet  
 6 "About 350 breast cancer tests are done  
 7 annually in this province. About 73 percent  
 8 of all cancer patients tested positive for ER  
 9 and PR. These patients are not impacted by  
 10 the retesting. The retesting involves about  
 11 25 percent of all"--"27", sorry, "percent of  
 12 all patients."  
 13 MS. HENNESSEY:  
 14 A. Yeah.  
 15 CHAYTOR, Q.C.:  
 16 Q. Okay. And so again, this information would  
 17 have come from whom?  
 18 MS. HENNESSEY:  
 19 A. That information would have come from Eastern  
 20 Health.  
 21 CHAYTOR, Q.C.:  
 22 Q. And you do refer to, in the next bullet, to 21  
 23 patients in nursing homes/St. Pierre. And I  
 24 just bring that to your attention because if  
 25 we go back to look at P, I believe it's 1441.

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1 MS. HENNESSEY:  
 2 A. Right.  
 3 CHAYTOR, Q.C.:  
 4 Q. 1441, I believe, yeah. And this e-mail is the  
 5 first one that you received from Heather  
 6 Predham.  
 7 MS. HENNESSEY:  
 8 A. Yes.  
 9 CHAYTOR, Q.C.:  
 10 Q. And we know you received it because you've  
 11 acknowledged receipt of the information.  
 12 MS. HENNESSEY:  
 13 A. Yes.  
 14 CHAYTOR, Q.C.:  
 15 Q. And you tell her it's quite helpful. That e-  
 16 mail ends, "However, without the information  
 17 on St. Pierre"?  
 18 MS. HENNESSEY:  
 19 A. Yes.  
 20 CHAYTOR, Q.C.:  
 21 Q. And if we could go then, please, back to P-  
 22 0098? This is the longer version a minute  
 23 later from Ms. Predham. And this, of course,  
 24 includes the patients in care and the patients  
 25 from St. Pierre?

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1 MS. HENNESSEY:  
 2 A. Yeah, yes.  
 3 CHAYTOR, Q.C.:  
 4 Q. Okay. So while we have no acknowledgement of  
 5 this e-mail from you, I take it you must have  
 6 received both e-mails from Ms. Predham?  
 7 MS. HENNESSEY:  
 8 A. Yes, I would think so because I wouldn't have  
 9 had the information on the nursing homes or  
 10 St. Pierre without having received that e-  
 11 mail.  
 12 CHAYTOR, Q.C.:  
 13 Q. Okay. Ms. Hennessey, the November 17th, then,  
 14 2005 briefing, I believe you indicated that  
 15 you did not attend that?  
 16 MS. HENNESSEY:  
 17 A. Yes.  
 18 CHAYTOR, Q.C.:  
 19 Q. Okay. And why not, why didn't you attend that  
 20 briefing?  
 21 MS. HENNESSEY:  
 22 A. I don't recall being asked to attend that  
 23 briefing.  
 24 CHAYTOR, Q.C.:  
 25 Q. And that was a briefing with Eastern Health?

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1 MS. HENNESSEY:  
 2 A. Yes.  
 3 CHAYTOR, Q.C.:  
 4 Q. Did anyone then inform you as to what was  
 5 discussed in that briefing and the outcome of  
 6 any of the discussions?  
 7 MS. HENNESSEY:  
 8 A. I wasn't briefed following that briefing.  
 9 CHAYTOR, Q.C.:  
 10 Q. And were you asked to do anything in follow up  
 11 from that briefing?  
 12 MS. HENNESSEY:  
 13 A. I don't recall specifically having a  
 14 discussion with the deputy minister after that  
 15 briefing.  
 16 CHAYTOR, Q.C.:  
 17 Q. What do you recall then being your next  
 18 involvement on this issue?  
 19 MS. HENNESSEY:  
 20 A. I'm just trying to think back. I believe  
 21 following that briefing that Ms. Mundon was  
 22 asked to provide a list of questions to  
 23 Eastern Health.  
 24 CHAYTOR, Q.C.:  
 25 Q. Okay. And did you assist her in that?

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1 MS. HENNESSEY:  
 2 A. Yes, I can remember her asking me to give her  
 3 assistance with that because I felt I was  
 4 working at a bit of a disadvantage in that I  
 5 hadn't been in the briefing, but I did my best  
 6 to try and help her with a list of questions.  
 7 CHAYTOR, Q.C.:  
 8 Q. And had Ms. Mundon been in the briefing?  
 9 MS. HENNESSEY:  
 10 A. I would think that she was, but I don't know  
 11 for sure.  
 12 CHAYTOR, Q.C.:  
 13 Q. Okay. And you found that you were in a bit of  
 14 a disadvantage because you hadn't been in the  
 15 briefing?  
 16 MS. HENNESSEY:  
 17 A. Well, I hadn't been in the briefing with  
 18 Eastern Health and the minister, but I recall  
 19 giving her some assistance to draft some  
 20 questions to go back to Eastern Health.  
 21 CHAYTOR, Q.C.:  
 22 Q. Okay. And these were questions, I take it,  
 23 that the minister posed that he wanted  
 24 answered?  
 25 MS. HENNESSEY:

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1 A. Well, these would have been based on her  
 2 knowledge, they would have been questions, I  
 3 guess, as a follow up to the meeting, right.  
 4 CHAYTOR, Q.C.:  
 5 Q. And in having done your briefing note of  
 6 November 7th, 2005, did anybody ask you any  
 7 questions surrounding the information in your  
 8 briefing note?  
 9 MS. HENNESSEY:  
 10 A. I don't remember anyone asking me any, for any  
 11 additional information subsequent to that  
 12 briefing note.  
 13 CHAYTOR, Q.C.:  
 14 Q. And did the minister or the deputy minister  
 15 ever ask you anything further about the  
 16 findings from the external review reports?  
 17 MS. HENNESSEY:  
 18 A. I don't recall being in a discussion with the  
 19 deputy or the minister on it.  
 20 CHAYTOR, Q.C.:  
 21 Q. Do you recall being asked anything about the  
 22 findings from the external review reports by  
 23 anyone?  
 24 MS. HENNESSEY:  
 25 A. I don't recall. I mean, I provided the

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1 information in the briefing notes. I don't  
 2 recall a subsequent discussion in November or  
 3 December of 2005 on this topic.  
 4 CHAYTOR, Q.C.:  
 5 Q. Okay. If we could look at P-100, please? And  
 6 this is an e-mail exchange, then, between  
 7 yourself and Ms. Mundon?  
 8 MS. HENNESSEY:  
 9 A. Yes.  
 10 CHAYTOR, Q.C.:  
 11 Q. And we start at the bottom. The bottom,  
 12 actually, is between Ms. Mundon and Ms.  
 13 Thomas-Pennell.  
 14 MS. HENNESSEY:  
 15 A. Right.  
 16 CHAYTOR, Q.C.:  
 17 Q. Thanking them for the heads up regarding a  
 18 media story. And then it's Friday, December  
 19 2nd, sorry, 2005, Ms. Pennell to Ms. Mundon  
 20 and the subject is "ER/PR." "I'll have to  
 21 check the latest numbers, but I think that's  
 22 low. I'll find out for you." And what does  
 23 an embedded message mean, do you know what  
 24 that means?  
 25 MS. HENNESSEY:

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1 A. I think an embedded means it's just the  
 2 message is put in the e-mail rather than  
 3 attached as a--to an e-mail.  
 4 CHAYTOR, Q.C.:  
 5 Q. Yes, okay. And because I'm just wondering in  
 6 terms of the dates here, there seems to be a  
 7 mix-up. We go from Ms. Pennell's, Thomas-  
 8 Pennell's e-mail to Tansy Mundon and it's  
 9 December, sorry, 2nd, 2005. Then we have your  
 10 message--or, sorry, Tansy's message--I'm  
 11 sorry. It's your message to Tansy.  
 12 MS. HENNESSEY:  
 13 A. Yes.  
 14 CHAYTOR, Q.C.:  
 15 Q. And copied to Mr. Rumboldt, and it's December  
 16 5th, 2005. And then Tansy's is December 4th,  
 17 2005. So it appears to be earlier. See what  
 18 I'm saying? You're writing to Tansy and then  
 19 Tansy's response back is a day earlier. Can  
 20 you offer any explanation for that?  
 21 MS. HENNESSEY:  
 22 A. No, I can't. I can appreciate where you're  
 23 coming from on it, but I don't think I would  
 24 have been focused on that, I would have been  
 25 focused more on the information with respect

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1 to the fact that only 25 percent of the test  
 2 results were back at that time.  
 3 CHAYTOR, Q.C.:  
 4 Q. Right, okay. So in terms of any--you know,  
 5 obviously she can't respond to your e-mail the  
 6 day before you even send it, so I'm just  
 7 curious about how that could be. And maybe  
 8 there's some cutting and pasting going on here  
 9 with the e-mails, I don't know.  
 10 MS. HENNESSEY:  
 11 A. I don't know. I certainly wouldn't be cutting  
 12 and pasting because I don't have those skills.  
 13 CHAYTOR, Q.C.:  
 14 Q. Okay. So "Hi Tansy," you're writing to, I  
 15 understand this is your original message,  
 16 December 5th, 2005.  
 17 MS. HENNESSEY:  
 18 A. Yes.  
 19 CHAYTOR, Q.C.:  
 20 Q. "Hi Tansy, I'm also surprised that only about  
 21 25 percent of the test results are back. This  
 22 has been ongoing since this summer and I  
 23 thought Mount Sinai was using extra staff  
 24 overtime to get these tests done as quickly as  
 25 possible. From a patient's perspective this

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1 is becoming less and less acceptable and it is  
 2 likely the minister will be subject to some  
 3 hard questioning on why things went wrong and  
 4 why it is taking so long to get the results  
 5 from Mount Sinai." And then you're asking  
 6 John Rumboldt, I understand that to be, he's  
 7 copied on this e-mail.  
 8 MS. HENNESSEY:  
 9 A. Right.  
 10 CHAYTOR, Q.C.:  
 11 Q. "Can you please update the briefing note with  
 12 the test results data before the minister goes  
 13 to the house tomorrow? You may need to work  
 14 with Tansy on new questions/key messages.  
 15 Thanks." And Tansy's response, "This is one I  
 16 think can definitely come up in the house this  
 17 week." So clearly at this point in time, Ms.  
 18 Hennessey, you have concerns, it is now  
 19 December?  
 20 MS. HENNESSEY:  
 21 A. Right.  
 22 CHAYTOR, Q.C.:  
 23 Q. And the department was first notified of this  
 24 in mid July. And the problem had been  
 25 detected in Eastern Health back in the spring,

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1 April or May.  
 2 MS. HENNESSEY:  
 3 A. Yes.  
 4 CHAYTOR, Q.C.:  
 5 Q. Of 2005. And you're concerned that only 25  
 6 percent of the test results are back. And so  
 7 tell us about that, what do you recall around  
 8 this, and what, if anything, you did regarding  
 9 this issue?  
 10 MS. HENNESSEY:  
 11 A. At this particular point in time I was out of  
 12 the province when this e-mail exchange was  
 13 happening. Actually on that Monday, the 5th,  
 14 I was actually on paid leave. I was trying to  
 15 ensure that the--that was a Monday morning. I  
 16 was trying to ensure that the most recent  
 17 information from Eastern Health would have  
 18 been incorporated into the minister's briefing  
 19 note at that time. I seem to remember vaguely  
 20 a discussion with Mr. Abbott after I came  
 21 back, but not any detail. I think at this  
 22 point in time we were told that the testing  
 23 would be completed in January.  
 24 CHAYTOR, Q.C.:  
 25 Q. Okay. So how is it you recall that you were

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1 out of the province on this day?  
 2 MS. HENNESSEY:  
 3 A. I recall that because on the--in early  
 4 December of every year there's usually a  
 5 conference in Toronto that I like to attend  
 6 and then I often times have a good friend who  
 7 lives in Lancaster, Ontario, and I take an  
 8 extra day or two to spend with her before I  
 9 return to the province.  
 10 CHAYTOR, Q.C.:  
 11 Q. And that fell around December 5th that year?  
 12 MS. HENNESSEY:  
 13 A. Yes, it did. And I also know because it  
 14 happens to be the time period of my step-  
 15 mother's birthday and I tend to be away more  
 16 than I'm in St. John's at that time.  
 17 CHAYTOR, Q.C.:  
 18 Q. Okay. And so what in terms of you have  
 19 concerns about the pace at which this  
 20 retesting is happening?  
 21 MS. HENNESSEY:  
 22 A. Right.  
 23 CHAYTOR, Q.C.:  
 24 Q. Did you follow up with Eastern Health on that  
 25 when you returned?

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1 MS. HENNESSEY:  
 2 A. I may have had a discussion with Dr. Williams  
 3 at that time but I wouldn't be able to recall  
 4 specifically.  
 5 CHAYTOR, Q.C.:  
 6 Q. Was any assistance offered to Eastern Health,  
 7 do you know, as to how this could be, this  
 8 could be handled in a more expeditious manner?  
 9 MS. HENNESSEY:  
 10 A. Sorry, I missed the first part of your  
 11 question.  
 12 CHAYTOR, Q.C.:  
 13 Q. Do you know was there any assistance offered  
 14 to Eastern Health at this point in time, any  
 15 inquiries made of them as to whether or not  
 16 the department could do anything to assist,  
 17 and if so, any assistance offered to them?  
 18 MS. HENNESSEY:  
 19 A. Well, at this point in time Eastern Health  
 20 would have been relying on Mount Sinai to  
 21 provide--to do the retesting for them, so I  
 22 don't recall Eastern Health asking us for any  
 23 assistance at that time.  
 24 CHAYTOR, Q.C.:  
 25 Q. Okay. And the other question that it appears

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1 that you haven't forgotten is "The minister  
 2 will be subject to some hard questioning on  
 3 why things went wrong and why it is taking so  
 4 long to get the results from Mount Sinai." So  
 5 I take it, Ms. Hennessey, this is the question  
 6 you posed a month earlier?  
 7 MS. HENNESSEY:  
 8 A. Yes.  
 9 CHAYTOR, Q.C.:  
 10 Q. What happened. And you indicated at that  
 11 point in your briefing note that it was  
 12 critical and a priority to the government and  
 13 Eastern Health to determine what happened.  
 14 And a month later you're indicating the  
 15 minister is probably going to be subject to  
 16 some hard questioning on why things went  
 17 wrong.  
 18 MS. HENNESSEY:  
 19 A. I was anticipating that, you know, time was  
 20 passing on then from back in the summer of  
 21 2005 when the first indication would be three  
 22 to four weeks and at this point in time we  
 23 were into four months.  
 24 CHAYTOR, Q.C.:  
 25 Q. Yes. And that's regarding the--what's taking

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1 so long for the retesting?  
 2 MS. HENNESSEY:  
 3 A. Yes.  
 4 CHAYTOR, Q.C.:  
 5 Q. I just want to focus for a second on the  
 6 question that you posed a month earlier, what  
 7 went wrong.  
 8 MS. HENNESSEY:  
 9 A. Yes.  
 10 CHAYTOR, Q.C.:  
 11 Q. And you're anticipating that your minister is  
 12 going to be subject to some hard questioning  
 13 on that issue, as well.  
 14 MS. HENNESSEY:  
 15 A. Right.  
 16 CHAYTOR, Q.C.:  
 17 Q. On what went wrong. You, yourself, identified  
 18 that as a significant issue.  
 19 MS. HENNESSEY:  
 20 A. Yes.  
 21 CHAYTOR, Q.C.:  
 22 Q. A month earlier and had gone looking for  
 23 answers. Based on what you've told us, you  
 24 didn't get the answer a month earlier, that it  
 25 had not, certainly the question was still

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1 hanging.  
 2 MS. HENNESSEY:  
 3 A. Yeah.  
 4 CHAYTOR, Q.C.:  
 5 Q. Had not been determined. Did you now go back  
 6 and make further inquiries of Dr. Williams or  
 7 anyone else at Eastern Health to get the  
 8 answer as to what went wrong?  
 9 MS. HENNESSEY:  
 10 A. I don't recall subsequent to this having a  
 11 further conversation with Dr. Williams on it.  
 12 CHAYTOR, Q.C.:  
 13 Q. What did you understand that Eastern Health  
 14 was doing to further explore that answer, to  
 15 come up with the answer?  
 16 MS. HENNESSEY:  
 17 A. At that point in time I understood that  
 18 Eastern Health had received the reports and  
 19 that they were beginning to implement the  
 20 recommendations in the reports and that the  
 21 reviewers were coming back in the spring to do  
 22 a follow up.  
 23 CHAYTOR, Q.C.:  
 24 Q. But did the reports shed light on what had  
 25 gone wrong? Your briefing note had indicated

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1 that the problem hadn't been identified as of  
 2 November 7th, 2005.  
 3 MS. HENNESSEY:  
 4 A. Yes, that's correct. I don't know whether the  
 5 problem was identified, the key problem, but I  
 6 do know that they were in the process of  
 7 implementing the recommendations from the  
 8 reviewer's reports at that time.  
 9 CHAYTOR, Q.C.:  
 10 Q. But I mean, whether it's a key problem or not  
 11 or a multitude of problems or a multitude of  
 12 factors, would we expect to see that? If you  
 13 had that information, would we have expected  
 14 you to provide that to the Minister so he  
 15 could answer this hard question?  
 16 MS. HENNESSEY:  
 17 A. Well I would have, if I had what caused the  
 18 problem, I would have included it in the  
 19 briefing note.  
 20 CHAYTOR, Q.C.:  
 21 Q. So you're still asking the question or, I  
 22 don't see that you're asking it of anyone, but  
 23 you're certainly seeing that the Minister is  
 24 going to, in all likelihood be asked the  
 25 question.

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1 MS. HENNESSEY:  
 2 A. Yes, I would tend to think this had been in  
 3 the public for two months at that point in  
 4 time, so I would think during that session of  
 5 the House of Assembly that the Minister would  
 6 have been asked some questions on the file. I  
 7 don't think that that actually occurred.  
 8 CHAYTOR, Q.C.:  
 9 Q. And if the external reviews, based on your  
 10 discussion with Dr. Williams, if the external  
 11 reviews didn't illuminate the answer to the  
 12 question, what did you understand Dr. Williams  
 13 and Eastern Health were doing to determine  
 14 what went wrong?  
 15 MS. HENNESSEY:  
 16 A. Ms. Chaytor, I don't know whether I had a  
 17 clear understanding other than that the  
 18 recommendations from the reviewers were being  
 19 implemented.  
 20 CHAYTOR, Q.C.:  
 21 Q. And if they're going to implement  
 22 recommendations from the reviews, what does  
 23 that tell you that the reviews uncovered?  
 24 MS. HENNESSEY:  
 25 A. I think the reviews would have uncovered, you

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1 know, certain issues and that there would have  
 2 been a set of recommendations around these  
 3 issues and that Eastern Health had begun to  
 4 implement the recommendations.  
 5 CHAYTOR, Q.C.:  
 6 Q. What do you mean by "certain issues"?  
 7 MS. HENNESSEY:  
 8 A. Pardon?  
 9 CHAYTOR, Q.C.:  
 10 Q. What do you mean by "certain issues"?  
 11 MS. HENNESSEY:  
 12 A. I can't speak specifically, other than you  
 13 just showing me the -  
 14 CHAYTOR, Q.C.:  
 15 Q. Well showing you what it is now and you're -  
 16 MS. HENNESSEY:  
 17 A. Yeah, the highlights.  
 18 CHAYTOR, Q.C.:  
 19 Q. - seeing that for the first time.  
 20 MS. HENNESSEY:  
 21 A. Yeah, I mean, I would have relied on the  
 22 information that Eastern Health provided to us  
 23 that there had been a number of  
 24 recommendations identified in the review  
 25 reports and that they had begun the process of

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1 implementing the recommendations, and that the  
 2 reviewers were coming back in the spring to  
 3 assess the progress.  
 4 CHAYTOR, Q.C.:  
 5 Q. And when were you told that, that there were a  
 6 number of recommendations and they were being  
 7 implemented?  
 8 MS. HENNESSEY:  
 9 A. I would think I would have been told by Dr.  
 10 Williams around that time.  
 11 CHAYTOR, Q.C.:  
 12 Q. Around what time?  
 13 MS. HENNESSEY:  
 14 A. I would think in this time period that we're  
 15 currently talking about, I think in our  
 16 subsequent briefing notes it makes reference  
 17 to the recommendations being in the process of  
 18 being implemented.  
 19 CHAYTOR, Q.C.:  
 20 Q. So in your November 7th briefing note, we  
 21 don't see that.  
 22 MS. HENNESSEY:  
 23 A. No.  
 24 CHAYTOR, Q.C.:  
 25 Q. We see when the problem is identified, changes

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1 in policy and practice may be necessary to  
 2 minimize the recurrence of inconsistent test  
 3 results.  
 4 MS. HENNESSEY:  
 5 A. Yes.  
 6 CHAYTOR, Q.C.:  
 7 Q. So I take it at that point in time you weren't  
 8 told that there were a number of, certain  
 9 issues, as you say, a number of  
 10 recommendations and that they're being  
 11 implemented.  
 12 MS. HENNESSEY:  
 13 A. No, somewhere during that time period and I  
 14 don't recall exactly, I'm sure Dr. Williams  
 15 would have told me that there were a number of  
 16 recommendations that they were in the process  
 17 of implementing.  
 18 CHAYTOR, Q.C.:  
 19 Q. What, Ms. Hennessey, did you tell the Minister  
 20 on this time period, December 5th, a month  
 21 later, 2005, what information did you give the  
 22 Minister to enable him to be able to answer  
 23 the hard line of questioning on why things  
 24 went wrong?  
 25 MS. HENNESSEY:

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1 A. I think in the House of Assembly the Minister  
 2 would have put some key messages, I mean, we  
 3 don't--the way our briefing notes for the  
 4 House of Assembly are designed is that there's  
 5 a list of questions and then the information  
 6 that's provided to the Minister is some key  
 7 messaging around these questions.  
 8 CHAYTOR, Q.C.:  
 9 Q. Now, Ms. Hennessey, what though then is your  
 10 next briefing note? Because I think the next  
 11 briefing note that I have is February 23rd,  
 12 2006, is that correct?  
 13 MS. HENNESSEY:  
 14 A. Yeah. And the Minister would have been  
 15 briefed by Eastern Health on November 17th.  
 16 CHAYTOR, Q.C.:  
 17 Q. And there's no updating, you were going to  
 18 update his briefing note after that brief,  
 19 after that briefing.  
 20 MS. HENNESSEY:  
 21 A. Well there was a briefing note provided to the  
 22 Minister on December 5th.  
 23 CHAYTOR, Q.C.:  
 24 Q. And so that would be arising out of the  
 25 briefing note or the briefing of November

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1 17th?  
 2 MS. HENNESSEY:  
 3 A. That would have been the next briefing note  
 4 following the November 17th meeting.  
 5 CHAYTOR, Q.C.:  
 6 Q. So it's December 5th?  
 7 MS. HENNESSEY:  
 8 A. Yes, I wasn't in the province at that time.  
 9 That briefing note was done by John Rumboldt.  
 10 CHAYTOR, Q.C.:  
 11 Q. Right, that's the one you asked Mr. Rumboldt  
 12 to attend to.  
 13 MS. HENNESSEY:  
 14 A. Yes.  
 15 CHAYTOR, Q.C.:  
 16 Q. Okay.  
 17 THE COMMISSIONER:  
 18 Q. Ms. Hennessey, I'm a little confused here and  
 19 perhaps you can assist me, earlier in the  
 20 morning when we were discussing the earlier  
 21 briefing note, I got the view that because of  
 22 the inquiries made and what you put in the  
 23 briefing note, you had concluded that Eastern  
 24 Health could not figure out what the cause of  
 25 the problem was and in effect they were

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1 assuring you that they were working on it and  
 2 as soon as they figured it out, they would  
 3 take the steps necessary? Now was I wrong  
 4 there?  
 5 MS. HENNESSEY:  
 6 A. Yes, but at the same time they would have been  
 7 begun to implement the recommendations from  
 8 the review.  
 9 THE COMMISSIONER:  
 10 Q. Well that's my point. In your mind are the  
 11 recommendations being implemented as a result  
 12 of these, the work done by the two reviews,  
 13 separate and apart from the question of what  
 14 caused these changes in test results? I mean,  
 15 are these things going on at the same time or  
 16 are they interrelated at all?  
 17 MS. HENNESSEY:  
 18 A. They were certainly implementing the  
 19 recommendations from the reviewers' reports  
 20 and I understood, based on my briefing note,  
 21 that they were still trying to identify the  
 22 problem.  
 23 THE COMMISSIONER:  
 24 Q. Okay, so do I take it from what you're saying  
 25 that from your perspective, even when all of

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1 these recommendations were completed, that  
 2 wasn't going to tell you what the cause of the  
 3 problem was? That was still a question yet to  
 4 be answered.  
 5 MS. HENNESSEY:  
 6 A. It was still a question that I didn't have an  
 7 answer to at that time.  
 8 THE COMMISSIONER:  
 9 Q. Okay. So even if all of those recommendations  
 10 were carried out, from your perspective, there  
 11 still would have been this major question of  
 12 what caused the changes in test results which  
 13 would still have had to have been answered at  
 14 some point?  
 15 MS. HENNESSEY:  
 16 A. I think that is where I would have been with  
 17 the file at that time.  
 18 THE COMMISSIONER:  
 19 Q. Okay, thank you.  
 20 CHAYTOR, Q.C.:  
 21 Q. If we could look then, please, at 124, page  
 22 10? Okay, Ms. Hennessey, now this is, I'll  
 23 take you to the second page of the document,  
 24 this is the briefing note prepared by Mr.  
 25 Rumboldt, December 5th, 2005, and I note

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1 nobody has approved this briefing note, would  
 2 that be usual?  
 3 MS. HENNESSEY:  
 4 A. That briefing note would have been because I  
 5 was out of the province at that time, that  
 6 briefing note would have gone directly from  
 7 Mr. Rumboldt to Mr. Abbott.  
 8 CHAYTOR, Q.C.:  
 9 Q. Yes, and if we compare these--so this would  
 10 have went directly to Mr. Abbott, but it  
 11 wouldn't indicate on it that it was approved  
 12 by Mr. Abbott?  
 13 MS. HENNESSEY:  
 14 A. Normal practice would show it as being  
 15 approved by Mr. Abbott.  
 16 CHAYTOR, Q.C.:  
 17 Q. Okay, and this is a briefing note intended for  
 18 the Minister's House of Assembly group?  
 19 MS. HENNESSEY:  
 20 A. Our normal process is that the briefing notes  
 21 would go to me and then on to the Deputy  
 22 Minister, so at this point in time, when I  
 23 wasn't there, that the note would have gone  
 24 directly to the Deputy Minister.  
 25 CHAYTOR, Q.C.:

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1 Q. And if we compare that to your briefing note  
 2 of November 7th, approximately a month earlier  
 3 -  
 4 MS. HENNESSEY:  
 5 A. Right.  
 6 CHAYTOR, Q.C.:  
 7 Q. I think you will find that it's very similar,  
 8 in terms of your anticipated questions and the  
 9 second bullet being, "How did this happen?  
 10 What is being done to correct this problem?"  
 11 MS. HENNESSEY:  
 12 A. Yeah.  
 13 CHAYTOR, Q.C.:  
 14 Q. You see your same questions, "How did this  
 15 happen? What is being done to correct this  
 16 problem?" And the same questions anticipated.  
 17 MS. HENNESSEY:  
 18 A. Right.  
 19 CHAYTOR, Q.C.:  
 20 Q. And if we scroll down to the bottom, "Other  
 21 suggested responses", it's the same answer,  
 22 "There are a number of steps in the testing  
 23 process, any problem in any step can cause a  
 24 problem with the test results. When the  
 25 problem is identified, changes in polices and

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1 practices may be necessary to minimize any  
 2 recurrence of inconsistent test results." And  
 3 I think if you have a careful look, which I'm  
 4 sure you have had occasion to do at this  
 5 briefing note, the main change would be around  
 6 the fact that they're taking longer than  
 7 anticipated, in terms of the testing. The  
 8 second bullet here, "Testing is taking longer  
 9 than anticipated." So it doesn't appear at  
 10 this point in time then, the Minister is going  
 11 into the House with this briefing note and  
 12 there's nothing included on December 5th, 2005  
 13 to shed any further light on what happened?  
 14 MS. HENNESSEY:  
 15 A. At that point in time there was no additional  
 16 information, other than as you say with  
 17 respect to when they anticipated test results  
 18 to be back and I think there was some  
 19 additional information with respect to, in the  
 20 background with respect to the retesting  
 21 results.  
 22 CHAYTOR, Q.C.:  
 23 Q. So when you are having the e-mail exchange  
 24 that you had on December 4th and 5th,  
 25 identifying that that would be a hard line of



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1 questioning for the Minister -  
 2 MS. HENNESSEY:  
 3 A. Right.  
 4 CHAYTOR, Q.C.:  
 5 Q. Did you make any further inquiries to try and  
 6 answer the anticipated question of what went  
 7 wrong?  
 8 MS. HENNESSEY:  
 9 A. I do not remember making any additional  
 10 inquiries of Eastern Health at that time.  
 11 CHAYTOR, Q.C.:  
 12 Q. And why not?  
 13 MS. HENNESSEY:  
 14 A. I don't know if I can answer your question,  
 15 Ms. Chaytor.  
 16 CHAYTOR, Q.C.:  
 17 Q. If we could have P-0125 then, please, page 3.  
 18 And this takes us then into 2006. Ms.  
 19 Hennessey, do you recall having any further  
 20 involvement in this file after December 4th,  
 21 5th, in through up to February of 2006?  
 22 MS. HENNESSEY:  
 23 A. I don't recall, this is not a file that we  
 24 would have been engaged on on a weekly basis  
 25 with Eastern Health, I mean the department was

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1 comfortable at this point in time that Eastern  
 2 Health was managing the file.  
 3 CHAYTOR, Q.C.:  
 4 Q. Well, Ms. Hennessey, were you comfortable that  
 5 the file was being managed in terms of the  
 6 turn-around time? Your e-mail certainly of  
 7 December 4th and 5th indicates that an element  
 8 of disappointment that only 25 percent of the  
 9 results are back.  
 10 MS. HENNESSEY:  
 11 A. I mean, my understanding at that point in time  
 12 was that this was a work-load capacity issue  
 13 at Mount Sinai, that Mount Sinai was  
 14 accommodating Eastern Health as quickly as  
 15 they could, that the time line, I think, would  
 16 have been longer than either Eastern Health or  
 17 the department would have anticipated, but at  
 18 that point I wouldn't view it as being  
 19 something that was under our control.  
 20 CHAYTOR, Q.C.:  
 21 Q. And you're anticipating that the testing was  
 22 going to be completed in January of 2006?  
 23 MS. HENNESSEY:  
 24 A. Yes.  
 25 CHAYTOR, Q.C.:

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1 Q. Was there any follow up with Eastern Health at  
 2 that time to find out whether or not it was  
 3 now on schedule?  
 4 MS. HENNESSEY:  
 5 A. At that point in time my understanding was  
 6 that the testing was still expected to be back  
 7 in January, the final test results.  
 8 CHAYTOR, Q.C.:  
 9 Q. Do you recall if you had any discussions with  
 10 Eastern Health in January to follow up on  
 11 that?  
 12 MS. HENNESSEY:  
 13 A. I seem to recall something vaguely about that  
 14 there was some additional tests that had not  
 15 been sent to Mount Sinai at that time that had  
 16 to be forwarded on.  
 17 CHAYTOR, Q.C.:  
 18 Q. So the ones, though, I take it that had gone  
 19 were back, is that right?  
 20 MS. HENNESSEY:  
 21 A. That was certainly my understanding, that they  
 22 were on a schedule, that they would be back by  
 23 the end of January.  
 24 CHAYTOR, Q.C.:  
 25 Q. And that you learned that there were

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1 additional ones that had never been sent?  
 2 MS. HENNESSEY:  
 3 A. Yeah, I think there was a small batch of tests  
 4 that had to be sent at that time?  
 5 CHAYTOR, Q.C.:  
 6 Q. And who told you that?  
 7 MS. HENNESSEY:  
 8 A. I would think that that information would have  
 9 either come to me from Dr. Williams or it  
 10 would have come through one of the staff that  
 11 works with me.  
 12 CHAYTOR, Q.C.:  
 13 Q. And this is the next briefing note that I had  
 14 indicated that you're involved or your name  
 15 appears on and it's February 23rd, 2006.  
 16 MS. HENNESSEY:  
 17 A. Yes.  
 18 CHAYTOR, Q.C.:  
 19 Q. And it's a fairly short note. You approved  
 20 this note and it's prepared by Debbie Morris  
 21 and at this point in time the anticipated  
 22 questions, the question of how did this happen  
 23 is no longer included in your anticipated  
 24 questions.  
 25 MS. HENNESSEY:

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1 A. Right.

2 CHAYTOR, Q.C.:

3 Q. Why is that?

4 MS. HENNESSEY:

5 A. I don't know why that question was removed at

6 that time.

7 CHAYTOR, Q.C.:

8 Q. And this is the first time, and then we come

9 down and we see a reference to "a quality

10 review began immediately when the problem was

11 discovered. Eastern Health has had the method

12 of testing for ER/PR receptors reviewed by

13 external consultants" and then we hear for the

14 first time, inserted here, "their

15 recommendations have been implemented and the

16 consultants are expected to return to Eastern

17 Health in early April to review what has been

18 done. It is expected that Eastern Health will

19 begin testing of new patients at that time."

20 Where would this information have come from,

21 that the recommendations had been implemented?

22 MS. HENNESSEY:

23 A. The information would have come from Eastern

24 Health, but I do want to make a comment here

25 that I would not have approved a note that

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1 said that the recommendations have been

2 implemented when the reviewers--when I knew

3 that they were in the process of being

4 implemented and that the reviewers would be

5 coming back in April to assess the progress

6 made towards the recommendations.

7 CHAYTOR, Q.C.:

8 Q. Okay, so Ms. Hennessey, what are you telling

9 us because it does say that you approved the

10 note and that's what the note says.

11 MS. HENNESSEY:

12 A. There are, I do recall that our note did say

13 and I can't say specifically it was this note,

14 but it was during this time period that the

15 note did--when it was drafted, said that the

16 recommendations are in the process of being or

17 have been implemented.

18 CHAYTOR, Q.C.:

19 Q. So how would this change? Why would we have a

20 note that says the recommendations have been

21 implemented and the consultants are expected

22 to return?

23 MS. HENNESSEY:

24 A. The Deputy Minister removed that--or asked me

25 to remove it.

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1 CHAYTOR, Q.C.:

2 Q. Mr. Abbott asked you to change the wording?

3 MS. HENNESSEY:

4 A. Yeah, the wording that was there said the

5 recommendations are in the process of being or

6 had been implemented and it was struck out.

7 CHAYTOR, Q.C.:

8 Q. And you specifically recall that?

9 MS. HENNESSEY:

10 A. Yes, I do, but I don't recall specifically

11 whether it was this note, but I can assure you

12 that I would not have written a note saying

13 that the recommendations were implemented

14 until after the reviewers came back and

15 indicated that.

16 CHAYTOR, Q.C.:

17 Q. And I want to be clear here, you have a

18 specific recollection of having drafted a

19 briefing note that said the recommendations

20 have been or are in the process of being

21 implemented and Mr. Abbott crossing that off

22 and saying that the recommendations have been

23 implemented?

24 MS. HENNESSEY:

25 A. I do have a recollection, I can't speak to

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1 whether it was this note in particular, but I

2 do have a specific recollection of that and in

3 reviewing all of my, of our briefing notes on

4 this file, it appears that we're jumping back

5 and forth on whether they had been implemented

6 or were in the process of being implemented.

7 CHAYTOR, Q.C.:

8 Q. And given that this briefing note on February

9 23rd, 2006 says exactly that, do you believe

10 this is the briefing note in question?

11 MS. HENNESSEY:

12 A. Well this, in the next two of three briefing

13 notes, I think right up to May month, this

14 line is carried forward.

15 CHAYTOR, Q.C.:

16 Q. That's correct. So you believe it started on

17 February 23rd, 2006?

18 MS. HENNESSEY:

19 A. I think it was during that time period, to

20 tell you exactly which note it was, Ms.

21 Chaytor, I don't recall, but I do recall a

22 specific note where it was written that the

23 recommendations are in the process of being

24 implemented or have been implemented and it

25 was taken out of the note.

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1 CHAYTOR, Q.C.:

2 Q. And Mr. Abbott did that and you're saying you

3 wouldn't have approved this note as it is

4 worded here now?

5 MS. HENNESSEY:

6 A. No, I wouldn't, but as I think you may have

7 learned as we move through this process that

8 people's names are on briefing notes, that

9 briefing notes tend to be a collective effort

10 of a number of people and that they happen to

11 have, for the most part, my name on them with

12 respect to approved by.

13 CHAYTOR, Q.C.:

14 Q. Now, Ms. Hennessey, so Mr. Abbott came back

15 and if it's in relation to this briefing note

16 or the others that follow which have the same

17 or similar wording, and asked you to make that

18 change -

19 MS. HENNESSEY:

20 A. The note came back, I can still see it,

21 actually the note came back to me with the

22 words crossed, like slashed through it.

23 CHAYTOR, Q.C.:

24 Q. I take it you don't still have it though?

25 MS. HENNESSEY:

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1 A. No, I don't.

2 CHAYTOR, Q.C.:

3 Q. It doesn't still exist?

4 MS. HENNESSEY:

5 A. No.

6 CHAYTOR, Q.C.:

7 Q. So that change is made on the document?

8 MS. HENNESSEY:

9 A. Yes.

10 CHAYTOR, Q.C.:

11 Q. And what do you do? Do you just go ahead and

12 make the change or do you have discussion with

13 Mr. Abbott around that? Does he have

14 knowledge you don't have? Did you have any

15 discussion around that?

16 MS. HENNESSEY:

17 A. I don't recall a specific discussion. I do

18 remember, you know, taking the words out of

19 the note.

20 CHAYTOR, Q.C.:

21 Q. And did you ask, well have they moved things

22 along because I understood the recommendations

23 were still only in the process of being

24 implemented, did you ask that question?

25 MS. HENNESSEY:

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1 A. I don't recall a specific discussion on that

2 point.

3 CHAYTOR, Q.C.:

4 Q. And wouldn't you be curious to find out though

5 that they've gone from being in process of

6 being implemented to now being implemented?

7 MS. HENNESSEY:

8 A. Yeah, I thought it was unusual to take the

9 reference out of the note when we knew that

10 the Eastern Health was in the process of

11 implementing the recommendations, and Eastern

12 Health wouldn't be aware, nor would the

13 department be aware of the progress until the

14 reviewers return in April.

15 CHAYTOR, Q.C.:

16 Q. If we could go on then to P-0125, page 8. And

17 Ms. Hennessey on that last point, did you ever

18 bring that issue to the attention of the

19 Minister?

20 MS. HENNESSEY:

21 A. No, I didn't.

22 CHAYTOR, Q.C.:

23 Q. You didn't?

24 MS. HENNESSEY:

25 A. No.

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1 CHAYTOR, Q.C.:

2 Q. And why not?

3 MS. HENNESSEY:

4 A. Well I report to the Deputy Minister and I

5 don't tend to go around the Deputy Minister.

6 CHAYTOR, Q.C.:

7 Q. Were you concerned with the accuracy of the

8 information that was going in the Minister's

9 briefing note?

10 MS. HENNESSEY:

11 A. No, I would have been concerned and in

12 hindsight, perhaps I should be brought it to

13 the attention of the Minister.

14 CHAYTOR, Q.C.:

15 Q. Because, Ms. Hennessey, whether it's accurate

16 or not, you are the person whose name is on

17 it, in terms of having approved the note.

18 MS. HENNESSEY:

19 A. Yes.

20 CHAYTOR, Q.C.:

21 Q. And if there were to be a problem, for example

22 if the Minister were to have stood up in the

23 House of Assembly and said all the

24 recommendations have been implemented and he

25 was called on that -

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1 MS. HENNESSEY:  
 2 A. Right.  
 3 CHAYTOR, Q.C.:  
 4 Q. Who is the Minister going to come looking for?  
 5 MS. HENNESSEY:  
 6 A. The Minister should initially go to the Deputy  
 7 Minister.  
 8 CHAYTOR, Q.C.:  
 9 Q. And ultimately who is the document saying  
 10 approved the briefing note?  
 11 MS. HENNESSEY:  
 12 A. The document says that it was approved by me.  
 13 CHAYTOR, Q.C.:  
 14 Q. So were you concerned that the information  
 15 didn't -  
 16 MS. HENNESSEY:  
 17 A. I was concerned because I was confident that  
 18 it wasn't accurate at that time, but I did not  
 19 bring it to the Minister's attention. But, I  
 20 mean, the use of "approved by", I mean there  
 21 are other notes, I don't want this to go so  
 22 far as call it a bit culture, but I mean, I  
 23 guess we live in an environment where people's  
 24 names sometimes are on notes as having  
 25 approved them. When I was down doing a

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1 discovery in February, there was a note left  
 2 in my office to say that it was approved by me  
 3 and the note wasn't accurate, but I wasn't  
 4 there, I was down here actually spending time  
 5 answering questions.  
 6 CHAYTOR, Q.C.:  
 7 Q. From us at that time.  
 8 MS. HENNESSEY:  
 9 A. Yes.  
 10 CHAYTOR, Q.C.:  
 11 Q. And so that's as recent as February of 2008?  
 12 MS. HENNESSEY:  
 13 A. Yes, that a note left my office with "approved  
 14 by" and I didn't see the note and there was an  
 15 error in the note.  
 16 CHAYTOR, Q.C.:  
 17 Q. And it had your name on it as having approved  
 18 it and you hadn't.  
 19 MS. HENNESSEY:  
 20 A. Yes.  
 21 CHAYTOR, Q.C.:  
 22 Q. Okay, we're looking now at P-012 -  
 23 THE COMMISSIONER:  
 24 Q. Is that background noise causing a problem for  
 25 you?

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1 CHAYTOR, Q.C.:  
 2 Q. No.  
 3 THE COMMISSIONER:  
 4 Q. It's our neighbour's alarm again, so -  
 5 CHAYTOR, Q.C.:  
 6 Q. Is it causing you problems, Ms. Hennessey?  
 7 MS. HENNESSEY:  
 8 A. No, I'm fine, thank you.  
 9 CHAYTOR, Q.C.:  
 10 Q. I have to honestly say that I didn't even hear  
 11 it. Page 8, this is the briefing note of  
 12 March 15th, 2006.  
 13 MS. HENNESSEY:  
 14 A. Okay.  
 15 CHAYTOR, Q.C.:  
 16 Q. And this one now, Ms. Hennessey, is indicated  
 17 again to be approved by you, prepared by  
 18 Debbie Morris?  
 19 MS. HENNESSEY:  
 20 A. Yes.  
 21 CHAYTOR, Q.C.:  
 22 Q. And it's March 15th, 2006?  
 23 THE COMMISSIONER:  
 24 Q. Ms. Hennessey, just on that point, just to be  
 25 double sure, so can I trust that anything on

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1 the bottom of a briefing note, would the--for  
 2 example, would the name of the person who  
 3 prepared it, you've just told me in effect  
 4 that the person who is indicated as approving  
 5 things isn't necessarily always approving  
 6 things. Would the name of the person who is  
 7 indicated to have prepared it, necessarily  
 8 always be accurate?  
 9 MS. HENNESSEY:  
 10 A. Generally the name of the person who prepared  
 11 it is the name of the first drafter of the  
 12 note, but there would have been, you know,  
 13 changes made in the note, the note goes to me,  
 14 the note goes to our communications staff and  
 15 then onto the Deputy and to the Minister, so  
 16 there could be changes in the note at any  
 17 point, in either one of these steps and that  
 18 the note, the final note would have gone back  
 19 to my branch and there is a shared directory  
 20 in the Board Services Division where people  
 21 can access the final note, but the note may  
 22 look different than from the first draft that  
 23 was prepared by the person -  
 24 THE COMMISSIONER:  
 25 Q. Okay, where it says "prepared by", that only

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1 means that that person prepared a first draft,  
 2 which may or may not look like the final  
 3 draft?  
 4 MS. HENNESSEY:  
 5 A. That's correct.  
 6 THE COMMISSIONER:  
 7 Q. And the person who approved of it may or may  
 8 not have approved of it?  
 9 MS. HENNESSEY:  
 10 A. That's correct. And we don't, as you are  
 11 aware, I think Commissioner, that there has  
 12 been a change in that now the -  
 13 THE COMMISSIONER:  
 14 Q. The present protocol.  
 15 MS. HENNESSEY:  
 16 A. - present protocol has the Deputy's signature  
 17 and the Minister's signature on the note. It  
 18 still doesn't have the ADM's--my name is still  
 19 there as approved by, but it may not--I may  
 20 not have always approved that version of the  
 21 note.  
 22 CHAYTOR, Q.C.:  
 23 Q. So even under the new policy, notes can leave  
 24 the department with your name on it saying you  
 25 approved it, but it may not be the version

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1 that you, in fact, approved?  
 2 MS. HENNESSEY:  
 3 A. It may not be.  
 4 CHAYTOR, Q.C.:  
 5 Q. And that's what happened in February of this  
 6 year?  
 7 MS. HENNESSEY:  
 8 A. And that's the culture on which we currently  
 9 work and I guess, you know, we accept that  
 10 for--I don't particularly like it, but we  
 11 certainly accept it.  
 12 CHAYTOR, Q.C.:  
 13 Q. Okay, Ms. Hennessey, I was -  
 14 MS. HENNESSEY:  
 15 A. The final notes would come back to me and in  
 16 fact, now when the Deputy Minister and the  
 17 Minister signed the notes, the signed version  
 18 of the notes certainly come back to my office.  
 19 CHAYTOR, Q.C.:  
 20 Q. And I take it that's how you were able to  
 21 determine that there was something in it not  
 22 correct in February 2008?  
 23 MS. HENNESSEY:  
 24 A. Yes.  
 25 CHAYTOR, Q.C.:

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1 Q. You reviewed the signed version.  
 2 MS. HENNESSEY:  
 3 A. Yes, there was one particular note when I  
 4 reviewed the signed version, there was a  
 5 change made and then the Minister signed the  
 6 version again.  
 7 CHAYTOR, Q.C.:  
 8 Q. That wasn't about the ER/PR issue, was it?  
 9 MS. HENNESSEY:  
 10 A. No, it wasn't.  
 11 CHAYTOR, Q.C.:  
 12 Q. Okay. I was just going to take you then to  
 13 0125, page 8. And this is, as I've indicated  
 14 to you, is what we understand to be the next  
 15 briefing note.  
 16 MS. HENNESSEY:  
 17 A. Right.  
 18 CHAYTOR, Q.C.:  
 19 Q. Now I would bring to your attention that there  
 20 is a briefing note included before that, see  
 21 here and it's dated March 9th, 2006, drafted  
 22 by Beverly Griffiths, approved by you. But I  
 23 understand that to be in error, is that right?  
 24 MS. HENNESSEY:  
 25 A. Yes, that note is the March 9th, 2007 note.

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1 CHAYTOR, Q.C.:  
 2 Q. Right, yes, okay. So that for some reason,  
 3 because it clearly talks about things that  
 4 happened in December, 2006.  
 5 MS. HENNESSEY:  
 6 A. Yes.  
 7 CHAYTOR, Q.C.:  
 8 Q. So that it's clearly an error. So one -  
 9 MS. HENNESSEY:  
 10 A. Yeah.  
 11 CHAYTOR, Q.C.:  
 12 Q. P-0125 at page 5 is not, in fact, March 9th,  
 13 2006?  
 14 MS. HENNESSEY:  
 15 A. Not that -  
 16 CHAYTOR, Q.C.:  
 17 Q. And we do have a version of that note dated  
 18 March 9th, 2007. Yes. Do you know why this  
 19 briefing note would still be in the  
 20 department's system and it's dated  
 21 incorrectly?  
 22 MS. HENNESSEY:  
 23 A. No, I don't know. That's certainly a March  
 24 9th, 2007 note.  
 25 CHAYTOR, Q.C.:

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1 Q. Yes, it clearly is.  
 2 MS. HENNESSEY:  
 3 A. Yeah.  
 4 CHAYTOR, Q.C.:  
 5 Q. And it is the same as the March 9th, 2007?  
 6 MS. HENNESSEY:  
 7 A. Yeah.  
 8 CHAYTOR, Q.C.:  
 9 Q. Okay. And this is now 0125, page 8. And this  
 10 is the briefing note that I just referred you  
 11 to, March 15th. So this is the next briefing  
 12 note. Do you now have a new minister at this  
 13 point in time?  
 14 MS. HENNESSEY:  
 15 A. Sorry, what's -  
 16 CHAYTOR, Q.C.:  
 17 Q. March 15th -  
 18 MS. HENNESSEY:  
 19 A. - if I could just see the date?  
 20 CHAYTOR, Q.C.:  
 21 Q. - 2006. Mr. -  
 22 MS. HENNESSEY:  
 23 A. Yes, that was around the time that there was a  
 24 ministerial change.  
 25 CHAYTOR, Q.C.:

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1 Q. Okay. And if we look back to that paragraph  
 2 that you took some issue with before, we see  
 3 it here again under "Key messages" the third  
 4 bullet, "A quality review began immediately  
 5 when the problem was discovered. Eastern  
 6 Health has had the method of testing ER/PR  
 7 receptors reviewed by external consultants.  
 8 Their recommendations have been implemented  
 9 and the consultants returned to Eastern Health  
 10 in early April for an assessment of progress.  
 11 It is expected that Eastern Health will begin  
 12 retesting once the final consultants' reports  
 13 are reviewed." Now, this note is dated March  
 14 15th, 2006. And it's indicating that the  
 15 recommendations have been implemented and the  
 16 consultants have been back in early April.  
 17 MS. HENNESSEY:  
 18 A. I think that note should say that the  
 19 consultants will return to Eastern Health. I  
 20 mean, that was March 15th note and the  
 21 consultants didn't come back until April.  
 22 CHAYTOR, Q.C.:  
 23 Q. Yes. And so again, in terms of you approved  
 24 this note and it's indicating that the  
 25 recommendations have been implemented and that

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1 the consultants, well, it says have returned,  
 2 but are expected, I guess, to return. Are you  
 3 able to explain why that would be worded in  
 4 that way?  
 5 MS. HENNESSEY:  
 6 A. No. All I can tell you is that that is an  
 7 error in the note.  
 8 CHAYTOR, Q.C.:  
 9 Q. Okay. But in terms of it saying that the  
 10 recommendations have been implemented, were  
 11 you comfortable yourself, is that your wording  
 12 in saying that?  
 13 MS. HENNESSEY:  
 14 A. No. At that point in time I understood that  
 15 the Eastern Health was in the process of  
 16 implementing the recommendations.  
 17 CHAYTOR, Q.C.:  
 18 Q. Okay. So you knew that not to be accurate?  
 19 MS. HENNESSEY:  
 20 A. I knew that.  
 21 CHAYTOR, Q.C.:  
 22 Q. And the bullet before that says, "Testing of  
 23 the tissue samples sent to Mount Sinai, for  
 24 the most part, has been completed and the vast  
 25 majority of results are back and in various

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1 stages of review by a panel of physicians who  
 2 will interpret the results." The use of the  
 3 phrase, "for the most part".  
 4 MS. HENNESSEY:  
 5 A. Yeah.  
 6 CHAYTOR, Q.C.:  
 7 Q. So "Testing of the tissue samples, for the  
 8 most part, has been completed and the vast  
 9 majority of results are back." You had  
 10 understood that it was all going to be  
 11 completed in January, it's now mid March?  
 12 MS. HENNESSEY:  
 13 A. Right.  
 14 CHAYTOR, Q.C.:  
 15 Q. Can you explain this wording?  
 16 MS. HENNESSEY:  
 17 A. Yes, I can. I seem to recall that I was not  
 18 real clear whether all the test results were  
 19 back. I was certain that most of them were  
 20 back so I, I guess, tread cautiously there in  
 21 saying that for the most part the test results  
 22 were back. I did learn, at least as we moved  
 23 through this process, that there was a small  
 24 number that did not come back until, I think  
 25 it was up to May.

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1 CHAYTOR, Q.C.:

2 Q. So this is you being cautious and adding the

3 wording "for the most part."

4 MS. HENNESSEY:

5 A. Yes.

6 CHAYTOR, Q.C.:

7 Q. Is that your wording?

8 MS. HENNESSEY:

9 A. That wording was my wording, yes.

10 CHAYTOR, Q.C.:

11 Q. That's your wording?

12 MS. HENNESSEY:

13 A. Yes.

14 CHAYTOR, Q.C.:

15 Q. So while it was drafted by Ms. Morris, you

16 edited it to say "for the most part" the test

17 samples, testing had been completed?

18 MS. HENNESSEY:

19 A. Right.

20 CHAYTOR, Q.C.:

21 Q. So you weren't comfortable in making any

22 absolute statement that all the testing had

23 been completed?

24 MS. HENNESSEY:

25 A. No, at that point in time I thought that

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1 Eastern Health was close in receiving all the

2 test results back but wasn't certain that they

3 were all back.

4 CHAYTOR, Q.C.:

5 Q. Okay. And, Ms. Hennessey, you say, however,

6 though, then in dealing with the third bullet.

7 MS. HENNESSEY:

8 A. Yes.

9 CHAYTOR, Q.C.:

10 Q. The information continued to go forward saying

11 the recommendations have been implemented.

12 MS. HENNESSEY:

13 A. Yeah.

14 CHAYTOR, Q.C.:

15 Q. While you understood they were still in the

16 process of being implemented?

17 MS. HENNESSEY:

18 A. Yes.

19 CHAYTOR, Q.C.:

20 Q. Okay. And who told you that, who said that

21 they weren't all implemented?

22 MS. HENNESSEY:

23 A. I would have understood, at that point in

24 time, that the recommendations were in the

25 process of being implemented and we wouldn't

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1 know--I mean, until the reviewers came back in

2 April we wouldn't know, you know, have their

3 assessment as to whether all of the

4 recommendations had been implemented.

5 CHAYTOR, Q.C.:

6 Q. Yes. Well, I guess if they had a list,

7 though, from the first time the reviewers were

8 in, they could have a list of recommendations

9 and have them all implemented.

10 MS. HENNESSEY:

11 A. Yes.

12 CHAYTOR, Q.C.:

13 Q. And just waiting for the reviewers to come in

14 to make sure there was nothing else?

15 MS. HENNESSEY:

16 A. Yeah.

17 CHAYTOR, Q.C.:

18 Q. Or for the reviewers to satisfy themselves

19 that was, in fact, the case?

20 MS. HENNESSEY:

21 A. I mean, we would have been in contact with

22 Eastern Health as we prepare these briefing

23 notes for the House of Assembly, you know,

24 staff in the department would have been in

25 contact with Eastern Health.

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1 CHAYTOR, Q.C.:

2 Q. Okay. And so that's what I'm saying to you,

3 though, your understanding from your contact

4 with Eastern Health was that the

5 recommendations were not all implemented?

6 MS. HENNESSEY:

7 A. That was my understanding at that time.

8 CHAYTOR, Q.C.:

9 Q. And what stage did you understand the

10 recommendations were in terms of

11 implementation?

12 MS. HENNESSEY:

13 A. I just understood that they were in the

14 process of implementing the recommendations.

15 Whether it was 70 percent or 80 percent or 90

16 percent there at that point in time, I

17 wouldn't have had that level of discussion

18 with Eastern Health.

19 CHAYTOR, Q.C.:

20 Q. And whether that had advanced any from

21 February 23rd, you wouldn't know? Whether

22 there'd been any progress in the

23 implementation of the recommendations, you

24 don't know?

25 MS. HENNESSEY:

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1 A. I wouldn't have clearly known, but I would  
 2 have assumed as, you know, as time passed that  
 3 Eastern Health would have been diligent in  
 4 implementing the recommendations.  
 5 CHAYTOR, Q.C.:  
 6 Q. And did you also then understand from Eastern  
 7 Health that the testing of the samples sent to  
 8 Mount Sinai had not been fully completed and  
 9 that's why you added the wording "for the most  
 10 part"?  
 11 MS. HENNESSEY:  
 12 A. I believe in March we had been told that the  
 13 final test results were back in February from  
 14 Mount Sinai, but because there was a number of  
 15 people at Eastern Health involved in the file  
 16 and a number of people in the department  
 17 involved in the file, I tread cautiously at  
 18 that time.  
 19 CHAYTOR, Q.C.:  
 20 Q. So you were not prepared to accept that  
 21 absolute from Eastern Health?  
 22 MS. HENNESSEY:  
 23 A. I guess I accepted what Eastern Health was  
 24 telling me but I didn't want the minister to  
 25 make a statement like that.

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1 CHAYTOR, Q.C.:  
 2 Q. But the third bullet -  
 3 MS. HENNESSEY:  
 4 A. I know, I know.  
 5 CHAYTOR, Q.C.:  
 6 Q. The minister is going to make a statement  
 7 saying -  
 8 MS. HENNESSEY:  
 9 A. I know, regrettably that was an error in  
 10 judgment on my part.  
 11 CHAYTOR, Q.C.:  
 12 Q. Were there other times that you, in the  
 13 drafting or approval of briefing notes, that  
 14 you were cautious not to state absolutes?  
 15 MS. HENNESSEY:  
 16 A. I tend to be a cautious person in drafting  
 17 notes because information for briefing notes  
 18 comes from, you know, from a number of  
 19 sources. It may be for one note we'd be  
 20 talking to one individual at Eastern Health  
 21 and for another note we could be talking to a  
 22 different individual and depending upon who  
 23 we're talking to, their understanding or their  
 24 interpretation may be different, so I tend to  
 25 be more cautious in wording of information

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1 that's provided to the minister.  
 2 CHAYTOR, Q.C.:  
 3 Q. So it's fair to say you had misgivings in the  
 4 information that you were receiving from  
 5 Eastern Health partially due to the fact that  
 6 you were dealing with a number of different  
 7 individuals?  
 8 MS. HENNESSEY:  
 9 A. Yeah. Yeah, I don't think I had--I'd go so  
 10 far as to say it was misgivings. I think  
 11 people at Eastern Health did their best to  
 12 assist us in the drafting of our briefing  
 13 notes, but because there was a number of  
 14 players involved both at the department and at  
 15 Eastern Health, I tended to err on the  
 16 cautious side.  
 17 CHAYTOR, Q.C.:  
 18 Q. Right. So, and I don't mean anything by the  
 19 word "misgivings" other than, and perhaps you  
 20 prefer the word "uncertainty."  
 21 MS. HENNESSEY:  
 22 A. Yeah.  
 23 CHAYTOR, Q.C.:  
 24 Q. That you had some nagging doubt in your mind  
 25 or some uncertainty because of the number of

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1 people you were receiving the information  
 2 from. Is that a fairer statement?  
 3 MS. HENNESSEY:  
 4 A. That's probably a fairer statement. And this--  
 5 I mean, I think Eastern Health, you know, did  
 6 their best to assist us in this, that they  
 7 were certainly working hard on the file, but  
 8 because there were so many people involved in  
 9 the file, that I wasn't 100 percent clear on  
 10 whether all the test results were back at that  
 11 time.  
 12 CHAYTOR, Q.C.:  
 13 Q. Okay. I just want to think about how cautious  
 14 you were in the wording on the issue and in  
 15 terms of stating absolutes in other briefing  
 16 notes and, of course, as we go further along  
 17 in the picture there are absolutes stated in  
 18 terms of notification to patients, for  
 19 example.  
 20 MS. HENNESSEY:  
 21 A. Right, yeah.  
 22 CHAYTOR, Q.C.:  
 23 Q. And stating words to the effect that all  
 24 patients have been notified.  
 25 MS. HENNESSEY:



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1 A. Yeah.  
 2 CHAYTOR, Q.C.:  
 3 Q. Did you have the same reservations in stating  
 4 that as an absolute?  
 5 MS. HENNESSEY:  
 6 A. There were times when I wasn't real clear on  
 7 whether all the patients had been notified.  
 8 CHAYTOR, Q.C.:  
 9 Q. And was that reflected in the briefing notes?  
 10 MS. HENNESSEY:  
 11 A. I'd have to have a look at the briefing notes.  
 12 CHAYTOR, Q.C.:  
 13 Q. Do you recall otherwise bringing that to the  
 14 attention of the minister of the day, that you  
 15 had some uncertainty as to whether all  
 16 patients have been notified?  
 17 MS. HENNESSEY:  
 18 A. With respect to at this point in time we would  
 19 have had a new minister and I didn't do a--I  
 20 did a general briefing with the new minister,  
 21 I didn't do a specific briefing with Minister  
 22 Osborne on this file.  
 23 CHAYTOR, Q.C.:  
 24 Q. Okay. And what about then into Mr. Wiseman's  
 25 time, do you recall bringing to Mr. Wiseman's

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1 attention that you had reservations as to  
 2 whether or not all the patients had, in fact,  
 3 been notified?  
 4 MS. HENNESSEY:  
 5 A. With respect to when Minister Wiseman came to  
 6 the department, I was scheduled to do a  
 7 briefing with him on my files on two if not  
 8 three occasions and those briefings were  
 9 cancelled by his office because of other  
 10 commitments that he had.  
 11 CHAYTOR, Q.C.:  
 12 Q. Okay. And we'll get to that then.  
 13 MS. HENNESSEY:  
 14 A. Yeah.  
 15 COMMISSIONER:  
 16 Q. Whenever you find a convenient spot, Ms.  
 17 Chaytor, we'll take the luncheon break.  
 18 CHAYTOR, Q.C.:  
 19 Q. Okay. Well, actually, Commissioner, I'm about  
 20 to go into the August 18th briefing note, so  
 21 this may be a convenient time.  
 22 COMMISSIONER:  
 23 Q. All right. We'll break until 2.  
 24 (LUNCH BREAK)  
 25 COMMISSIONER:

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1 Q. Ms. Chaytor.  
 2 CHAYTOR, Q.C.:  
 3 Q. Thank you. Good afternoon, Commissioner, and  
 4 good afternoon, Ms. Hennessey.  
 5 MS. HENNESSEY:  
 6 A. Good afternoon.  
 7 CHAYTOR, Q.C.:  
 8 Q. Just before I got to the August 18th briefing  
 9 note, when we broke, we were looking at, we  
 10 had just finished looking at March 15th, 2006,  
 11 which is found at P-0125, page 8. And, Ms.  
 12 Hennessey, under "Key messages" we have looked  
 13 at this bullet where it says, "A quality  
 14 review began immediately when the problem was  
 15 discovered. Eastern Health has had the method  
 16 of testing reviewed by external consultants.  
 17 Their recommendations have been implemented  
 18 and the consultants returned to Eastern Health  
 19 in early April for an assessment of progress.  
 20 It is expected that Eastern Health will begin  
 21 testing of new patients in St. John's once the  
 22 final consultants' report has been received  
 23 and reviewed, likely in late May." And then  
 24 under "Other suggested responses." "Until the  
 25 external consultants review the testing

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1 process and assure Eastern Health it is safe  
 2 to proceed, the testing of new breast cancer  
 3 patients with ER/PR receptors will be done at  
 4 Mount Sinai." Now, Ms. Hennessey, I  
 5 understood from the questioning this morning  
 6 and follow-up questioning by the Commissioner,  
 7 that you were of the impression or  
 8 understanding, based on your discussion with  
 9 Dr. Williams, that the answer to what went  
 10 wrong with the testing wasn't contained in  
 11 those external reviewers' reports?  
 12 MS. HENNESSEY:  
 13 A. Right.  
 14 CHAYTOR, Q.C.:  
 15 Q. Is that correct? And I'm just wondering then  
 16 at this point in time had your impression  
 17 changed? The fact that it's now being  
 18 suggested that until the external consultant  
 19 review the testing process and assure Eastern  
 20 Health it's safe to proceed, the testing would  
 21 continue to be done at Mount Sinai and the  
 22 fact that the testing of the new patients, or  
 23 new patients in St. John's will only be  
 24 resumed after the consultants have been back  
 25 in. So by March 15th, 2006 are you now of the

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1 impression that the external consultants’  
 2 reviews, in fact, did reveal what may have  
 3 went wrong?  
 4 MS. HENNESSEY:  
 5 A. That certainly would be the impression based  
 6 on the information in this note.  
 7 CHAYTOR, Q.C.:  
 8 Q. Okay. So what happened in the meantime, what  
 9 discussions did you have to now have you form  
 10 the impression that the external consultants’  
 11 reports did reveal the problems?  
 12 MS. HENNESSEY:  
 13 A. I don’t know whether I personally would have  
 14 had discussions. It would have been, the note  
 15 would have been prepared by one of the staff  
 16 that works with me, so it may have been some  
 17 information that was provided to me at that  
 18 time. I don’t recall a specific discussion  
 19 that I had with Dr. Williams on this point.  
 20 CHAYTOR, Q.C.:  
 21 Q. Did you -  
 22 MS. HENNESSEY:  
 23 A. But it certainly my impression then was that  
 24 the Eastern Health felt confident that once  
 25 they implemented the recommendations in the--

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1 from the external reviews that they felt  
 2 confident at this point in time that they  
 3 would be in a position to resume testing in  
 4 St. John’s.  
 5 CHAYTOR, Q.C.:  
 6 Q. So now, Ms Hennessey, did you then go back and  
 7 look for the answer to the questions that you  
 8 posed earlier and the question that you  
 9 indicated earlier in a briefing note that was  
 10 crucial and of high priority to the  
 11 government, did you then go back and say,  
 12 well, what is now the answer to the question?  
 13 MS. HENNESSEY:  
 14 A. With respect to what happened?  
 15 CHAYTOR, Q.C.:  
 16 Q. Yes.  
 17 MS. HENNESSEY:  
 18 A. I don’t recall specifically asking that  
 19 question. I mean, we would have felt  
 20 confident at that point in time that Eastern  
 21 Health was managing it. I didn’t not ask a  
 22 specific question with respect to what  
 23 happened.  
 24 CHAYTOR, Q.C.:  
 25 Q. Yes, and I’m not asking whether you asked a

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1 specific question. I’m wondering did you go  
 2 back and look for the information so that you  
 3 could give that answer to your minister?  
 4 MS. HENNESSEY:  
 5 A. I still don’t know if I’m able to answer that  
 6 question what happened.  
 7 CHAYTOR, Q.C.:  
 8 Q. Did you ever go back looking for the answers  
 9 to that question?  
 10 MS. HENNESSEY:  
 11 A. I don’t recall going back.  
 12 CHAYTOR, Q.C.:  
 13 Q. Okay.  
 14 MS. HENNESSEY:  
 15 A. To get a specific answer to that question.  
 16 CHAYTOR, Q.C.:  
 17 Q. Okay. With respect to any answer to the  
 18 question?  
 19 MS. HENNESSEY:  
 20 A. Right. I mean, I guess I can just go back to  
 21 my earlier point that we felt confident that  
 22 Eastern Health was managing the file and that  
 23 they were implementing the recommendations,  
 24 that they would make a decision when it would  
 25 be safe to proceed with testing again in St.

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1 John’s.  
 2 CHAYTOR, Q.C.:  
 3 Q. Yes, but, Ms. Hennessey, you, yourself, had  
 4 indicated this was a crucial issue for the  
 5 government.  
 6 MS. HENNESSEY:  
 7 A. Right.  
 8 CHAYTOR, Q.C.:  
 9 Q. And a high priority.  
 10 MS. HENNESSEY:  
 11 A. Right.  
 12 CHAYTOR, Q.C.:  
 13 Q. And that was said specifically in the context  
 14 of what went wrong.  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. So I’m wondering at this point in time when  
 19 you’ve come to the realization that the  
 20 external reviews must have shed light on the  
 21 answer to that question.  
 22 MS. HENNESSEY:  
 23 A. Right.  
 24 CHAYTOR, Q.C.:  
 25 Q. Did you go back and look for the answer?

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1 MS. HENNESSEY:  
 2 A. I did not go back to look--I do not recall  
 3 going back to look specifically for the answer  
 4 to that question.  
 5 CHAYTOR, Q.C.:  
 6 Q. Okay. Do you know if anybody in the  
 7 department did?  
 8 MS. HENNESSEY:  
 9 A. I don't know whether the deputy minister did  
 10 at the time, I can't comment.  
 11 CHAYTOR, Q.C.:  
 12 Q. Do you know whether anybody went back to look  
 13 for the answer?  
 14 MS. HENNESSEY:  
 15 A. I don't know whether anybody went back. I can  
 16 only speak for myself that I did not go back.  
 17 CHAYTOR, Q.C.:  
 18 Q. Or anyone that you have knowledge of you could  
 19 speak for, as well.  
 20 MS. HENNESSEY:  
 21 A. That's correct, yeah.  
 22 CHAYTOR, Q.C.:  
 23 Q. So to your knowledge nobody in the department  
 24 went looking for the answer to the question?  
 25 MS. HENNESSEY:

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1 A. I don't know of anybody in the department who  
 2 went back looking for a specific answer to  
 3 that question.  
 4 CHAYTOR, Q.C.:  
 5 Q. And why not?  
 6 MS. HENNESSEY:  
 7 A. I guess I can just go back to the point that  
 8 I've made, that, you know, we felt confident  
 9 that Eastern Health was implementing the  
 10 recommendation of these review reports and  
 11 taking whatever other action was necessary to  
 12 ensure a comfort level that they could resume  
 13 the testing in St. John's.  
 14 COMMISSIONER:  
 15 Q. Ms. Hennessey, do I take then that the  
 16 department was not interested in knowing what  
 17 caused the testing problems?  
 18 MS. HENNESSEY:  
 19 A. Commissioner, I don't recall any discussion  
 20 around this point in time with respect to the  
 21 department wishing to go back and to get  
 22 additional information from Eastern Health.  
 23 COMMISSIONER:  
 24 Q. Well, who makes these decisions? I mean, who  
 25 decides--I'm just trying to understand, I

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1 suppose, roles as much as anything here.  
 2 MS. HENNESSEY:  
 3 A. Right.  
 4 COMMISSIONER:  
 5 Q. And I understand that Eastern Health will  
 6 obviously be charged with the operation, what  
 7 occurs within its own area. They had been  
 8 given, by legislation, the task of doing a  
 9 number of things and that included running the  
 10 particular laboratory which was involved in  
 11 the testing.  
 12 MS. HENNESSEY:  
 13 A. Yeah.  
 14 COMMISSIONER:  
 15 Q. So I think I understand what Eastern Health's  
 16 role is here. And maybe what I do not  
 17 understand is the role of the department.  
 18 MS. HENNESSEY:  
 19 A. Right.  
 20 COMMISSIONER:  
 21 Q. When something major occurs within a health  
 22 authority. I think I understood from what you  
 23 said and what some other witnesses have said  
 24 that the department wishes to know when major  
 25 events occur.

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1 MS. HENNESSEY:  
 2 A. Right.  
 3 CHAYTOR, Q.C.:  
 4 Q. So presumably Eastern Health has a  
 5 responsibility to advise?  
 6 MS. HENNESSEY:  
 7 A. Yes.  
 8 COMMISSIONER:  
 9 Q. Some witnesses have said, well, ultimately the  
 10 minister is responsible. I presume in the  
 11 political sense they were saying that. So  
 12 presumably the minister has to be advised.  
 13 MS. HENNESSEY:  
 14 A. Yes.  
 15 COMMISSIONER:  
 16 Q. Does the department in these situations have  
 17 no role except to prepare briefing notes for  
 18 the minister?  
 19 MS. HENNESSEY:  
 20 A. No, I mean, the briefing notes would be just  
 21 one means that the minister would be briefed  
 22 on a file. I mean, when these notes are done,  
 23 we would have done some discussions with the  
 24 minister. The minister nor the deputy  
 25 minister asked me to go back to ask Eastern

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1 Health what happened.  
 2 COMMISSIONER:  
 3 Q. Pardon?  
 4 MS. HENNESSEY:  
 5 A. From my -  
 6 COMMISSIONER:  
 7 Q. The deputy minister -  
 8 MS. HENNESSEY:  
 9 A. - discussions with the deputy minister or the  
 10 minister on this file, I don't recall being  
 11 asked to go back to do further follow-up with  
 12 Eastern Health. I mean, the department felt  
 13 comfortable, to the best of my knowledge, that  
 14 Eastern Health was managing the file, that the  
 15 ER/PR testing was an operational matter for  
 16 Eastern Health -  
 17 COMMISSIONER:  
 18 Q. So I'm--I know that on one occasion you had  
 19 the conversation, you went to look for  
 20 information, as I understood it, so you could  
 21 properly brief the minister.  
 22 MS. HENNESSEY:  
 23 A. Yes.  
 24 COMMISSIONER:  
 25 Q. As to what had occurred. And I understood you

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1 to say this morning that you did that not  
 2 because someone directed you to do it, but  
 3 because you felt that was part of your duty in  
 4 terms of gathering information to provide to  
 5 the minister?  
 6 MS. HENNESSEY:  
 7 A. That's correct, yes.  
 8 COMMISSIONER:  
 9 Q. Okay. Now, can we be clear, at any time along  
 10 the way did either the minister or the deputy  
 11 ask you to contact Eastern Health or any  
 12 particular person at Eastern Health regarding  
 13 the issue of what I will call what went wrong,  
 14 the kind of information you were looking for  
 15 when you did that e-mail a little earlier and  
 16 Dr. Williams called you back?  
 17 MS. HENNESSEY:  
 18 A. In my subsequent discussions on this file, you  
 19 know, with the minister and with the deputy  
 20 minister, I was not asked to go back to--that  
 21 I can recall -  
 22 COMMISSIONER:  
 23 Q. Subsequent to your inquiry, you mean?  
 24 MS. HENNESSEY:  
 25 A. That's right, subsequent to my--as we moved

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1 along in this file I do not recall in any  
 2 discussion with the minister or the deputy  
 3 minister that I was personally asked to go  
 4 back to get any additional information. I  
 5 can--you know, I wish to assure you that if I  
 6 had been asked to do that, I certainly would  
 7 have followed through.  
 8 COMMISSIONER:  
 9 Q. Okay. So on that occasion you did. Now, but  
 10 your object in doing so was to advise your  
 11 minister?  
 12 MS. HENNESSEY:  
 13 A. Yes.  
 14 COMMISSIONER:  
 15 Q. So that your minister was in position to  
 16 answer a question?  
 17 MS. HENNESSEY:  
 18 A. Yeah.  
 19 COMMISSIONER:  
 20 Q. You keep referring to the fact that the  
 21 department was confident in Eastern Health.  
 22 MS. HENNESSEY:  
 23 A. Yeah.  
 24 COMMISSIONER:  
 25 Q. Does that mean that what the Department of

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1 Health does in a major adverse event is  
 2 determined by whether or not the Department of  
 3 Health has confidence in the authority?  
 4 MS. HENNESSEY:  
 5 A. I mean, we rely on the health authorities to  
 6 deliver the programs and services.  
 7 COMMISSIONER:  
 8 Q. Um-hm.  
 9 MS. HENNESSEY:  
 10 A. In our discussions with, as we move through  
 11 files, I mean, we would make an assessment on  
 12 whether the regional health authority was  
 13 taking appropriate actions. And at this point  
 14 in time, I mean, we were comfortable with the--  
 15 with how Eastern Health was handling the  
 16 file.  
 17 COMMISSIONER:  
 18 Q. But you do make an assessment, so part of the  
 19 role of the department was to assess whether  
 20 or not the authority is handling the matter  
 21 appropriately?  
 22 MS. HENNESSEY:  
 23 A. That would be correct. I mean, as we move  
 24 through this file, if at some point in the  
 25 file that we weren't comfortable with how

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1 Eastern Health or another health authority was  
 2 handling a file, that we would certainly  
 3 engage in further discussions with -  
 4 COMMISSIONER:  
 5 Q. Okay.  
 6 MS. HENNESSEY:  
 7 A. - the health authority.  
 8 COMMISSIONER:  
 9 Q. All right, this is--okay, let me tell you what  
 10 I hear you saying and you tell me whether I  
 11 got you right or not.  
 12 MS. HENNESSEY:  
 13 A. Okay.  
 14 COMMISSIONER:  
 15 Q. What I hear you saying is that in the  
 16 relationship between health authorities and  
 17 the Department of Health if there is a major  
 18 event, the obligation of the health authority  
 19 is to advise the minister?  
 20 MS. HENNESSEY:  
 21 A. Yes.  
 22 COMMISSIONER:  
 23 Q. The Department of Health, unless something  
 24 occurs in the process which causes the  
 25 Department of Health to question the way that

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1 the authority is handling something.  
 2 MS. HENNESSEY:  
 3 A. Yes.  
 4 COMMISSIONER:  
 5 Q. The department itself does not interfere with  
 6 what the authority does?  
 7 MS. HENNESSEY:  
 8 A. That's, yes, as we move through this file,  
 9 when we were comfortable that Eastern Health  
 10 was managing the file, the department did not  
 11 engage in further discussions.  
 12 COMMISSIONER:  
 13 Q. Okay. And as I understood what you further,  
 14 what you said, that there is a role for the  
 15 department assessing that. Does that just  
 16 mean if something hits you in the face when  
 17 they're communicating with you, you might look  
 18 at it differently or do you actually have a  
 19 process for saying, okay, how is the authority  
 20 handling this and let's have a look at it?  
 21 You know what I mean, it's a different thing.  
 22 One is an active thing, the other is waiting  
 23 for something to happen to tell you it's not  
 24 being handled properly.  
 25 MS. HENNESSEY:

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1 A. Yeah. I guess one of the--the department has  
 2 three lines of business. One of them is  
 3 monitoring.  
 4 COMMISSIONER:  
 5 Q. Um-hm.  
 6 MS. HENNESSEY:  
 7 A. And reporting. We--my personal view was that  
 8 we do a reasonably good job on monitoring from  
 9 a financial perspective.  
 10 COMMISSIONER:  
 11 Q. Um-hm.  
 12 MS. HENNESSEY:  
 13 A. If there's areas for improvement. With  
 14 respect to monitoring with respect to the  
 15 services and programs, I think that's an area  
 16 that it certainly is--it needs some  
 17 improvement.  
 18 COMMISSIONER:  
 19 Q. Okay. So there is a role for monitoring how  
 20 authorities do what the authorities are  
 21 supposed to do?  
 22 MS. HENNESSEY:  
 23 A. Yes, there is a role -  
 24 COMMISSIONER:  
 25 Q. As part of, I presume, accountability of

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1 authorities, really?  
 2 MS. HENNESSEY:  
 3 A. Yes, it is. I mean, the department has three  
 4 key lines of business and one of which is  
 5 monitoring and reporting. My personal view is  
 6 this, that the department does not do as a  
 7 really good job in that area of monitoring and  
 8 reporting.  
 9 COMMISSIONER:  
 10 Q. All right.  
 11 MS. HENNESSEY:  
 12 A. If I just take it from my own perspective,  
 13 there's many demands on the branch and on the  
 14 staff that work with me. There has been some  
 15 new processes implemented within government  
 16 over the last two or three years, internal  
 17 processes, that take considerable amount of  
 18 time. There's also the annual budget process  
 19 is quite extensive. It starts in September  
 20 and goes to April, May and there is  
 21 considerable time spent internally on that.  
 22 There's also with respect to our internal  
 23 processes I find that if the department had  
 24 more flexibility within its total global funds  
 25 to reallocate resources, we would not be

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1 having to spend as much time going back to  
 2 central government seeking authority. And all  
 3 of these processes take away, I believe, from  
 4 the time that we have to support the regional  
 5 health authorities.  
 6 COMMISSIONER:  
 7 Q. Okay. And going back to this particular  
 8 event.  
 9 MS. HENNESSEY:  
 10 A. Yeah.  
 11 COMMISSIONER:  
 12 Q. As I understand what you have said was that  
 13 because nothing struck you as being awry, at  
 14 least up to this point.  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 COMMISSIONER:  
 18 Q. With Eastern Health handling of the event, you  
 19 then were limited to being a conduit for  
 20 information from Eastern Health to the  
 21 minister, is that correct?  
 22 MS. HENNESSEY:  
 23 A. I think that's a fair assessment.  
 24 COMMISSIONER:  
 25 Q. All right. Sorry, Ms. Chaytor.

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1 CHAYTOR, Q.C.:  
 2 Q. No, thank you, that's helpful, Commissioner.  
 3 Ms. Hennessey, when did you become aware that  
 4 there was litigation commenced regarding this  
 5 matter?  
 6 MS. HENNESSEY:  
 7 A. It would have been sometime in the spring of  
 8 2006, if I recall correctly.  
 9 CHAYTOR, Q.C.:  
 10 Q. And there was a newspaper article regarding  
 11 Michelle Hanlon's claim?  
 12 MS. HENNESSEY:  
 13 A. Yes.  
 14 CHAYTOR, Q.C.:  
 15 Q. And that newspaper article was February 5th,  
 16 2006?  
 17 MS. HENNESSEY:  
 18 A. Okay.  
 19 CHAYTOR, Q.C.:  
 20 Q. Would that be around the time you became aware  
 21 of this?  
 22 MS. HENNESSEY:  
 23 A. It could have been. I certainly would have  
 24 been aware sometime in the spring of 2006.  
 25 CHAYTOR, Q.C.:

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1 Q. And do you recall me taking you through the  
 2 briefing notes this morning and pointing out  
 3 that it's the February 23rd, 2006 briefing  
 4 note when the question is dropped what  
 5 happened, what went wrong?  
 6 MS. HENNESSEY:  
 7 A. Right.  
 8 CHAYTOR, Q.C.:  
 9 Q. That's dropped in February 23rd, 2006?  
 10 MS. HENNESSEY:  
 11 A. Yes.  
 12 CHAYTOR, Q.C.:  
 13 Q. And we don't see that afterwards in the  
 14 briefing note?  
 15 MS. HENNESSEY:  
 16 A. No.  
 17 CHAYTOR, Q.C.:  
 18 Q. Did knowledge of the fact that litigation had  
 19 been commenced influence you not continuing to  
 20 seek the answer to the question of what  
 21 happened?  
 22 MS. HENNESSEY:  
 23 A. No, that wouldn't have happened.  
 24 CHAYTOR, Q.C.:  
 25 Q. Was that discussed in the department?

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1 MS. HENNESSEY:  
 2 A. No, that I can--my recall is there was no  
 3 discussion around Michelle Hanlon case in the  
 4 department.  
 5 CHAYTOR, Q.C.:  
 6 Q. Yes, and not specific to that claim. My  
 7 question is more general than that in terms of  
 8 whether or not the department having the  
 9 information as to what may have went wrong,  
 10 whether or not there was any concern about the  
 11 department having that information and whether  
 12 or not then that information could be subject  
 13 to further disclosure?  
 14 MS. HENNESSEY:  
 15 A. No, there was no concern around that.  
 16 CHAYTOR, Q.C.:  
 17 Q. No discussion about that?  
 18 MS. HENNESSEY:  
 19 A. There was no discussion on that in the  
 20 department that I was party to.  
 21 CHAYTOR, Q.C.:  
 22 Q. And if the Department did have that  
 23 information as to what happened or what went  
 24 wrong, and if that were to show up in a  
 25 briefing note, would that information be

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1 subject to disclosure, for example, on an  
 2 ATIPP request?  
 3 MS. HENNESSEY:  
 4 A. I think all of our briefing notes would be  
 5 subject to disclosure under an ATIPP request.  
 6 But there was no discussion that I'm aware of  
 7 happened in the Department around the law  
 8 suit.  
 9 CHAYTOR, Q.C.:  
 10 Q. So no discussion whatsoever about the fact  
 11 that litigation had been commenced?  
 12 MS. HENNESSEY:  
 13 A. Not that I was party to.  
 14 CHAYTOR, Q.C.:  
 15 Q. How did you become aware of the litigation?  
 16 MS. HENNESSEY:  
 17 A. I think the information, when we were  
 18 preparing the briefing note, that the  
 19 information would have been provided from  
 20 Eastern Health.  
 21 CHAYTOR, Q.C.:  
 22 Q. And I take it others in the Department would  
 23 have been aware of the existence of litigation  
 24 as well?  
 25 MS. HENNESSEY:

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1 A. Yes, with the information that was in the  
 2 briefing note, and I believe it was in the  
 3 public at that time.  
 4 CHAYTOR, Q.C.:  
 5 Q. The next briefing note then is April 27th,  
 6 2006, and I believe that's 0125, page ten, and  
 7 again, in terms of anticipated questions, we  
 8 don't see the question of what happened or  
 9 what went wrong, and we have the same bullet  
 10 here about the recommendations of the external  
 11 consultants.  
 12 MS. HENNESSEY:  
 13 A. Right.  
 14 CHAYTOR, Q.C.:  
 15 Q. And it does say "have been implemented and the  
 16 consultants returned to Eastern Health in  
 17 early April to assess progress. Eastern  
 18 Health expects to begin testing new patients  
 19 once the consultants final report has been  
 20 received, likely in late May." And that  
 21 briefing note is April 27th, 2006, and it's  
 22 approved by yourself.  
 23 Now at this point in time, Ms. Morrissey  
 24 (sic.), did you have any problems with the  
 25 wording of saying their recommendations have

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1 been implemented and the consultants--because  
 2 they're now back. They came in early April.  
 3 MS. HENNESSEY:  
 4 A. Right.  
 5 CHAYTOR, Q.C.:  
 6 Q. So are you now comfortable with that wording  
 7 or are you again going by the wording that had  
 8 been suggested to you by Mr. Abbott?  
 9 MS. HENNESSEY:  
 10 A. I think at that point in time I still would  
 11 have had some concerns about the wording.  
 12 CHAYTOR, Q.C.:  
 13 Q. And why is that?  
 14 MS. HENNESSEY:  
 15 A. Because I think that the final report hadn't  
 16 been received from the consultants at that  
 17 time.  
 18 CHAYTOR, Q.C.:  
 19 Q. And then the next briefing note is May 2nd and  
 20 it's approved by you, drafted by Debbie  
 21 Morris, and on this one, again the question of  
 22 what happened doesn't appear and we have a  
 23 similar--under key messages, similar bullet,  
 24 "a quality review began immediately" and it  
 25 goes on to talk about the external

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1 consultants, "their recommendations have been  
 2 implemented and the consultants returned in  
 3 early April to assess the progress. Eastern  
 4 Health expects to begin retesting" or "begin  
 5 testing" sorry, "of the new patients once the  
 6 consultants final report has been received,  
 7 likely in late May."  
 8 And then the next one is May 18th, and we  
 9 have some new questions here, under  
 10 anticipated questions, including "what has  
 11 been done to correct this problem? All the  
 12 test results are back from Mount Sinai  
 13 Hospital in Toronto." So I take it you're  
 14 feeling comfortable in saying that now, that  
 15 all the test results are back. "These results  
 16 are in various stages of review by a panel of  
 17 physicians who will interpret the results. We  
 18 know this process is taking time, but our  
 19 primary concern is that the patients' needs  
 20 are being addressed." And "Government is  
 21 unable to comment at this time on the  
 22 statement of claim due to the legal  
 23 proceedings," and I take it that's in  
 24 reference to the anticipated question, "what  
 25 is government's response to the claim brought

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1 by the family of the late Ms. Hanlon."  
 2 And again, this briefing note is approved  
 3 by yourself and is dated May 18th, 2006.  
 4 There is reference again to the external  
 5 reviews, "the consultants recommendations have  
 6 been implemented. They returned in early  
 7 April this year to assess the progress.  
 8 Eastern Health expects to begin testing new  
 9 patients in St. John's once the final report  
 10 has been received and reviewed, likely in late  
 11 May."  
 12 At this point in time then, you're still  
 13 waiting for the final report? Is that it?  
 14 MS. HENNESSEY:  
 15 A. Yes.  
 16 CHAYTOR, Q.C.:  
 17 Q. You're still waiting for the final report from  
 18 the consultants to -  
 19 MS. HENNESSEY:  
 20 A. And based on our knowledge at that time, we  
 21 would still be waiting for the final report.  
 22 CHAYTOR, Q.C.:  
 23 Q. And why do you now feel comfortable in saying  
 24 all the test results are back?  
 25 MS. HENNESSEY:

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1 A. At that point in time, Eastern Health advised  
 2 us that all the test results were back and we  
 3 felt comfortable by then that all the test  
 4 results had come back from Mount Sinai.  
 5 CHAYTOR, Q.C.:  
 6 Q. And why do you say that "government is unable  
 7 to comment at this time on the statement of  
 8 claim due to the legal proceedings"?  
 9 MS. HENNESSEY:  
 10 A. I think it was just a general comment that  
 11 where this was a statement of claim between a  
 12 family and Eastern Health, that the government  
 13 would not become involved in it.  
 14 CHAYTOR, Q.C.:  
 15 Q. Ms. Hennessey, then at the end of May, did you  
 16 follow up to find out whether or not the  
 17 reports had in fact been received?  
 18 MS. HENNESSEY:  
 19 A. Final reports from -  
 20 CHAYTOR, Q.C.:  
 21 Q. The external consultants.  
 22 MS. HENNESSEY:  
 23 A. - the consultants? Yes, I understood shortly  
 24 thereafter that the reports had been received.  
 25 CHAYTOR, Q.C.:

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1 Q. So shortly after this briefing note of May  
 2 18th?  
 3 MS. HENNESSEY:  
 4 A. It would have been sometime later, that's  
 5 right.  
 6 CHAYTOR, Q.C.:  
 7 Q. Okay, and what were you told the results of  
 8 those--the reports, what were you told about  
 9 that?  
 10 MS. HENNESSEY:  
 11 A. I don't recall specifically what I was told,  
 12 other than the fact that the final reports  
 13 were back from the consultants and I  
 14 understood, rightly or wrongly, that it was  
 15 okay to resume testing in St. John's.  
 16 CHAYTOR, Q.C.:  
 17 Q. And who told you that? Who was your source of  
 18 information from Eastern Health?  
 19 MS. HENNESSEY:  
 20 A. I don't recall specifically who provided that  
 21 information at that time.  
 22 CHAYTOR, Q.C.:  
 23 Q. But that came from Eastern Health?  
 24 MS. HENNESSEY:  
 25 A. That's my understanding.

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1 CHAYTOR, Q.C.:  
 2 Q. And I take it it would be one of your--one of  
 3 the two or three people that you normally  
 4 communicated with at Eastern Health?  
 5 MS. HENNESSEY:  
 6 A. That's right, and it may have come to me from  
 7 one of my--one of the staff that works with  
 8 me, as I mentioned, as we moved through these  
 9 proceedings that I was not the direct contact  
 10 on every issue at every minute on this file  
 11 with Eastern Health.  
 12 CHAYTOR, Q.C.:  
 13 Q. So were you informed then that Ms.  
 14 Wegrynowski, in fact, had a number of  
 15 outstanding recommendations?  
 16 MS. HENNESSEY:  
 17 A. I don't recall being informed of that at that  
 18 time.  
 19 CHAYTOR, Q.C.:  
 20 Q. Was your understanding the reviewers had come  
 21 back in and all the recommendations had been  
 22 implemented?  
 23 MS. HENNESSEY:  
 24 A. In May of 2006, during the spring of 2006?  
 25 CHAYTOR, Q.C.:



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1 Q. Yes.

2 MS. HENNESSEY:

3 A. I think I understood then that Eastern Health

4 was implementing--they were certainly

5 continuing to implement the recommendations,

6 whether they were 100 percent implemented at

7 that time, I don't recall the specifics around

8 it.

9 CHAYTOR, Q.C.:

10 Q. Okay, perhaps I misunderstood. I thought you

11 said that you had understood they were back in

12 and that the recommendations were implemented?

13 That wasn't what you said?

14 MS. HENNESSEY:

15 A. I'm sorry, maybe I'm just missing -

16 CHAYTOR, Q.C.:

17 Q. I may have misunderstood.

18 MS. HENNESSEY:

19 A. Yeah, maybe I'm misunderstanding the question.

20 CHAYTOR, Q.C.:

21 Q. Okay. I had thought you had said--I asked

22 whether you followed up and whether or not the

23 reports were back.

24 MS. HENNESSEY:

25 A. Yes.

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1 CHAYTOR, Q.C.:

2 Q. I had thought you said that yes, they had been

3 back and the reports received and the

4 recommendations were implemented. But you're

5 saying they were still in the progress of

6 being -

7 MS. HENNESSEY:

8 A. Yeah, I can't--I don't--I can't say for

9 certainly that it was--that the report was 100

10 percent implemented at that time.

11 CHAYTOR, Q.C.:

12 Q. But you weren't told that there were a number

13 of outstanding recommendations outlined in Ms.

14 Wegrynowski's report?

15 MS. HENNESSEY:

16 A. No, I wasn't. That detail wasn't shared with

17 me.

18 CHAYTOR, Q.C.:

19 Q. But you did understand that it was okay for

20 testing to resume?

21 MS. HENNESSEY:

22 A. I understood that at that time, that the

23 testing would resume. I know it didn't resume

24 until February 2007, but I sensed--my

25 understanding then was that the testing could

Page 227

1 resume in St. John's.

2 CHAYTOR, Q.C.:

3 Q. And did you understand then from that, if it's

4 okay for the testing to resume, that the

5 recommendations must be implemented?

6 MS. HENNESSEY:

7 A. I don't know whether I would have gotten to

8 that level of detail in a discussion with

9 Eastern Health on it at that time. I mean,

10 the Department continued to feel confident at

11 that time that Eastern Health would resume the

12 testing when they felt that they had addressed

13 the recommendations and had put processes in

14 place that would assure that the testing could

15 be resumed safely in St. John's.

16 CHAYTOR, Q.C.:

17 Q. Yes, because that's what the key message and

18 the other suggested response for the past two

19 or three briefing notes that I just referred

20 you to suggested, and until the external

21 consultants provide their final report and

22 assure Eastern Health it is safe to proceed,

23 the testing of new breast cancer patients with

24 ER/PR receptors will continue at Mount Sinai.

25 MS. HENNESSEY:

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1 A. Yeah.

2 CHAYTOR, Q.C.:

3 Q. And in answering the question about the

4 consultants recommendations having been

5 implemented, you're saying that you weren't

6 saying that because you were waiting for the

7 final report to come in?

8 MS. HENNESSEY:

9 A. Ms. Chaytor, I have to apologize at the

10 moment, because I'm losing -

11 CHAYTOR, Q.C.:

12 Q. That's fine. I don't mean to confuse you.

13 MS. HENNESSEY:

14 A. Yeah, I'm losing the context around this now,

15 and I don't want to -

16 CHAYTOR, Q.C.:

17 Q. I'm just wondering what you understood. You

18 were waiting for--you weren't comfortable

19 particularly with the wording about the

20 consultants recommendations having been

21 implemented. You've told us about that, and

22 that you were waiting until the consultants

23 came back in and then until the final report

24 was received.

25 MS. HENNESSEY:

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1 A. Right.

2 CHAYTOR, Q.C.:

3 Q. So I'm just wondering if then after, in late

4 May, when you followed up, what you then

5 understood the status to be?

6 MS. HENNESSEY:

7 A. I don't recall getting the details that you're

8 talking about with respect to the chief lab

9 technologist recommendations at that time. My

10 recall is that the testing would resume--at

11 that point in time, it was that testing would

12 resume in St. John's shortly thereafter.

13 CHAYTOR, Q.C.:

14 Q. Okay, and was there an updated then briefing

15 note for the Minister following that

16 conversation in late May?

17 MS. HENNESSEY:

18 A. I don't believe there was any further briefing

19 notes at that time.

20 CHAYTOR, Q.C.:

21 Q. And why not?

22 MS. HENNESSEY:

23 A. These briefing notes were being done for the

24 purpose of the House of Assembly and the House

25 of Assembly probably closed shortly

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1 thereafter, so there was no--during the next

2 few months, there was no further notes done on

3 the file.

4 CHAYTOR, Q.C.:

5 Q. Okay, and what do you recall then being your

6 next involvement with this issue?

7 MS. HENNESSEY:

8 A. My next involvement with this issue would have

9 been in, if I recall correctly, in August

10 2006.

11 CHAYTOR, Q.C.:

12 Q. And is that around the briefing note requested

13 by Cabinet Secretariat?

14 MS. HENNESSEY:

15 A. Yes.

16 CHAYTOR, Q.C.:

17 Q. And what do you recall about that?

18 MS. HENNESSEY:

19 A. What I recall about that was shortly after I

20 returned from vacation, which was the early

21 part of August. I think it was the 7th of

22 August that there had been some, I think,

23 media coverage around I think it was a

24 particular individual at that time and that

25 Cabinet Secretariat was looking for some

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1 current information on the file.

2 CHAYTOR, Q.C.:

3 Q. Okay, and if we could look please at 0125,

4 page 31. Now Ms. Hennessey, this is the

5 briefing note that we understand ultimately is

6 generated and you can see that it's copied to

7 the Premier and Brian Crawley, Elizabeth

8 Matthews, Robert Thompson and others,

9 Josephine Cheeseman, Gary Cake, and it's

10 stamped Executive Council, August 18th, 2006

11 registry, and it's dated August 18th 2006,

12 prepared by/approved by Heather Predham,

13 Eastern Health, Moira Hennessey, Department of

14 Health and Community Services, and then

15 reviewed by Marilyn McCormack, Gary Cake from

16 Cabinet Secretariat.

17 So it notes here that it was prepared by

18 Heather Predham, prepared by/approved by, can

19 you tell us what does that mean and whether

20 you agree with that, that it was prepared

21 by/Heather, approved by? First of all, tell

22 us what you understand that to mean and

23 whether or not you think it's correct?

24 MS. HENNESSEY:

25 A. What I understand that to mean is that Heather

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1 Predham from Eastern Health would have

2 prepared the note, that I would have approved

3 the note, and that the note would have gone to

4 Cabinet Secretariat for review.

5 CHAYTOR, Q.C.:

6 Q. And been reviewed by Ms. McCormack and Mr.

7 Cake?

8 MS. HENNESSEY:

9 A. Yes.

10 CHAYTOR, Q.C.:

11 Q. Okay, and do you agree with that?

12 MS. HENNESSEY:

13 A. No, I don't agree with it.

14 CHAYTOR, Q.C.:

15 Q. Okay, and why not?

16 MS. HENNESSEY:

17 A. The note itself, Heather Predham provided

18 information to the Department, at my request.

19 I took the information that Heather Predham

20 provided to me. I summarized that information

21 into a table, as best I could, recognizing

22 that I didn't--I don't have a medical

23 background. I didn't spend a lot of time

24 looking at the details in the note. I did my

25 best to move the information on the test

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1 results from a document that Heather Predham  
 2 prepared. I summarized that information into  
 3 a table. I provided the table to Cabinet  
 4 Secretariat, to Marilyn McCormack, and the  
 5 table was incorporated into a briefing note  
 6 that was drafted at Cabinet Secretariat.  
 7 CHAYTOR, Q.C.:  
 8 Q. Would Heather Predham have ever received a  
 9 copy of this note?  
 10 MS. HENNESSEY:  
 11 A. I didn't show the note to Heather Predham.  
 12 CHAYTOR, Q.C.:  
 13 Q. And to your knowledge, did she ever receive a  
 14 copy?  
 15 MS. HENNESSEY:  
 16 A. I don't--to the best of my knowledge, Heather  
 17 would not have seen this note.  
 18 CHAYTOR, Q.C.:  
 19 Q. If we could look then at 1477, please, page  
 20 two, and this is--I'll show you the first  
 21 page. I take it you're familiar with this  
 22 correspondence, Ms. Hennessey. It's a letter  
 23 from your solicitor, Mr. Pritchard, the  
 24 government's solicitor, May 23rd 2008, to  
 25 myself and Mr. Coffey.

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1 MS. HENNESSEY:  
 2 A. Yes.  
 3 CHAYTOR, Q.C.:  
 4 Q. You've seen this, I take it, and I just want  
 5 to--you indicate here that Marilyn McCormack--  
 6 "in relation to the 18th of August 2006  
 7 briefing note, she states" so this would be  
 8 yourself, you're stating you were on vacation,  
 9 as you've told us, and returned to work on  
 10 August 7th.  
 11 MS. HENNESSEY:  
 12 A. Yes.  
 13 CHAYTOR, Q.C.:  
 14 Q. "Marilyn McCormack contacted me shortly after  
 15 I returned to work about a briefing note and  
 16 asked me for the ER/PR retesting results. I  
 17 advised Marilyn that I did not have the  
 18 retesting results. She called me back and  
 19 asked me to get the retesting results from  
 20 Eastern Health."  
 21 Now I understood from what you told us a  
 22 few minutes ago that this matter had been in  
 23 the news, and is that what precipitated  
 24 Cabinet Secretariat looking for this  
 25 information?

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1 MS. HENNESSEY:  
 2 A. I would think so, but I really don't know for  
 3 sure. When the contact was made with me,  
 4 Marilyn indicated that, you know, a briefing  
 5 note was being done.  
 6 CHAYTOR, Q.C.:  
 7 Q. Ms. Hennessey, why is it that the Department  
 8 hadn't looked for the retesting results prior  
 9 to Cabinet Secretariat asking that that  
 10 happen?  
 11 MS. HENNESSEY:  
 12 A. I don't know the answer to that question. The  
 13 department didn't ask for the test results on  
 14 the patients until Cabinet Secretariat had  
 15 asked us to get the test results.  
 16 CHAYTOR, Q.C.:  
 17 Q. And if we could look at P-1417 please? And  
 18 Ms. Hennessey, this is an e-mail from Heather  
 19 Predham to yourself?  
 20 MS. HENNESSEY:  
 21 A. Yes.  
 22 CHAYTOR, Q.C.:  
 23 Q. And she copies Ms. Pilgrim and Ms. Elliott.  
 24 It's dated August 11th, 2006 and she's saying,  
 25 "Hi Moira, please find a briefing note as

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1 attached. I've left a draft as Dr. Williams  
 2 and Dr. Denic have not seen it as yet. If you  
 3 have any questions, please do not hesitate to  
 4 call."  
 5 MS. HENNESSEY:  
 6 A. Right.  
 7 CHAYTOR, Q.C.:  
 8 Q. And then this is the information that is  
 9 provided to you by Ms. Predham.  
 10 MS. HENNESSEY:  
 11 A. Right.  
 12 CHAYTOR, Q.C.:  
 13 Q. Is this the table that you're referring to?  
 14 MS. HENNESSEY:  
 15 A. Yes, I would have used this information to  
 16 prepare the table that went into the August  
 17 18th note.  
 18 CHAYTOR, Q.C.:  
 19 Q. Okay. So this is what was provided to you by  
 20 Ms. Predham?  
 21 MS. HENNESSEY:  
 22 A. Yes.  
 23 CHAYTOR, Q.C.:  
 24 Q. And if we could look then please at P-0817?  
 25 And this is your e-mail correspondence then to

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1 Ms. McCormack.  
 2 MS. HENNESSEY:  
 3 A. Yes.  
 4 CHAYTOR, Q.C.:  
 5 Q. And you've indicated August 11th, again 2006.  
 6 "I've just received the information from  
 7 Eastern. It's in draft as their senior staff  
 8 are not available to review it until Monday."  
 9 And you say you'll review it on the weekend  
 10 and you can conclude it on Monday. And then  
 11 this document is what you forward to Ms.  
 12 McCormack?  
 13 MS. HENNESSEY:  
 14 A. Yes.  
 15 CHAYTOR, Q.C.:  
 16 Q. And that's what you've said is a summary of  
 17 what Ms. Predham forwarded to you?  
 18 MS. HENNESSEY:  
 19 A. I did my best to take the information that Ms.  
 20 Predham forwarded to me and to put it into a  
 21 table that was provided to Cabinet  
 22 Secretariat.  
 23 CHAYTOR, Q.C.:  
 24 Q. Okay, and why did you summarize her  
 25 information? Why not just pass along to Ms.

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1 McCormack all of the information that Ms.  
 2 Predham sent to you?  
 3 MS. HENNESSEY:  
 4 A. It's not a normal practice for us to take  
 5 notes from our regional health authorities and  
 6 forward them to Cabinet Secretariat. The  
 7 normal practice is for a note to be prepared.  
 8 CHAYTOR, Q.C.:  
 9 Q. And if we look at this, you're indicating the  
 10 total number of patient tissues sent for  
 11 retesting at Mount Sinai was 939.  
 12 MS. HENNESSEY:  
 13 A. Yes.  
 14 CHAYTOR, Q.C.:  
 15 Q. And the majority of the test results, 923,  
 16 have been returned. If we could go back,  
 17 please, to P-1447, page two?  
 18 MS. HENNESSEY:  
 19 A. Right.  
 20 CHAYTOR, Q.C.:  
 21 Q. And Ms. Predham has written, "Based on this  
 22 information, the total number of patients that  
 23 were sent for retesting was 939."  
 24 MS. HENNESSEY:  
 25 A. Yes.

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1 CHAYTOR, Q.C.:  
 2 Q. Where did you receive the number of 923?  
 3 MS. HENNESSEY:  
 4 A. The number 923 came from one of our previous  
 5 briefing notes.  
 6 CHAYTOR, Q.C.:  
 7 Q. I'm sorry? So the last -  
 8 MS. HENNESSEY:  
 9 A. The number 923 came from a briefing note that  
 10 we did in May, 2006.  
 11 CHAYTOR, Q.C.:  
 12 Q. Okay, and this is August, 2006.  
 13 MS. HENNESSEY:  
 14 A. 2006, yes.  
 15 CHAYTOR, Q.C.:  
 16 Q. So the May--the last briefing note you had  
 17 done prior to that was May 18th, 2006?  
 18 MS. HENNESSEY:  
 19 A. Let's have a look.  
 20 CHAYTOR, Q.C.:  
 21 Q. So that number would have appeared at some  
 22 point prior to?  
 23 MS. HENNESSEY:  
 24 A. Yes, the number is in the May 2nd, 2006  
 25 briefing note.

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1 CHAYTOR, Q.C.:  
 2 Q. Briefing note. Okay, we're at P-0125, page  
 3 13. And here we see Eastern Health has sent a  
 4 total of 939, test results have been received  
 5 on 923 patients.  
 6 MS. HENNESSEY:  
 7 A. Yes.  
 8 CHAYTOR, Q.C.:  
 9 Q. Did you have any discussion with Ms. Predham,  
 10 it's now three months later?  
 11 MS. HENNESSEY:  
 12 A. Yes.  
 13 CHAYTOR, Q.C.:  
 14 Q. Did you discuss with Ms. Predham as to whether  
 15 or not the number still is 923?  
 16 MS. HENNESSEY:  
 17 A. I didn't have any discussion with Ms. Predham  
 18 on that. When I received this information  
 19 from Ms. Predham, it was on a Friday  
 20 afternoon, I prepared the table, if I recall  
 21 correctly it was on a Sunday morning and then  
 22 the information was typed for me on Monday. I  
 23 didn't get a chance to review it until Monday,  
 24 the 14th, late in the day because I was  
 25 working on a major presentation for Cabinet

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1 with respect to our Corner Brook long-term  
 2 care project at the time and the information  
 3 was forwarded to Ms. McCormack by one of our  
 4 administrative assistants on the morning of  
 5 the 15th of August because I was travelling  
 6 with the Minister to Labrador at that time.  
 7 CHAYTOR, Q.C.:  
 8 Q. So you assume that between May and August  
 9 there was no change in the number of results  
 10 received?  
 11 MS. HENNESSEY:  
 12 A. I did not have a follow up discussion with Ms.  
 13 Predham at that time.  
 14 CHAYTOR, Q.C.:  
 15 Q. And you used the number from May 2nd.  
 16 MS. HENNESSEY:  
 17 A. Yes.  
 18 CHAYTOR, Q.C.:  
 19 Q. If we could go then to P-1447, please, page 4?  
 20 And Ms. Predham--this is the 4th page of Ms.  
 21 Predham's information that she provided to  
 22 you.  
 23 MS. HENNESSEY:  
 24 A. Right.  
 25 CHAYTOR, Q.C.:

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1 Q. And under "Patients who are deceased" she puts  
 2 in brackets (176). "(176) patients are  
 3 identified as being deceased, either through  
 4 chart review or direct contact with a family  
 5 member. Of these 171, 101 were retested and  
 6 results received. The remaining 65 will not  
 7 be retested unless we are approached by the  
 8 families. In June an ethics review was  
 9 conducted regarding notification to the  
 10 families of the deceased. The recommendation  
 11 was that upon conclusion of the ER/PR review,  
 12 a public statement be made stating that if the  
 13 next of kin of a deceased patient would like  
 14 the results, that they contact Eastern  
 15 Health." So the numbers provided to you by  
 16 Ms. Predham were 176 patients are identified  
 17 as being deceased and 101 of those have been  
 18 retested.  
 19 MS. HENNESSEY:  
 20 A. Yes.  
 21 CHAYTOR, Q.C.:  
 22 Q. And their results received.  
 23 MS. HENNESSEY:  
 24 A. Yes.  
 25 CHAYTOR, Q.C.:

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1 Q. And 65 will not be retested unless the  
 2 families ask. Now if we go back to P-0817  
 3 please? And in the summary that you prepare -  
 4 MS. HENNESSEY:  
 5 A. Yes.  
 6 CHAYTOR, Q.C.:  
 7 Q. Patients identified as deceased by chart  
 8 review or contact with family member, 176.  
 9 MS. HENNESSEY:  
 10 A. Yes.  
 11 CHAYTOR, Q.C.:  
 12 Q. "Based on June 2006 ethics review a public  
 13 statement will be made at the end of the ER/PR  
 14 review that if a family member wants the  
 15 results, they can contact Eastern Health."  
 16 And the test results include--and then you  
 17 have a list, including 176 deceased.  
 18 MS. HENNESSEY:  
 19 A. Yes.  
 20 CHAYTOR, Q.C.:  
 21 Q. And if we look at, please, P-0125, page 33 and  
 22 this is the briefing note that goes to the  
 23 Cabinet Secretariat and the Premier's office.  
 24 The information that you've provided, your  
 25 chart -

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1 MS. HENNESSEY:  
 2 A. Yes.  
 3 CHAYTOR, Q.C.:  
 4 Q. - is included here. The test results include  
 5 -  
 6 MS. HENNESSEY:  
 7 A. Yeah, this was a chart that was inserted into  
 8 the note that was -  
 9 CHAYTOR, Q.C.:  
 10 Q. This is your chart, yes, was inserted.  
 11 MS. HENNESSEY:  
 12 A. Yes.  
 13 CHAYTOR, Q.C.:  
 14 Q. And it includes 176 deceased patients.  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. So you've included all 176 in your total  
 19 numbers.  
 20 MS. HENNESSEY:  
 21 A. Yes.  
 22 CHAYTOR, Q.C.:  
 23 Q. But Ms. Predham has told you they only have  
 24 results on 101.  
 25 MS. HENNESSEY:

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1 A. Yes.  
 2 CHAYTOR, Q.C.:  
 3 Q. There were 65 not retested.  
 4 MS. HENNESSEY:  
 5 A. Yes.  
 6 CHAYTOR, Q.C.:  
 7 Q. Why did you include the entire 176?  
 8 MS. HENNESSEY:  
 9 A. I think I just, in preparing it, I put the 176  
 10 in, I was taking the information from Heather  
 11 Predham's note and I just summarized it and  
 12 coming up with the number 939. I did not do  
 13 any analysis on the information provided by  
 14 Ms. Predham. I moved it from the table, from  
 15 the information that she provided into the  
 16 table.  
 17 CHAYTOR, Q.C.:  
 18 Q. But you may not have done an analysis, but you  
 19 did editing because Ms. Predham has told you  
 20 that only 101 have been retested.  
 21 MS. HENNESSEY:  
 22 A. Yes.  
 23 CHAYTOR, Q.C.:  
 24 Q. And there was no plans to retest the remaining  
 25 65 unless family members requested that. So

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1 that was Eastern Health's position, 176  
 2 people, there were not results received with  
 3 respect to 176 -  
 4 MS. HENNESSEY:  
 5 A. I guess that was an oversight on my part.  
 6 CHAYTOR, Q.C.:  
 7 Q. And that number gets carried forward?  
 8 MS. HENNESSEY:  
 9 A. Yes.  
 10 CHAYTOR, Q.C.:  
 11 Q. And you also didn't provide the information  
 12 that there was no intention to retest all of  
 13 the deceased unless the families requested it.  
 14 And do you think that might be important  
 15 information to -  
 16 MS. HENNESSEY:  
 17 A. Yes, that information was not included.  
 18 CHAYTOR, Q.C.:  
 19 Q. That information wasn't included.  
 20 MS. HENNESSEY:  
 21 A. No.  
 22 CHAYTOR, Q.C.:  
 23 Q. And why not?  
 24 MS. HENNESSEY:  
 25 A. I guess it was oversight on my part.

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1 CHAYTOR, Q.C.:  
 2 Q. And do you think that would be important  
 3 information in terms of Eastern Health's  
 4 position to carry forward and have included in  
 5 the briefing note?  
 6 MS. HENNESSEY:  
 7 A. Yeah, I think it would have been important  
 8 information that at the time I overlooked.  
 9 CHAYTOR, Q.C.:  
 10 Q. Now Ms. Hennessey, this issue regarding the  
 11 status of the recommendations, this is still  
 12 now within the--within the note which is  
 13 forwarded on to Cabinet Secretariat and  
 14 included in here are reasons for the erroneous  
 15 results and steps taken to prevent recurrence,  
 16 and it's written, "Eastern Health has engaged  
 17 external consultants to review the procedures  
 18 at the laboratory. When all reports are  
 19 received, they will be reviewed and the  
 20 recommendations will be implemented. The goal  
 21 is to have the laboratory accredited. Until  
 22 these processes are completed, all samples  
 23 will continue to be retested at Mount Sinai."  
 24 And we've just spent some time looking through  
 25 the briefing notes and having a discussion

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1 around the status of the recommendations and  
 2 whether they're implemented or not.  
 3 MS. HENNESSEY:  
 4 A. Right.  
 5 CHAYTOR, Q.C.:  
 6 Q. This is now August 18th.  
 7 MS. HENNESSEY:  
 8 A. Yes.  
 9 CHAYTOR, Q.C.:  
 10 Q. So you would have been aware that all of the  
 11 reports had been received, they had been  
 12 received as of late May?  
 13 MS. HENNESSEY:  
 14 A. Yes, I would have been.  
 15 CHAYTOR, Q.C.:  
 16 Q. So you were aware of that. And this briefing  
 17 note, however, goes forward saying "When all  
 18 reports are received, they will be reviewed  
 19 and the recommendations will be implemented."  
 20 MS. HENNESSEY:  
 21 A. This information and the briefing note itself  
 22 was prepared by Marilyn McCormack at Cabinet  
 23 Secretariat, I didn't prepare the note and  
 24 that this information, this would have been  
 25 her understanding based on a discussion with

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1 Heather Predham at Eastern Health.  
 2 CHAYTOR, Q.C.:  
 3 Q. Now you did see--a draft of this briefing note  
 4 came to you?  
 5 MS. HENNESSEY:  
 6 A. Yes, I did.  
 7 CHAYTOR, Q.C.:  
 8 Q. And it was indicated on the draft that your  
 9 name would be going forward saying that it had  
 10 been approved by you.  
 11 MS. HENNESSEY:  
 12 A. Yes.  
 13 CHAYTOR, Q.C.:  
 14 Q. And you were aware of that?  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. Did you take that up with Ms. McCormack and  
 19 say, I don't think that's an accurate  
 20 statement. All the reports have been  
 21 received.  
 22 MS. HENNESSEY:  
 23 A. I seem to have--I seem to recall having a  
 24 discussion on this particular point, but I  
 25 don't recall having it until August 18th.

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1 CHAYTOR, Q.C.:  
 2 Q. Okay, and what do you recall about your  
 3 discussion on that point?  
 4 MS. HENNESSEY:  
 5 A. I recall on that point raising with Ms.  
 6 McCormack that the reports from the reviewers  
 7 had been received by Eastern Health.  
 8 CHAYTOR, Q.C.:  
 9 Q. So you told that to Ms. McCormack?  
 10 MS. HENNESSEY:  
 11 A. I recall having that discussion, it was on the  
 12 18th of August.  
 13 CHAYTOR, Q.C.:  
 14 Q. And your discussion was with Ms. McCormack?  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. And you told her that that was--what's written  
 19 here was contrary to your understanding?  
 20 MS. HENNESSEY:  
 21 A. And I think that if I recall the discussion it  
 22 was her--she had the discussion with Heather  
 23 Predham and this was her understanding of what  
 24 Heather had said.  
 25 CHAYTOR, Q.C.:

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1 Q. So you recall specifically speaking to Ms.  
 2 McCormack around this point and Ms. McCormack  
 3 telling you that that was her understanding  
 4 based on her discussion with Heather Predham.  
 5 MS. HENNESSEY:  
 6 A. Yeah, I do recall a brief discussion on that  
 7 point.  
 8 CHAYTOR, Q.C.:  
 9 Q. And that Ms. McCormack said that this is what  
 10 Heather Predham had told her?  
 11 MS. HENNESSEY:  
 12 A. Yes. And the preparation of this particular  
 13 note was being done by Cabinet Secretariat.  
 14 CHAYTOR, Q.C.:  
 15 Q. Yes, I understand that.  
 16 THE COMMISSIONER:  
 17 Q. When you're referring to a conversation  
 18 between Ms. McCormack and Heather Predham, did  
 19 you understand that that was prior to Ms.  
 20 McCormack preparing the portion of the note  
 21 that she authored?  
 22 MS. HENNESSEY:  
 23 A. Ms. McCormack had -  
 24 THE COMMISSIONER:  
 25 Q. Or afterwards?

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1 MS. HENNESSEY:  
 2 A. - at least a couple of discussions with  
 3 Heather Predham on this particular note.  
 4 THE COMMISSIONER:  
 5 Q. This is probably going to sound like a  
 6 terribly naive question coming from somebody  
 7 who hasn't had any contact with government  
 8 operations, but why would Ms. McCormack ask  
 9 for the information that goes in the table  
 10 through you, if she was already talking to Ms.  
 11 Predham, why couldn't she just say send it to  
 12 me and leave you out of it?  
 13 MS. HENNESSEY:  
 14 A. I don't know if I have an answer to that  
 15 question. I can tell you how this note  
 16 unfolded, if that might help.  
 17 THE COMMISSIONER:  
 18 Q. Well maybe because it just seems odd that if  
 19 she was already talking to Ms. Predham, why  
 20 would she even involve you?  
 21 MS. HENNESSEY:  
 22 A. The briefing note began shortly after I  
 23 returned from vacation, that particular week I  
 24 was committed to another major file which was  
 25 the Corner Brook long-term care file.

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1 THE COMMISSIONER:  
 2 Q. Uh-hm.  
 3 MS. HENNESSEY:  
 4 A. That we were doing a presentation to Cabinet  
 5 on on the 17th of August on that file. I had  
 6 just returned from vacation, we had some  
 7 meetings scheduled and I was trying to get the  
 8 materials together for the Corner Brook long-  
 9 term care project.  
 10 THE COMMISSIONER:  
 11 Q. Uh-hm.  
 12 MS. HENNESSEY:  
 13 A. This particular week Bev Griffiths, who was  
 14 our contact on this file was on vacation as  
 15 was John Rumboldt. So, Ms. McCormack--because  
 16 I was delayed getting engaged in it, because I  
 17 was tied up with another major file, Ms.  
 18 McCormack -  
 19 THE COMMISSIONER:  
 20 Q. So, Ms. McCormack going to Predham was the odd  
 21 thing?  
 22 MS. HENNESSEY:  
 23 A. Yes -  
 24 THE COMMISSIONER:  
 25 Q. She would not have done that had you been

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1 available, in other words?  
 2 MS. HENNESSEY:  
 3 A. That's not normal process.  
 4 THE COMMISSIONER:  
 5 Q. I see, okay. Still not sure I understand why,  
 6 since she was going that route, she had to  
 7 involve you at all, but that's beside the  
 8 point, I guess.  
 9 MS. HENNESSEY:  
 10 A. Yes.  
 11 THE COMMISSIONER:  
 12 Q. Just another oddity.  
 13 CHAYTOR, Q.C.:  
 14 Q. Ms. Hennessey, this whole statement "when all  
 15 reports are received, they will be reviewed  
 16 and the recommendations will be implemented".  
 17 MS. HENNESSEY:  
 18 A. Right  
 19 CHAYTOR, Q.C.:  
 20 Q. What impression would that statement leave the  
 21 recipient of the information?  
 22 MS. HENNESSEY:  
 23 A. That would statement would leave the recipient  
 24 that there would still be further reports  
 25 coming in on the lab and that there would

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1 still be some recommendations to be  
 2 implemented.  
 3 CHAYTOR, Q.C.:  
 4 Q. And this occurs under the heading, "reasons  
 5 for the erroneous results and steps taken to  
 6 prevent recurrence".  
 7 MS. HENNESSEY:  
 8 A. Right.  
 9 CHAYTOR, Q.C.:  
 10 Q. Might it also prevent the reader from going to  
 11 look for the reasons for the erroneous results  
 12 because it's still a process unfolding?  
 13 MS. HENNESSEY:  
 14 A. I certainly don't think that that was the  
 15 intent. The wording around this, I can't  
 16 speak to, I didn't create the wording in this.  
 17 It might, you know, more helpful for Ms.  
 18 McCormack to assist you on that.  
 19 CHAYTOR, Q.C.:  
 20 Q. Your name goes out as having approved it.  
 21 MS. HENNESSEY:  
 22 A. Yes.  
 23 CHAYTOR, Q.C.:  
 24 Q. You didn't think this was accurate  
 25 information?

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1 MS. HENNESSEY:  
 2 A. No.  
 3 CHAYTOR, Q.C.:  
 4 Q. Why is it that you let this go forward?  
 5 MS. HENNESSEY:  
 6 A. Well, I didn't let the note go forward. The  
 7 note was over in Cabinet Secretariat and they  
 8 would have made the decision when the note  
 9 went forward.  
 10 CHAYTOR, Q.C.:  
 11 Q. But it came to you and -  
 12 MS. HENNESSEY:  
 13 A. The note came -  
 14 CHAYTOR, Q.C.:  
 15 Q. what did you do with it? The note came to you  
 16 in draft form and what did you do with it?  
 17 MS. HENNESSEY:  
 18 A. I sent the draft note to the deputy minister  
 19 for his review.  
 20 CHAYTOR, Q.C.:  
 21 Q. Mr. Abbott?  
 22 MS. HENNESSEY:  
 23 A. Yes.  
 24 CHAYTOR, Q.C.:  
 25 Q. And Mr. Abbott had been the person who you've



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1 told the Commissioner in earlier briefing  
 2 notes was changing the briefing notes to  
 3 indicate that the recommendations had already  
 4 been implemented.  
 5 MS. HENNESSEY:  
 6 A. Right.  
 7 CHAYTOR, Q.C.:  
 8 Q. Did Mr. Abbott come back to you with any  
 9 commentary on the note?  
 10 MS. HENNESSEY:  
 11 A. Mr. Abbott did not come back to me on this  
 12 note.  
 13 THE COMMISSIONER:  
 14 Q. Are you indicating that when, I understood  
 15 that what happened is you sent the table to  
 16 Ms. McCormack and Ms. McCormack incorporated  
 17 your table into the draft note and sent the  
 18 draft note back to you?  
 19 MS. HENNESSEY:  
 20 A. Yes, the draft note came back to me, it -  
 21 THE COMMISSIONER:  
 22 Q. At some point before the 18th?  
 23 MS. HENNESSEY:  
 24 A. There was a note came back on the 17th.  
 25 THE COMMISSIONER:

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1 Q. On the 17th?  
 2 MS. HENNESSEY:  
 3 A. Yes.  
 4 THE COMMISSIONER:  
 5 Q. Did you, at that time, read what was in the  
 6 note?  
 7 MS. HENNESSEY:  
 8 A. I did -  
 9 THE COMMISSIONER:  
 10 Q. Or did you just send it on to Mr. Abbott?  
 11 MS. HENNESSEY:  
 12 A. No, I'm sure I would have read the note, but I  
 13 did send it on to Mr. Abbott that day.  
 14 THE COMMISSIONER:  
 15 Q. Okay. And when you sent it to Mr. Abbott, did  
 16 you point out to him this what you viewed as  
 17 an inaccurate statement?  
 18 MS. HENNESSEY:  
 19 A. In my e-mail to Mr. Abbott, I think I said,  
 20 for his review. I was expecting Mr. Abbott to  
 21 come back to have some discussion with me on  
 22 this note since it was the first note where we  
 23 had the test results.  
 24 THE COMMISSIONER:  
 25 Q. Um-hm.

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1 CHAYTOR, Q.C.:  
 2 Q. It's at P-0171, your e-mail to Mr. Abbott.  
 3 And you're indicating to Mr. Abbott, "FYI and  
 4 review. This note will likely go to the  
 5 Premier's office later today or tomorrow".  
 6 MS. HENNESSEY:  
 7 A. Yeah, when I received the draft note, I went  
 8 down to see Mr. Abbott, but he wasn't  
 9 available and so I sent the note. In fact, on  
 10 the morning of August 17, Mr. Abbott was in  
 11 Cabinet doing the presentation on Corner Brook  
 12 Long Term Care. So, I wasn't able to connect  
 13 personally with Mr. Abbott, so I did send a  
 14 note.  
 15 CHAYTOR, Q.C.:  
 16 Q. If we could go back to 0819, please? And this  
 17 is an e-mail communication August 14, 2006  
 18 from yourself to Ms. McCormack. "Hi Marilyn,  
 19 sorry for the delay. Today I got sidetracked.  
 20 I have reviewed the note and would suggest a  
 21 couple of changes". So, you've reviewed the  
 22 note at this point in time that she's  
 23 provided.  
 24 MS. HENNESSEY:  
 25 A. Yes.

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1 CHAYTOR, Q.C.:  
 2 Q. And under "background" third bullet, you're  
 3 asking her to "delete reference to the 20  
 4 percent test results are erroneous as I can't  
 5 confirm this. Under current status (pathology  
 6 reports) I have prepared a couple of bullets  
 7 to replace what is in the note. The  
 8 information provides a lot of detail on the  
 9 status of the 939 patients and their test  
 10 results. Yvonne Power is making the final  
 11 changes early tomorrow and I asked her to send  
 12 it to you as soon as it is done. I am on  
 13 route to Labrador with the minister". Another  
 14 bullet, "you may wish to highlight the Myrtle  
 15 Lewis situation given the media attention. If  
 16 you have any questions you can e-mail me as I  
 17 have the note from Heather P. and the  
 18 Blackberry with me". Now, Ms. Hennessey,  
 19 you're certainly giving direction to Ms.  
 20 McCormack regarding certain aspects of the  
 21 note?  
 22 MS. HENNESSEY:  
 23 A. Yes.  
 24 CHAYTOR, Q.C.:  
 25 Q. Okay. Did you indicate to her anything in

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1 terms of the issue of the recommendations, the  
 2 reports having been received and to your  
 3 knowledge the recommendations implemented?  
 4 MS. HENNESSEY:  
 5 A. I do not recall a discussion. As the time  
 6 notes on that e-mail, I was doing it at 10:30  
 7 at night because I had been busy all day, that  
 8 Ms. McCormack was waiting for the information  
 9 in the table and I was trying to do it before  
 10 I left on a flight early the following morning  
 11 to go to Labrador with the minister.  
 12 CHAYTOR, Q.C.:  
 13 Q. Yes. And I just want to be clear in terms of  
 14 who drafted what in the briefing note.  
 15 MS. HENNESSEY:  
 16 A. Right, yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. Because there's certainly, you certainly had  
 19 input into the content.  
 20 MS. HENNESSEY:  
 21 A. I certainly had input into the briefing note,  
 22 yes, I certainly provided the table for that  
 23 briefing note.  
 24 CHAYTOR, Q.C.:  
 25 Q. Yes, and you also suggested certain things be

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1 deleted. And this reference -  
 2 MS. HENNESSEY:  
 3 A. Yes, I did.  
 4 CHAYTOR, Q.C.:  
 5 Q. - to the 20 percent, in fact, is deleted.  
 6 MS. HENNESSEY:  
 7 A. Yes.  
 8 CHAYTOR, Q.C.:  
 9 Q. That doesn't appear in the note?  
 10 MS. HENNESSEY:  
 11 A. No.  
 12 CHAYTOR, Q.C.:  
 13 Q. Okay. And in terms of the issue, though,  
 14 regarding whether all the reports had been  
 15 received, are you saying that you took that up  
 16 with Ms. McCormack but that she wasn't  
 17 receptive to your suggestion for a change?  
 18 MS. HENNESSEY:  
 19 A. I took the particular point around that it was  
 20 quite late, it was on the 18th of August when  
 21 I remember having a brief discussion with her  
 22 at that time. And the--at that time the wish  
 23 was--she was putting the note into, you know,  
 24 having it circulated within the cabinet  
 25 secretariat that afternoon, which was the

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1 August 18th. And I don't know whether time  
 2 was there to do some further edits on the  
 3 note, but I do recall just a very brief  
 4 discussion on the point.  
 5 CHAYTOR, Q.C.:  
 6 Q. What was your difficulty with the reference to  
 7 the 20 percent of the test results being  
 8 erroneous?  
 9 MS. HENNESSEY:  
 10 A. At that point in time I was taking the  
 11 information from Eastern Health, the  
 12 information that Heather Predham provided to  
 13 me and moving that information into a table  
 14 for Ms. McCormack. I was not doing any  
 15 interpretation of the data in the table.  
 16 CHAYTOR, Q.C.:  
 17 Q. Where did you understand this 20 percent had  
 18 come from?  
 19 MS. HENNESSEY:  
 20 A. I would have--the 20 percent didn't come from  
 21 Eastern Health.  
 22 CHAYTOR, Q.C.:  
 23 Q. It didn't? How do you know that?  
 24 MS. HENNESSEY:  
 25 A. As far as I know the only information provided

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1 from Eastern Health was the information that  
 2 they provided to me.  
 3 CHAYTOR, Q.C.:  
 4 Q. But Ms. McCormack is speaking with Ms.  
 5 Predham?  
 6 MS. HENNESSEY:  
 7 A. Yeah, well, maybe she got that from Ms.  
 8 Predham, but I don't--I'm not inclined to  
 9 think so.  
 10 CHAYTOR, Q.C.:  
 11 Q. Why not?  
 12 MS. HENNESSEY:  
 13 A. Because I think Ms. Predham was--the only  
 14 information that she provided was what was in  
 15 the information that she gave to me.  
 16 CHAYTOR, Q.C.:  
 17 Q. But she gave other information to Ms.  
 18 McCormack?  
 19 MS. HENNESSEY:  
 20 A. Yes, yeah.  
 21 CHAYTOR, Q.C.:  
 22 Q. Yes. And she had discussion with Ms.  
 23 McCormack around whether the reports were all  
 24 received or not?  
 25 MS. HENNESSEY:

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1 A. Right. I mean, she could have had a  
 2 discussion on that point, I can't say for  
 3 certain, but based on that, Ms. McCormack--I  
 4 don't remember any further discussion with Ms.  
 5 McCormack on that particular point.  
 6 CHAYTOR, Q.C.:  
 7 Q. So you don't know where the reference to 20  
 8 percent came from?  
 9 MS. HENNESSEY:  
 10 A. No.  
 11 CHAYTOR, Q.C.:  
 12 Q. And I just want to be clear, and your concern  
 13 in referring to the 20 percent was that it  
 14 hadn't been in the numbers given to you by Ms.  
 15 Predham?  
 16 MS. HENNESSEY:  
 17 A. Yes. And I was reporting the information on  
 18 the test results.  
 19 CHAYTOR, Q.C.:  
 20 Q. Given by Ms. Predham?  
 21 MS. HENNESSEY:  
 22 A. Yeah. Albeit I did miss the point that you  
 23 referenced with respect to the retesting of  
 24 the deceased patients.  
 25 CHAYTOR, Q.C.:

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1 Q. That is the 101 results received?  
 2 MS. HENNESSEY:  
 3 A. Yes.  
 4 CHAYTOR, Q.C.:  
 5 Q. Not 176?  
 6 MS. HENNESSEY:  
 7 A. Yes.  
 8 CHAYTOR, Q.C.:  
 9 Q. And bearing in mind what your instructions had  
 10 been from Mr. Abbott and in terms of including  
 11 numbers and information given by Eastern  
 12 Health?  
 13 MS. HENNESSEY:  
 14 A. Yes, I was reporting the information that  
 15 Eastern Health gave me and I wasn't in a--that  
 16 particular e-mail, like I said, I was writing  
 17 at 10:30 at night. I was trying to do my best  
 18 to get information to Ms. McCormack.  
 19 CHAYTOR, Q.C.:  
 20 Q. If we could look at 0820, please? This is an  
 21 e-mail exchange again with respect to the same  
 22 note between yourself and Ms. McCormack.  
 23 MS. HENNESSEY:  
 24 A. Yeah.  
 25 CHAYTOR, Q.C.:

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1 Q. And this begins with Ms. McCormack to you?  
 2 MS. HENNESSEY:  
 3 A. Yes.  
 4 CHAYTOR, Q.C.:  
 5 Q. On August 15th. And you are now in Labrador,  
 6 apparently.  
 7 MS. HENNESSEY:  
 8 A. Yes.  
 9 CHAYTOR, Q.C.:  
 10 Q. And she says, "Hi Moira, Hope your trip to  
 11 Labrador is going well. Sorry to bother you  
 12 again on this note, but I'm trying to ensure I  
 13 am reading the information correctly." So is  
 14 it fair to say that Ms. McCormack was  
 15 certainly keen to make sure she got the  
 16 information correct?  
 17 MS. HENNESSEY:  
 18 A. Yes, she would have received the table that I  
 19 had one of the administrative assistants send  
 20 on my behalf at that time.  
 21 CHAYTOR, Q.C.:  
 22 Q. Okay. And I think that's attached here, this  
 23 is your--this is what's attached?  
 24 MS. HENNESSEY:  
 25 A. Yes.

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1 CHAYTOR, Q.C.:  
 2 Q. That's the information that you had sent?  
 3 MS. HENNESSEY:  
 4 A. Yes.  
 5 CHAYTOR, Q.C.:  
 6 Q. Okay. And it says that she has a number of  
 7 questions for you.  
 8 MS. HENNESSEY:  
 9 A. That's right.  
 10 CHAYTOR, Q.C.:  
 11 Q. "I received the briefing note from Yvonne as  
 12 you directed. I still have a few questions".  
 13 MS. HENNESSEY:  
 14 A. Yes.  
 15 CHAYTOR, Q.C.:  
 16 Q. Okay. So what exactly was it that she  
 17 received from Yvonne?  
 18 MS. HENNESSEY:  
 19 A. She received the table from Yvonne.  
 20 CHAYTOR, Q.C.:  
 21 Q. Just the table you drafted?  
 22 MS. HENNESSEY:  
 23 A. Yes.  
 24 CHAYTOR, Q.C.:  
 25 Q. Can you tell me about the--and she would refer

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1 to that as a briefing note even though it's  
 2 just a table.  
 3 MS. HENNESSEY:  
 4 A. That was her terminology. What I sent to Ms.  
 5 McCormack or had sent on my behalf was the  
 6 table.  
 7 CHAYTOR, Q.C.:  
 8 Q. She says, "can you tell me about the  
 9 Newfoundland Panel? Did they review the  
 10 results here prior to the tests going to Mount  
 11 Sinai"? She also has a question regarding  
 12 "the note indicates 28 patients' test results  
 13 confirm negative by Newfoundland Panel. Were  
 14 these tests also sent to Mount Sinai (or not)?  
 15 And if so, I assume the results were the same  
 16 for Mount Sinai as found by the Newfoundland  
 17 panel"? And if we just look at that for a  
 18 minute, that's the 28 patients, I take it,  
 19 "here patient test results confirmed negative  
 20 by Newfoundland panel 28".  
 21 MS. HENNESSEY:  
 22 A. Yes.  
 23 CHAYTOR, Q.C.:  
 24 Q. "Patients whose original test results were  
 25 considered negative by"--that should be

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1 "treating physicians and treated  
 2 appropriately. There was a slight change in  
 3 ER/PR status and reviewed by a panel confirmed  
 4 negative ER/PR status". And your answer back  
 5 to Ms. McCormack on that, "Hi Marilyn, I will  
 6 answer your questions as best I can from a  
 7 distance". So, you're responding to her from  
 8 Labrador and you tell her the Newfoundland  
 9 panel reviewed 422 results after they came  
 10 back from Mount Sinai and those results are  
 11 included in the 939 tissue samples. You tell  
 12 her who the panel consists of. "The 28 test  
 13 results confirmed as negative by the  
 14 Newfoundland panel were sent to Mount Sinai.  
 15 The panel chose to review those results  
 16 because there was a slight change on the  
 17 patient's ER/PR status from time of original  
 18 diagnosis to retesting". And I take it that's  
 19 information you received from Ms. Predham, is  
 20 that right?  
 21 MS. HENNESSEY:  
 22 A. That's information that would have been my  
 23 interpretation of information, what I had with  
 24 me when I was travelling in Labrador was the  
 25 note from Ms. Predham at Eastern Health.

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1 CHAYTOR, Q.C.:  
 2 Q. And you had that note with you?  
 3 MS. HENNESSEY:  
 4 A. Yes, I did. At this point in time, it was  
 5 quarter to eight in the morning and I know I  
 6 was trying to get the information to Ms.  
 7 McCormack as quickly as I could because there  
 8 was a meeting, if I recall correctly, that  
 9 morning at 8:00. So, I was trying to answer  
 10 her questions from Labrador.  
 11 CHAYTOR, Q.C.:  
 12 Q. Okay. And to your knowledge, were those 28  
 13 patients, patients whose positivity, ER  
 14 positivity ranged between 1 and 10 percent?  
 15 MS. HENNESSEY:  
 16 A. Ms. Chaytor, I wouldn't be able to assist you  
 17 on that.  
 18 CHAYTOR, Q.C.:  
 19 Q. And were you aware of what Mount Sinai  
 20 considered positive at the time as opposed to  
 21 what St. John's considered positive at that  
 22 time?  
 23 MS. HENNESSEY:  
 24 A. No, I wouldn't--I would have been trying to  
 25 move information from a document that Eastern

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1 Health sent to me to try and answer Ms.  
 2 McCormack's questions at that time.  
 3 CHAYTOR, Q.C.:  
 4 Q. Did you ever send along Ms. Predham's  
 5 information to Ms. McCormack? Did you ever  
 6 give that to her directly?  
 7 MS. HENNESSEY:  
 8 A. I don't recall sending that three-pager to Ms.  
 9 McCormack.  
 10 CHAYTOR, Q.C.:  
 11 Q. And you had that with you though on your  
 12 system?  
 13 MS. HENNESSEY:  
 14 A. I did have--no, I had a--I was in Labrador.  
 15 CHAYTOR, Q.C.:  
 16 Q. Yes.  
 17 MS. HENNESSEY:  
 18 A. I had it in my hand, I had a hard copy with  
 19 me.  
 20 CHAYTOR, Q.C.:  
 21 Q. You didn't have it on your Blackberry. You  
 22 would have had it on your Blackberry?  
 23 MS. HENNESSEY:  
 24 A. I may have had it on my Blackberry, but I  
 25 certainly wouldn't have been trying to read of

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1 a Blackberry and answer any questions. I  
 2 remember having the document with me.  
 3 CHAYTOR, Q.C.:  
 4 Q. Forward your document directly on to--you had  
 5 an electronic format of it? You didn't think  
 6 to -  
 7 MS. HENNESSEY:  
 8 A. Pardon?  
 9 CHAYTOR, Q.C.:  
 10 Q. - just forward the e-mail on that you'd  
 11 received from Ms. Predham.  
 12 MS. HENNESSEY:  
 13 A. I didn't think to do that. I thought I was  
 14 trying to be helpful to Ms. McCormack by  
 15 taking the information from Eastern Health and  
 16 summarizing it.  
 17 CHAYTOR, Q.C.:  
 18 Q. Um-hm. Okay, and this is where you indicate  
 19 to her that if you need this info. today, you  
 20 can check with Heather Predham directly.  
 21 MS. HENNESSEY:  
 22 A. Yeah.  
 23 CHAYTOR, Q.C.:  
 24 Q. So, I take it up to this point in time, August  
 25 16, she had not been in contact directly with

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1 Ms. Predham?  
 2 MS. HENNESSEY:  
 3 A. I don't know; I don't recall whether she was  
 4 in contact before that time.  
 5 CHAYTOR, Q.C.:  
 6 Q. And you've indicated in answering the  
 7 Commissioner's questions, it would be unusual  
 8 for her--that would be an unusual line of  
 9 communication, Marilyn McCormack at Cabinet  
 10 Secretariat to Heather Predham at Eastern  
 11 Health.  
 12 MS. HENNESSEY:  
 13 A. It is an unusual line of communication.  
 14 CHAYTOR, Q.C.:  
 15 Q. And do you have any reason to think prior to  
 16 you directing her to follow-up if need be with  
 17 Heather on August 16, that Ms. McCormack had  
 18 been in touch with Heather Predham?  
 19 MS. HENNESSEY:  
 20 A. Well, Ms. McCormack was drafting the note  
 21 during the previous week.  
 22 CHAYTOR, Q.C.:  
 23 Q. So, you think she had had discussions with -  
 24 MS. HENNESSEY:  
 25 A. Yes, I think that she was in contact with

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1 Eastern Health before that time.  
 2 CHAYTOR, Q.C.:  
 3 Q. And then if we can go back to 0171 please.  
 4 And Ms. McCormack, at the bottom, at August 17  
 5 indicates that she was able to clarify the  
 6 information on the Newfoundland panel and  
 7 their role with Heather Predham. "I include  
 8 an extra bullet under 'background', last  
 9 bullet, to describe the panel and their role.  
 10 in the introduction to the chart I made  
 11 reference again to the panel. In my opinion  
 12 the note is clear now and with your approval,  
 13 I will forward to Gary", and I assume that's  
 14 Gary Cake?  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. "Please advise" and then you forward that onto  
 19 Mr. Abbott and advised him that the note will  
 20 likely go to the PO later today or tomorrow.  
 21 So, it appears that Ms. McCormack had  
 22 certainly been in contact with Ms. Predham as  
 23 this point in time?  
 24 MS. HENNESSEY:  
 25 A. Yes.

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1 CHAYTOR, Q.C.:  
 2 Q. If we could look at 0192 please? So, in  
 3 addition to forwarding it onto Mr. Abbott, you  
 4 also then send it onto Debbie Humphries and  
 5 you ask her, "can you please put this in  
 6 Eastern's directory".  
 7 MS. HENNESSEY:  
 8 A. Yes.  
 9 CHAYTOR, Q.C.:  
 10 Q. Who is Debbie Humphries?  
 11 MS. HENNESSEY:  
 12 A. Debbie Humphries is one of the administrative  
 13 assistants who works in my branch.  
 14 CHAYTOR, Q.C.:  
 15 Q. Okay. And what does that mean, "put this in  
 16 Eastern's directory"?  
 17 MS. HENNESSEY:  
 18 A. In Eastern's directory within the board  
 19 services or the regional health operations  
 20 branch within the board services division.  
 21 There is an electronic, on Eastern Health's  
 22 Electronic directory.  
 23 CHAYTOR, Q.C.:  
 24 Q. And so you're asking her to put this in their  
 25 electronic directory?

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1 MS. HENNESSEY:  
 2 A. Yes.  
 3 THE COMMISSIONER:  
 4 Q. Ms. Chaytor, wherever you can find a chance,  
 5 we'll take the afternoon break.  
 6 CHAYTOR, Q.C.:  
 7 Q. Okay, thank you, Commissioner. And this is  
 8 the briefing that at that point in time you're  
 9 asking, so this is August 17 version and just  
 10 to highlight the point I brought to your  
 11 attention.  
 12 MS. HENNESSEY:  
 13 A. Yes.  
 14 CHAYTOR, Q.C.:  
 15 Q. We have the 176 reference, under current  
 16 status and I'll come back to that point.  
 17 Under reasons for the erroneous results and  
 18 steps taken to prevent recurrence.  
 19 MS. HENNESSEY:  
 20 A. Yeah.  
 21 CHAYTOR, Q.C.:  
 22 Q. We have the reference to when the reports are  
 23 received.  
 24 MS. HENNESSEY:  
 25 A. Yeah.

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1 CHAYTOR, Q.C.:  
 2 Q. And reviewed, the recommendations will be  
 3 implemented. Okay. And under 0192, page six  
 4 then, there's another note from Ms. McCormack  
 5 to yourself.  
 6 MS. HENNESSEY:  
 7 A. Yes.  
 8 CHAYTOR, Q.C.:  
 9 Q. And this one is dated the next day.  
 10 MS. HENNESSEY:  
 11 A. Yes.  
 12 CHAYTOR, Q.C.:  
 13 Q. And she's indicating "attached is the final  
 14 copy of the above note briefing note, if you  
 15 approve of same. I had to go back to Heather  
 16 to ask how many women were most impacted by  
 17 the change in status of the ER/PR receptor  
 18 testing. She gave me the number 22 as  
 19 indicated on the third page of the briefing  
 20 note. Gary also wanted to know how many were  
 21 likely to initiate legal action and according  
 22 to Heather, any or all of the 939 women or  
 23 their families could do so. Exact numbers  
 24 would not be known at this time. She  
 25 explained that even if the results were

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1 correct from the initial testing to the  
 2 retesting at Mount Sinai, the stress caused to  
 3 some women/families by knowing they were being  
 4 retested, how long they had to wait for the  
 5 information, etcetera, could be the basis to  
 6 initiate an action or to participate in the  
 7 class action if that's the way this proceeds.  
 8 If you're okay with this note, Gary has  
 9 approved it and it will go as it. Please  
 10 advise as soon as possible. Marilyn". And  
 11 then you indicate, you ask Ms. Humphries to  
 12 replace the note you put in Eastern's  
 13 directory yesterday with this version. "We  
 14 need to discuss two small edits to this note  
 15 when you are ready to deal with this request".  
 16 So, at this point in time then, Ms. McCormack  
 17 has indicated she's had further discussion  
 18 with Heather Predham.  
 19 MS. HENNESSEY:  
 20 A. Yes.  
 21 CHAYTOR, Q.C.:  
 22 Q. And the version that she sends to you, you  
 23 then ask to be put in Eastern's directory and  
 24 to replace the one that was put there on  
 25 August 17.

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1 MS. HENNESSEY:  
 2 A. Yes.  
 3 CHAYTOR, Q.C.:  
 4 Q. Okay. That's a good place to take a break,  
 5 please.  
 6 THE COMMISSIONER:  
 7 Q. All right. We'll take the afternoon break.  
 8 (RECESS)  
 9 THE COMMISSIONER:  
 10 Q. Please be seated. Ms. Chaytor.  
 11 CHAYTOR, Q.C.:  
 12 Q. Thank you, Commissioner. If I can have,  
 13 please, P-0171? Ms. Hennessey, we've just  
 14 looked at this and this is the e-mail that you  
 15 forwarded to Mr. Abbott, August 17, 2006 at  
 16 12:41 p.m.  
 17 MS. HENNESSEY:  
 18 A. Right.  
 19 CHAYTOR, Q.C.:  
 20 Q. And you're saying for his review. And the  
 21 note will likely go to the premier later today  
 22 or tomorrow. And we look at the note that's  
 23 attached. Under "current status" or sorry,  
 24 under "summary", you have reference to the  
 25 legal action initiated by Mrs. Lewis. There's

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1 reference to "Eastern Health advises 22 women  
 2 were impacted by the change in status of the  
 3 ER receptor tests. These women had changes in  
 4 the progress of their disease from the initial  
 5 confirmation of the disease in the beginning  
 6 and their treatment to retesting done at Mount  
 7 Sinai". And then it continues on with another  
 8 paragraph under "summary".  
 9 MS. HENNESSEY:  
 10 A. Right.  
 11 CHAYTOR, Q.C.:  
 12 Q. And this note is dated August 18, 2006.  
 13 MS. HENNESSEY:  
 14 A. Yes.  
 15 CHAYTOR, Q.C.:  
 16 Q. And that is attached, at least, in what we  
 17 have forwarded to us here, to an exhibit and  
 18 an e-mail that was forwarded to Mr. Abbott,  
 19 August 17, 2006.  
 20 MS. HENNESSEY:  
 21 A. Um-hm.  
 22 CHAYTOR, Q.C.:  
 23 Q. And that was at 12:41 p.m. If we could look  
 24 again at P-0192, please? And this is your e-  
 25 mail to Debbie Humphries.

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1 MS. HENNESSEY:  
 2 A. Okay.  
 3 CHAYTOR, Q.C.:  
 4 Q. I'm sorry, this is page--page one please.  
 5 This is your e-mail to Debbie Humphries.  
 6 MS. HENNESSEY:  
 7 A. Right.  
 8 CHAYTOR, Q.C.:  
 9 Q. Same date, August 17, 2006, two minutes later,  
 10 12:43 p.m. "Debbie, can you put this, please  
 11 put this is Eastern's directory. Thanks.  
 12 Moira".  
 13 MS. HENNESSEY:  
 14 A. Yes.  
 15 CHAYTOR, Q.C.:  
 16 Q. And again it's the same e-mail that had been  
 17 forwarded to you from Marilyn, you had  
 18 forwarded it on to Mr. Abbott and now two  
 19 minutes later, to Ms. Humphries.  
 20 MS. HENNESSEY:  
 21 A. Yeah.  
 22 CHAYTOR, Q.C.:  
 23 Q. And you're asking Ms. Humphries to put in the  
 24 directory--sorry--a briefing note dated August  
 25 17, 2006.

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1 MS. HENNESSEY:  
 2 A. Right.  
 3 CHAYTOR, Q.C.:  
 4 Q. And we see the heading "current status".  
 5 MS. HENNESSEY:  
 6 A. Yes.  
 7 CHAYTOR, Q.C.:  
 8 Q. And no summary section.  
 9 MS. HENNESSEY:  
 10 A. Okay. So, it would be the note, the August  
 11 17th note that went to Mr. Abbott for his  
 12 review.  
 13 CHAYTOR, Q.C.:  
 14 Q. Okay. So, what you're saying is that this  
 15 same note that you asked Ms. Humphries to put  
 16 in the directory -  
 17 MS. HENNESSEY:  
 18 A. Right.  
 19 CHAYTOR, Q.C.:  
 20 Q. - would have been the one that you sent to Mr.  
 21 Abbott.  
 22 MS. HENNESSEY:  
 23 A. Yeah, I would have sent the note dated August  
 24 17 to -  
 25 CHAYTOR, Q.C.:

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1 Q. Mr. Abbott.  
 2 MS. HENNESSEY:  
 3 A. - Mr. Abbott.  
 4 CHAYTOR, Q.C.:  
 5 Q. Not the draft note of the 18th?  
 6 MS. HENNESSEY:  
 7 A. (No audible response).  
 8 CHAYTOR, Q.C.:  
 9 Q. Okay. So, this one at--the one that we see  
 10 here at 0192 -  
 11 MS. HENNESSEY:  
 12 A. Right.  
 13 CHAYTOR, Q.C.:  
 14 Q. - the August 17th version is the one you would  
 15 have sent to Mr. Abbott?  
 16 MS. HENNESSEY:  
 17 A. Yes, it was an August 17 note that I sent to  
 18 Mr. Abbott.  
 19 CHAYTOR, Q.C.:  
 20 Q. Okay. Otherwise it makes no sense. Two  
 21 minutes later you ask her to put a different  
 22 version in the Eastern Director.  
 23 MS. HENNESSEY:  
 24 A. No.  
 25 CHAYTOR, Q.C.:

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1 Q. Now, if we could look please at P-0172 and  
 2 this is the e-mail from Ms. Hennessey where  
 3 looked at this before the break where she says  
 4 it's the final copy and she's had further  
 5 discussion with Heather Predham and the number  
 6 22 has been given to her as the--"she gave me  
 7 the number 22 because she was looking for the  
 8 number of women most impacted.  
 9 MS. HENNESSEY:  
 10 A. Yes.  
 11 CHAYTOR, Q.C.:  
 12 Q. And if we come down under this, in this  
 13 version, there is a summary which refers again  
 14 to Mrs. Myrtle Lewis's action.  
 15 MS. HENNESSEY:  
 16 A. Right.  
 17 CHAYTOR, Q.C.:  
 18 Q. And then "Eastern Health advises 22 women were  
 19 greatly impacted -  
 20 MS. HENNESSEY:  
 21 A. Yes.  
 22 CHAYTOR, Q.C.:  
 23 Q. - by the change in status of the ER/PR  
 24 receptor status," and the word "greatly" is  
 25 inserted. Now if we go back, please, to 0125

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1 page 33, this is the version of the note that  
 2 ends up going to the Premier's office?  
 3 MS. HENNESSEY:  
 4 A. Yes.  
 5 CHAYTOR, Q.C.:  
 6 Q. And if we come down under summary, the summary  
 7 is there, but it says "Eastern Health advises  
 8 22 women were impacted by the change in status  
 9 of the ER/PR receptor tests." The word  
 10 "greatly" is omitted. Can you shed any light  
 11 on why the word "greatly" is omitted from this  
 12 portion of the note?  
 13 MS. HENNESSEY:  
 14 A. The word "greatly" when the final note was  
 15 sent, Ms. McCormack and I had a discussion,  
 16 brief discussion on it and the word "greatly"  
 17 did not appear in the information that I had  
 18 received from Eastern Health, so we agreed to  
 19 remove the word.  
 20 CHAYTOR, Q.C.:  
 21 Q. Now Ms. Hennessey, we were advised by Mr.  
 22 Pritchard that since we originally asked you  
 23 that question in your interview -  
 24 MS. HENNESSEY:  
 25 A. Yes.

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1 CHAYTOR, Q.C.:  
 2 Q. - that you had--and originally answered that  
 3 question, that you had further thought about  
 4 the issue.  
 5 MS. HENNESSEY:  
 6 A. Yes, I did.  
 7 CHAYTOR, Q.C.:  
 8 Q. And what is it, on reflection, that you want  
 9 to change from what you originally told us  
 10 about that issue, as to how the word "greatly"  
 11 came to be omitted from the text?  
 12 MS. HENNESSEY:  
 13 A. I did make a mistake when we met back in  
 14 January/February with respect to the last  
 15 version of the note that I saw, and the last  
 16 version does not have the word "greatly" in  
 17 it.  
 18 CHAYTOR, Q.C.:  
 19 Q. And this is the last version that you saw  
 20 didn't have the word "greatly"?  
 21 MS. HENNESSEY:  
 22 A. The last version that I have does not have the  
 23 word "greatly" in it.  
 24 CHAYTOR, Q.C.:  
 25 Q. And what about the--if we could just look in

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1 terms of then your discussion--so the last  
 2 version that you had of the note didn't have  
 3 the word "greatly" in it?  
 4 MS. HENNESSEY:  
 5 A. That's correct.  
 6 CHAYTOR, Q.C.:  
 7 Q. Okay, and what do you now recollect in terms  
 8 of how the word "greatly" then is removed from  
 9 the final version?  
 10 MS. HENNESSEY:  
 11 A. What I recollect, it was in my final  
 12 discussion with Ms. McCormack on the 18th of  
 13 August, I wasn't comfortable using the word  
 14 "greatly". I don't--the word wasn't in the  
 15 information provided by Eastern Health. I  
 16 don't have a medical background and wouldn't  
 17 be able to interpret the degree to which  
 18 patients would be impacted.  
 19 CHAYTOR, Q.C.:  
 20 Q. So you recall now having had a discussion with  
 21 Ms. McCormack around that issue?  
 22 MS. HENNESSEY:  
 23 A. Yes, I do.  
 24 CHAYTOR, Q.C.:  
 25 Q. Okay, and did you instruct her to remove the



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1 word "greatly"?

2 MS. HENNESSEY:

3 A. No, I did not instruct her to remove it. We

4 agreed to take the word out.

5 CHAYTOR, Q.C.:

6 Q. Okay, and the reason for that being what? Why

7 was it that that was a contentious issue or

8 why did you feel that word needed to come out?

9 MS. HENNESSEY:

10 A. As I said, the word did not show up in the

11 information that Eastern Health provided to me

12 and, given my background, I wouldn't be able

13 to interpret the degree to which patients were

14 impacted.

15 CHAYTOR, Q.C.:

16 Q. Okay. But Ms. Hennessey, did any of this

17 information come out of the information given

18 to you, or according to Ms. McCormack's e-

19 mail, this portion would have arisen from her

20 discussions with Ms. Predham.

21 MS. HENNESSEY:

22 A. Yes.

23 CHAYTOR, Q.C.:

24 Q. And she was trying to ascertain, I believe she

25 says, on--Mr. Cake may have had some question

Page 290

1 around it as well. They were trying to

2 ascertain how many people were most impacted.

3 MS. HENNESSEY:

4 A. Yeah. I mean, that information would have

5 come from her discussion with Ms. Predham and

6 it would have been her understanding of

7 information that Ms. Predham communicated.

8 THE COMMISSIONER:

9 Q. So I'll just once again make sure that I'm

10 understanding. Ms. McCormack spoke to Ms.

11 Predham and on the basis of her understanding

12 of what Ms. Predham had said -

13 MS. HENNESSEY:

14 A. Yes.

15 THE COMMISSIONER:

16 Q. - she inserted the word "greatly"?

17 MS. HENNESSEY:

18 A. Yes.

19 THE COMMISSIONER:

20 Q. You suggested that she remove the word

21 "greatly" because it was not in the material

22 that Eastern Health had provided to you?

23 MS. HENNESSEY:

24 A. That's correct.

25 THE COMMISSIONER:

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1 Q. And the material provided to you by Eastern--

2 are you saying it was not in the material

3 provided to you by Eastern Health immediately

4 before this was prepared?

5 MS. HENNESSEY:

6 A. Yes, it was in that note that I used to

7 prepare the table.

8 THE COMMISSIONER:

9 Q. Yes, okay, and your problem was you hadn't

10 been told "greatly" and you didn't feel that

11 you could interpret greatly in the context?

12 MS. HENNESSEY:

13 A. That's correct.

14 THE COMMISSIONER:

15 Q. Okay.

16 CHAYTOR, Q.C.:

17 Q. If we could look at 1477, please? And this is

18 the letter I referred you to earlier.

19 MS. HENNESSEY:

20 A. Yes.

21 CHAYTOR, Q.C.:

22 Q. Where Mr. Pritchard writes to me and Mr.

23 Coffey on May 23rd, 2008 pointing out the

24 changes or the clarifications that you wish to

25 make in your evidence, and if we look at page

Page 292

1 three on this, the top of the page, Mr.

2 Pritchard writes "on August 18th" and again,

3 he's summarizing what he understands from you.

4 "In relation to the 18th of August 2006

5 briefing note, she states 'on August 18th, Ms.

6 McCormack sent a note to me at 10:59 a.m.

7 indicating it was the final note, if I

8 approved of same. She subsequently called me.

9 I advised her that I was not in a position to

10 approve the note, as I had not heard back from

11 Mr. Abbott. During the conversation, we

12 agreed to remove the word greatly from page

13 three, as the word was not used in the draft

14 test results document provided by Heather

15 Predham, Eastern Health.'"

16 Ms. McCormack (sic.) what's the

17 significance to the fact that you weren't in a

18 position to approve of the note as you hadn't

19 heard back from Mr. Abbott?

20 MS. HENNESSEY:

21 A. Well, my name was on the note saying approved

22 by Moira Hennessey, and normally my notes

23 would go to Mr. Abbott for final review. So I

24 was not prepared to sign off on the note

25 because I hadn't heard back from Mr. Abbott.

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1 CHAYTOR, Q.C.:

2 Q. Okay, and did you ever hear back from Mr.

3 Abbott?

4 MS. HENNESSEY:

5 A. No, I didn't.

6 CHAYTOR, Q.C.:

7 Q. Okay. So did you ever sign off on this note?

8 MS. HENNESSEY:

9 A. No, I didn't.

10 CHAYTOR, Q.C.:

11 Q. And you advised Ms. McCormack of that?

12 MS. HENNESSEY:

13 A. Yes, in that telephone call.

14 CHAYTOR, Q.C.:

15 Q. That you weren't prepared to sign off on it?

16 MS. HENNESSEY:

17 A. Yeah, that I wasn't able to approve the note

18 because I hadn't heard from Mr. Abbott.

19 CHAYTOR, Q.C.:

20 Q. Why would you be agreeing to remove then the

21 word "greatly" from page three? Why would you

22 be having any further input on the note if you

23 weren't signing off or approving it?

24 MS. HENNESSEY:

25 A. I'm sorry, I missed the question.

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1 CHAYTOR, Q.C.:

2 Q. I'm just wondering then, if you indicated to

3 her that you can't sign off, you haven't heard

4 back from Mr. Abbott, why then are you in that

5 same conversation agreeing to remove a word

6 from the document?

7 MS. HENNESSEY:

8 A. We agreed to two final changes at that time.

9 I certainly said to Ms. McCormack that I

10 wasn't able to approve the note, but we did -

11 CHAYTOR, Q.C.:

12 Q. But you agreed to the final changes?

13 MS. HENNESSEY:

14 A. Yes, we made two changes. One was the word

15 "greatly" and the other change was an

16 editorial, I think there was an E on the word

17 "law suit" or the word "suit" and we took the-

18 -that was the second edit.

19 CHAYTOR, Q.C.:

20 Q. And you recall that distinctly?

21 MS. HENNESSEY:

22 A. Yes, I recall that distinctly.

23 CHAYTOR, Q.C.:

24 Q. You recall that detail?

25 MS. HENNESSEY:

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1 A. Yeah.

2 CHAYTOR, Q.C.:

3 Q. Ms. Hennessey, but you couldn't sign off on

4 the note because you hadn't heard back from

5 Mr. Abbott?

6 MS. HENNESSEY:

7 A. Right.

8 CHAYTOR, Q.C.:

9 Q. But then you agree to take the word "greatly"

10 out of the note?

11 MS. HENNESSEY:

12 A. Yes, we did.

13 CHAYTOR, Q.C.:

14 Q. And as I just took you through and showed you

15 the draft version that you say would have been

16 the August 17th version that Mr. Abbott had

17 been forwarded -

18 MS. HENNESSEY:

19 A. Yes.

20 CHAYTOR, Q.C.:

21 Q. - that version didn't even have a summary

22 paragraph in it, let alone the word "greatly"

23 or anything else. That whole paragraph or two

24 paragraphs didn't appear in this version.

25 MS. HENNESSEY:

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1 A. No, that's correct, yeah.

2 CHAYTOR, Q.C.:

3 Q. So did you have concern that you are editing

4 and taking out a word, but he hasn't even seen

5 those two paragraphs?

6 MS. HENNESSEY:

7 A. I didn't have a major concern. At that time,

8 I thought I would hear from the deputy

9 minister about the draft note, certainly would

10 have had a discussion with him -

11 CHAYTOR, Q.C.:

12 Q. But that never happened?

13 MS. HENNESSEY:

14 A. - if I had heard from him.

15 CHAYTOR, Q.C.:

16 Q. But that never happened?

17 MS. HENNESSEY:

18 A. That didn't happen, no.

19 CHAYTOR, Q.C.:

20 Q. And what happened to the note?

21 MS. HENNESSEY:

22 A. The note was circulated to, I guess, the

23 individuals who are listed on the note.

24 CHAYTOR, Q.C.:

25 Q. Ended up receiving the note?

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1 MS. HENNESSEY:  
 2 A. Yes.  
 3 CHAYTOR, Q.C.:  
 4 Q. With the word "greatly" removed?  
 5 MS. HENNESSEY:  
 6 A. Yes.  
 7 CHAYTOR, Q.C.:  
 8 Q. And if we can go back then please to 0125,  
 9 page 33? And the final version then, this is  
 10 the final version that ends up going to those  
 11 individuals at Cabinet Secretariat and the  
 12 Premier's office.  
 13 MS. HENNESSEY:  
 14 A. Yes.  
 15 CHAYTOR, Q.C.:  
 16 Q. "Eastern Health advises 22 women were impacted  
 17 by the change in status of the ER/PR receptor  
 18 tests" and so the word "greatly" is removed in  
 19 that?  
 20 MS. HENNESSEY:  
 21 A. Yes.  
 22 CHAYTOR, Q.C.:  
 23 Q. In that version, and you're saying that came  
 24 about as a result of a subsequent conversation  
 25 that you had with Ms. McCormack?

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1 MS. HENNESSEY:  
 2 A. Yes.  
 3 CHAYTOR, Q.C.:  
 4 Q. When did you remember that conversation with  
 5 Ms. McCormack?  
 6 MS. HENNESSEY:  
 7 A. When did I remember it?  
 8 CHAYTOR, Q.C.:  
 9 Q. Yes.  
 10 MS. HENNESSEY:  
 11 A. I remembered it after we met in  
 12 January/February.  
 13 CHAYTOR, Q.C.:  
 14 Q. So you met with us in February of this year.  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. And you had no recollection of that  
 19 conversation at that point in time?  
 20 MS. HENNESSEY:  
 21 A. At that point in time, I didn't recall it, and  
 22 that's why I felt it was important that I  
 23 clarify the information I had shared with you.  
 24 CHAYTOR, Q.C.:  
 25 Q. And how is it that you came to recollect the

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1 conversation?  
 2 MS. HENNESSEY:  
 3 A. I just--I guess I was trying to recall the  
 4 discussions that I had had with you and Mr.  
 5 Coffey and I wanted to be sure that I was  
 6 providing accurate information to you.  
 7 CHAYTOR, Q.C.:  
 8 Q. And did you have occasion to discuss the issue  
 9 with Ms. McCormack?  
 10 MS. HENNESSEY:  
 11 A. I didn't have a detailed--I have spoken to Ms.  
 12 McCormack, but I haven't spoken around that  
 13 detail.  
 14 CHAYTOR, Q.C.:  
 15 Q. Have you spoken to Ms. McCormack to understand  
 16 whether or not she has any recollection of  
 17 such a conversation?  
 18 MS. HENNESSEY:  
 19 A. Sorry?  
 20 CHAYTOR, Q.C.:  
 21 Q. Have you asked Ms. McCormack whether she  
 22 recalls the conversation that you're telling  
 23 us took place August 18th?  
 24 MS. HENNESSEY:  
 25 A. No, I didn't ask her specifically about that

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1 conversation.  
 2 CHAYTOR, Q.C.:  
 3 Q. No, and I'm not asking if you asked her  
 4 specifically. I'm wondering whether or not  
 5 you and Ms. McCormack have discussed the issue  
 6 of your conversation on August 18th? Did you  
 7 have any discussion with Ms. McCormack  
 8 regarding your discussion of August 18th?  
 9 MS. HENNESSEY:  
 10 A. I did have a very brief discussion with her.  
 11 CHAYTOR, Q.C.:  
 12 Q. Okay, and what did you discuss?  
 13 MS. HENNESSEY:  
 14 A. It was around the use of the word "greatly"  
 15 CHAYTOR, Q.C.:  
 16 Q. And what did you discuss?  
 17 MS. HENNESSEY:  
 18 A. I don't recall the specifics of it. It wasn't  
 19 a focused discussion on it.  
 20 CHAYTOR, Q.C.:  
 21 Q. When did this conversation take place?  
 22 MS. HENNESSEY:  
 23 A. I don't recall exactly. It would have been  
 24 since we met.  
 25 CHAYTOR, Q.C.:

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1 Q. Sometime since February of this year?

2 MS. HENNESSEY:

3 A. Yeah.

4 CHAYTOR, Q.C.:

5 Q. And Mr. Thompson has told the Commissioner

6 that he's had discussions with both you and

7 Ms. McCormack.

8 MS. HENNESSEY:

9 A. Yes.

10 CHAYTOR, Q.C.:

11 Q. Do you recall having a discussion with Mr.

12 Thompson around this issue, around the issue

13 of the August 18th briefing note?

14 MS. HENNESSEY:

15 A. A recent discussion with Mr. Thompson, I -

16 CHAYTOR, Q.C.:

17 Q. Any discussion with Mr. Thompson around the

18 August 18th briefing note.

19 MS. HENNESSEY:

20 A. I think I'd had a discussion a number of

21 months ago.

22 CHAYTOR, Q.C.:

23 Q. Around this note?

24 MS. HENNESSEY:

25 A. Yes.

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1 CHAYTOR, Q.C.:

2 Q. And did those discussions assist in your

3 ability to recall your conversations with Ms.

4 McCormack or your recollection in general

5 around this briefing note?

6 MS. HENNESSEY:

7 A. No, I tell you what made me recall it was that

8 I was trying to remember when this note was

9 done and I don't--I couldn't remember any

10 disagreement with respect to what was in the

11 final note.

12 CHAYTOR, Q.C.:

13 Q. I'm sorry?

14 MS. HENNESSEY:

15 A. I was trying to recall--I couldn't remember

16 there being any disagreement with respect--

17 although I hadn't signed off on the note, I

18 couldn't remember any disagreement on what was

19 in the final note.

20 THE COMMISSIONER:

21 Q. I'm sorry, I don't think I'm understanding

22 correctly. Let's try it from this angle. Had

23 you remembered that you had a conversation

24 with Ms. McCormack about the subject of

25 greatly going in or out prior to your

Page 303

1 conversation with her about the subject?

2 MS. HENNESSEY:

3 A. Yes, I did remember that before my

4 conversation.

5 THE COMMISSIONER:

6 Q. So before your conversation with Ms.

7 McCormack, you at least remembered that you

8 had discussed the question of whether greatly

9 should stay in?

10 MS. HENNESSEY:

11 A. Yes, I did.

12 THE COMMISSIONER:

13 Q. Okay, and what was it again that triggered

14 that memory? I didn't quite understand that.

15 MS. HENNESSEY:

16 A. I was trying to do the best I could to

17 remember whether I had accurately provided

18 information to Mr. Coffey and Ms. Chaytor when

19 I came through the earlier discussions on this

20 file.

21 THE COMMISSIONER:

22 Q. Yes, and -

23 MS. HENNESSEY:

24 A. There was a -

25 THE COMMISSIONER:

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1 Q. - you said something about you hadn't

2 remembered that there was any -

3 MS. HENNESSEY:

4 A. I didn't remember there being any disagreement

5 in the content.

6 THE COMMISSIONER:

7 Q. Okay, yes, and what triggered the idea that

8 there was? Did you go back and pull the file,

9 for example, and look at the notes or did it

10 just pop in your head one day when you were

11 walking the dog or whatever?

12 MS. HENNESSEY:

13 A. Commissioner, that's pretty well what

14 happened. I wasn't walking the dog, but there

15 was a couple of points during my initial

16 meetings with the counsel that became clearer

17 to me after that discussion.

18 THE COMMISSIONER:

19 Q. After the discussion with counsel?

20 MS. HENNESSEY:

21 A. Yes, and I was trying to do the best I could

22 to provide accurate information to counsel.

23 CHAYTOR, Q.C.:

24 Q. And now Ms. Hennessey, your recollection is

25 such that you also remember the changing of a

Page 305

1 spelling error in the word "law suit"?

2 MS. HENNESSEY:

3 A. Yes, I did.

4 CHAYTOR, Q.C.:

5 Q. Ms. Hennessey, Ms. McCormack we've spoken

6 with, and she did not, when we spoke with her,

7 have a recollection of the conversation. Does

8 Ms. McCormack now recall the conversation?

9 MS. HENNESSEY:

10 A. I wouldn't know.

11 CHAYTOR, Q.C.:

12 Q. In your discussions with her, did you ask her

13 "do you recall our conversation on August 18th

14 in which we made those two changes?"

15 MS. HENNESSEY:

16 A. No, I didn't ask her a specific question.

17 CHAYTOR, Q.C.:

18 Q. And I know, you know -

19 MS. HENNESSEY:

20 A. I'm trying to do my best to -

21 CHAYTOR, Q.C.:

22 Q. - did you have that discussion with her -

23 MS. HENNESSEY:

24 A. - to answer your questions as honestly as I

25 can.

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1 CHAYTOR, Q.C.:

2 Q. So you don't know if she recalls this

3 conversation or not?

4 MS. HENNESSEY:

5 A. No, I don't know whether she recalls -

6 COMMISSIONER:

7 Q. But you do--I'm sorry, once again I'm

8 confused, I guess. I thought you said that you

9 have, since your conversation with counsel,

10 had a conversation with Ms. McCormack in which

11 you, to some extent anyway, referenced this

12 August 18th conversation?

13 MS. HENNESSEY:

14 A. Yes, and it was very brief.

15 COMMISSIONER:

16 Q. Okay. Well, what can you tell us about that,

17 is there something in the context of that

18 which would indicate either Ms. McCormack does

19 or does not remember the conversation or does

20 or does not remember anything about it

21 greatly?

22 MS. HENNESSEY:

23 A. There wasn't anything in my discussion with

24 Ms. McCormack. She couldn't--she didn't

25 recall it.

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1 COMMISSIONER:

2 Q. She didn't recall the 18th conversation?

3 MS. HENNESSEY:

4 A. She didn't recall anything around the word

5 "greatly".

6 COMMISSIONER:

7 Q. Okay.

8 CHAYTOR, Q.C.:

9 Q. Okay. Now, Ms. Hennessey, we saw at, if we

10 could have 0192, page 6 back, please? This is

11 your e-mail to Ms. Humphries August 18th?

12 MS. HENNESSEY:

13 A. Yes.

14 CHAYTOR, Q.C.:

15 Q. Asking her to replace the August 17th version?

16 MS. HENNESSEY:

17 A. Yes.

18 CHAYTOR, Q.C.:

19 Q. And in Eastern's directory and replace it with

20 this version. And this version says, "Eastern

21 Health advises 22 women were greatly impacted

22 by the change in status." And this is the

23 version that you asked Ms. Humphries to put in

24 Eastern's directory within the department, and

25 it has the word "greatly" in it?

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1 MS. HENNESSEY:

2 A. Can you just go back to the e-mail because I

3 think -

4 CHAYTOR, Q.C.:

5 Q. Absolutely.

6 MS. HENNESSEY:

7 A. - there was a -

8 CHAYTOR, Q.C.:

9 Q. Here's the e-mail. And you can scroll down

10 there, too, if you wish. And this is Ms.

11 McCormack sending you the final copy?

12 MS. HENNESSEY:

13 A. Right, yes.

14 CHAYTOR, Q.C.:

15 Q. And you've asked her, you've asked Ms.

16 Humphries then, "Please replace the note you

17 put in Eastern's directory yesterday with this

18 version. We need to discuss two small edits

19 to this note when you're ready to deal with

20 this request."

21 MS. HENNESSEY:

22 A. Right.

23 CHAYTOR, Q.C.:

24 Q. Okay. And that's August 18th, and that's the

25 version you asked her to put in? Okay.

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1 MS. HENNESSEY:  
 2 A. Yes, and there was two edits to that version.  
 3 CHAYTOR, Q.C.:  
 4 Q. And so those two edits were what?  
 5 MS. HENNESSEY:  
 6 A. Were we removed the word--I removed the word  
 7 "greatly" from and the--it was a misspelling  
 8 of the word lawsuit or suit or something like  
 9 that. That was the two edits.  
 10 CHAYTOR, Q.C.:  
 11 Q. And so, Ms. Hennessey, which version of this  
 12 note exists in Eastern's directory within the  
 13 department?  
 14 MS. HENNESSEY:  
 15 A. In the department the version that exists is  
 16 the one without "greatly" in it.  
 17 CHAYTOR, Q.C.:  
 18 Q. So this version here that's attached, this is  
 19 not what we would find in the department's  
 20 directory?  
 21 MS. HENNESSEY:  
 22 A. Pardon?  
 23 CHAYTOR, Q.C.:  
 24 Q. This is not the version? It's this version  
 25 with those two changes?

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1 MS. HENNESSEY:  
 2 A. Yes, the version that exists in my director is  
 3 the one without the word "greatly".  
 4 CHAYTOR, Q.C.:  
 5 Q. And a change in the word "lawsuit", is that  
 6 right?  
 7 MS. HENNESSEY:  
 8 A. Yes.  
 9 CHAYTOR, Q.C.:  
 10 Q. Do you recall where that is in this?  
 11 MS. HENNESSEY:  
 12 A. Yes, I can tell you where it is.  
 13 CHAYTOR, Q.C.:  
 14 Q. Is it under this section here?  
 15 MS. HENNESSEY:  
 16 A. I think -  
 17 CHAYTOR, Q.C.:  
 18 Q. See lawsuit?  
 19 MS. HENNESSEY:  
 20 A. No, it's in a version that where it looks like  
 21 it's crooked.  
 22 CHAYTOR, Q.C.:  
 23 Q. Is it here? We see the word "lawsuit" here as  
 24 well. "The suite" right here I take it, "the  
 25 suite"?

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1 MS. HENNESSEY:  
 2 A. Yes, yeah, that's it.  
 3 CHAYTOR, Q.C.:  
 4 Q. And that's the detail that you went through in  
 5 editing this briefing note? You actually  
 6 edited the spelling mistake, as well?  
 7 MS. HENNESSEY:  
 8 A. Yes, I did. Yeah, I do recall that.  
 9 CHAYTOR, Q.C.:  
 10 Q. And this piece here, the reasons for the  
 11 erroneous results and steps take to prevent  
 12 recurrence.  
 13 MS. HENNESSEY:  
 14 A. Yeah.  
 15 CHAYTOR, Q.C.:  
 16 Q. Which you felt contained inaccurate  
 17 information?  
 18 MS. HENNESSEY:  
 19 A. Right.  
 20 CHAYTOR, Q.C.:  
 21 Q. That went, that went ahead and was forwarded  
 22 without any change or revision?  
 23 MS. HENNESSEY:  
 24 A. Yes, unfortunately that's what happened.  
 25 CHAYTOR, Q.C.:

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1 Q. And, Ms. Hennessey, I want to be clear now,  
 2 the note left the department?  
 3 MS. HENNESSEY:  
 4 A. Yes.  
 5 CHAYTOR, Q.C.:  
 6 Q. Without your approval?  
 7 MS. HENNESSEY:  
 8 A. Well, the note didn't leave the department,  
 9 the note was being drafted at cabinet  
 10 secretariat.  
 11 CHAYTOR, Q.C.:  
 12 Q. And the note was going to go forward?  
 13 MS. HENNESSEY:  
 14 A. Yes.  
 15 CHAYTOR, Q.C.:  
 16 Q. Without your approval?  
 17 MS. HENNESSEY:  
 18 A. Yes. My last conversation with Ms. McCormack  
 19 I indicated to her that I wasn't able to  
 20 approve the note.  
 21 CHAYTOR, Q.C.:  
 22 Q. Okay. Did you ask her to remove your name  
 23 from the note?  
 24 MS. HENNESSEY:  
 25 A. No, I didn't ask her to remove the name.

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1 CHAYTOR, Q.C.:

2 Q. Why not?

3 MS. HENNESSEY:

4 A. I guess that was just, I guess, what I live

5 with in working in the system, right. That's

6 not--I mean, there are other notes that have

7 approved by Moira Hennessey on them which, you

8 know, move forward without my final approval.

9 And this note was not in my control, the note

10 was in the control of the cabinet secretariat.

11 CHAYTOR, Q.C.:

12 Q. So the note went without you being comfortable

13 in giving it approval?

14 MS. HENNESSEY:

15 A. Yeah.

16 CHAYTOR, Q.C.:

17 Q. Without Mr. Abbott signing off on it?

18 MS. HENNESSEY:

19 A. Yes.

20 CHAYTOR, Q.C.:

21 Q. Because you never heard back from Mr. Abbott

22 on it?

23 MS. HENNESSEY:

24 A. No.

25 CHAYTOR, Q.C.:

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1 Q. And to your knowledge did the minister know

2 about even the existence of this note?

3 MS. HENNESSEY:

4 A. To the best of my knowledge the minister

5 didn't see the note.

6 CHAYTOR, Q.C.:

7 Q. Now, Ms. Hennessey, this had been, according

8 to any of records that we have here, this had

9 been the first request by cabinet secretariat

10 for a new note since the October, 2005?

11 MS. HENNESSEY:

12 A. Yes.

13 CHAYTOR, Q.C.:

14 Q. Okay. When the story first broke in the

15 media.

16 MS. HENNESSEY:

17 A. Yeah.

18 CHAYTOR, Q.C.:

19 Q. What was the urgency in sending this note?

20 MS. HENNESSEY:

21 A. There was some urgency at cabinet secretariat.

22 I -

23 CHAYTOR, Q.C.:

24 Q. And do you know what that was?

25 MS. HENNESSEY:

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1 A. No, I don't.

2 CHAYTOR, Q.C.:

3 Q. Why couldn't it wait until Mr. Abbott or the

4 minister were back to approve of the note?

5 MS. HENNESSEY:

6 A. I'm not able to answer that question. I mean,

7 the note was drafted by cabinet secretariat

8 and it was their decision when the note was

9 circulated internally.

10 CHAYTOR, Q.C.:

11 Q. And did you feel that there--you did feel,

12 though, there was a sense of urgency around

13 this?

14 MS. HENNESSEY:

15 A. I did because my first involvement in the note

16 was around the 7th or 8th of August that the--

17 you know, I was delayed putting attention to

18 it. I didn't have any staff available to

19 assist me who were familiar with the file. I

20 was working on Corner Brook long-term care,

21 work for a cabinet presentation on the 17th.

22 I got the information from Heather Predham on

23 Friday afternoon. I did my best on Sunday

24 morning to move the information into a table.

25 The table was typed on Monday. I was busy all

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1 day Monday with respect to Corner Brook long-

2 term care. I took the information home that

3 evening and reviewed it. I left the following

4 morning to go to Labrador. I was in Labrador

5 on the 15th and 16th. On the 17th the--I went

6 down to see the deputy minister about the

7 note, that he was in the cabinet presentation

8 at the time. I went back the second time and

9 he wasn't back to his office, so I sent the

10 note to him electronically.

11 CHAYTOR, Q.C.:

12 Q. Okay. And why is it that you went to see him,

13 why did you go to see him personally on the

14 note?

15 MS. HENNESSEY:

16 A. I went down with the hopes of seeing him

17 because I had the information on the test

18 results from Eastern Health.

19 CHAYTOR, Q.C.:

20 Q. And that was new information in your

21 department, wasn't it?

22 MS. HENNESSEY:

23 A. Yes, it was. But I wasn't able to see him.

24 CHAYTOR, Q.C.:

25 Q. And I guess you felt that the deputy minister

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1 would be interested in that information?  
 2 MS. HENNESSEY:  
 3 A. Yes, I would think so.  
 4 CHAYTOR, Q.C.:  
 5 Q. And the minister would be interested in that  
 6 information?  
 7 MS. HENNESSEY:  
 8 A. Yes.  
 9 CHAYTOR, Q.C.:  
 10 Q. Was the minister's briefing note updated to  
 11 reflect this information?  
 12 MS. HENNESSEY:  
 13 A. Sorry, the minister's briefing -  
 14 CHAYTOR, Q.C.:  
 15 Q. Yes, the last briefing note for the minister  
 16 is in May?  
 17 MS. HENNESSEY:  
 18 A. Yes.  
 19 CHAYTOR, Q.C.:  
 20 Q. So now we have a lot more information with all  
 21 the numbers.  
 22 MS. HENNESSEY:  
 23 A. Right, yeah.  
 24 CHAYTOR, Q.C.:  
 25 Q. Was his briefing note updated to reflect this

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1 new information?  
 2 MS. HENNESSEY:  
 3 A. I understood that the purpose of this note was  
 4 to, for one of two things, was for the--it was  
 5 a note for the premier for discussion with the  
 6 minister or it was a note that would have been  
 7 discussed during the premier's update at  
 8 cabinet.  
 9 CHAYTOR, Q.C.:  
 10 Q. Okay. I'm sorry, you understood it was for a  
 11 note for -  
 12 MS. HENNESSEY:  
 13 A. I understood -  
 14 CHAYTOR, Q.C.:  
 15 Q. - the premier to discuss with the minister?  
 16 MS. HENNESSEY:  
 17 A. Yes, I understood that the note was prepared  
 18 for a discussion with the minister or that it  
 19 would have been discussed during the premier's  
 20 update at cabinet.  
 21 CHAYTOR, Q.C.:  
 22 Q. And who told you that, who told you that was  
 23 the purpose for this briefing note?  
 24 MS. HENNESSEY:  
 25 A. That was my understanding. I didn't learn

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1 until much later that that may not necessarily  
 2 have been the case.  
 3 CHAYTOR, Q.C.:  
 4 Q. Right. But who told you that?  
 5 MS. HENNESSEY:  
 6 A. That, I guess as long as I've been doing  
 7 notes, notes that I've done for the premier, I  
 8 always understood, rightly or wrongly, that  
 9 the notes are done for a discussion with the  
 10 minister of the portfolio.  
 11 CHAYTOR, Q.C.:  
 12 Q. So I take it the minister's briefing note  
 13 wasn't updated to include the numbers?  
 14 MS. HENNESSEY:  
 15 A. No.  
 16 CHAYTOR, Q.C.:  
 17 Q. Okay. And even though these are the first  
 18 time the numbers are provided to the  
 19 department?  
 20 MS. HENNESSEY:  
 21 A. Yeah.  
 22 CHAYTOR, Q.C.:  
 23 Q. The briefing note, however, is kept in Eastern  
 24 Health's directory within the department?  
 25 MS. HENNESSEY:

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1 A. Yes. Well, within the board services  
 2 division.  
 3 CHAYTOR, Q.C.:  
 4 Q. Yes. And was a copy given to the minister?  
 5 MS. HENNESSEY:  
 6 A. I did not -  
 7 CHAYTOR, Q.C.:  
 8 Q. Copy of the briefing?  
 9 MS. HENNESSEY:  
 10 A. - give a copy to the minister.  
 11 CHAYTOR, Q.C.:  
 12 Q. Do you know if anybody gave a copy to the  
 13 minister?  
 14 MS. HENNESSEY:  
 15 A. I'm not aware of anybody giving a copy to the  
 16 minister.  
 17 CHAYTOR, Q.C.:  
 18 Q. And is, the purpose is for the premier to have  
 19 a discussion with the minister?  
 20 MS. HENNESSEY:  
 21 A. Yes.  
 22 CHAYTOR, Q.C.:  
 23 Q. Wouldn't the minister need a copy of the  
 24 briefing note?  
 25 MS. HENNESSEY:



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1 A. The note went, the draft note went to the  
 2 deputy minister. The final note, if I recall  
 3 correctly, did not get sent down to the deputy  
 4 minister.  
 5 CHAYTOR, Q.C.:  
 6 Q. Did the final version of the note go to the  
 7 deputy minister?  
 8 MS. HENNESSEY:  
 9 A. No, I don't recall sending the final version  
 10 to the deputy minister.  
 11 CHAYTOR, Q.C.:  
 12 Q. And why not, Ms. Hennessey?  
 13 MS. HENNESSEY:  
 14 A. I understood that the note, you know, was for  
 15 the discussion with the--between the minister  
 16 and the premier. The following week, I guess  
 17 again it was oversight on my part, that the  
 18 following week I became engaged in other files  
 19 and did not forward the final note to the  
 20 deputy minister.  
 21 CHAYTOR, Q.C.:  
 22 Q. When did you realize that the minister was not  
 23 aware of the existence of this note?  
 24 MS. HENNESSEY:  
 25 A. I learned that the minister wasn't aware of

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1 the note in May, 2007.  
 2 CHAYTOR, Q.C.:  
 3 Q. And how did you become aware of that?  
 4 MS. HENNESSEY:  
 5 A. I had a call from the clerk of the executive  
 6 council, who was Mr. Thompson at the time.  
 7 CHAYTOR, Q.C.:  
 8 Q. And what was discussed between yourself and  
 9 Mr. Thompson at that time?  
 10 MS. HENNESSEY:  
 11 A. Mr. Thompson asked me had I seen the August  
 12 18th briefing note and I told him that I had  
 13 and that I had forwarded the, certainly the  
 14 August 17th note to the deputy minister.  
 15 CHAYTOR, Q.C.:  
 16 Q. And was there any other discussion around this  
 17 note at that time?  
 18 MS. HENNESSEY:  
 19 A. With Mr. Thompson?  
 20 CHAYTOR, Q.C.:  
 21 Q. Yes.  
 22 MS. HENNESSEY:  
 23 A. No, not with Mr. Thompson. Later that day Mr.  
 24 Abbott and I were called to see the premier.  
 25 CHAYTOR, Q.C.:

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1 Q. And what happened in that meeting with the  
 2 premier?  
 3 MS. HENNESSEY:  
 4 A. In the meeting with the premier Mr. Abbott  
 5 acknowledged that he hadn't shared the note  
 6 with the minister.  
 7 COMMISSIONER:  
 8 Q. That he had not?  
 9 MS. HENNESSEY:  
 10 A. That he had not, yeah.  
 11 CHAYTOR, Q.C.:  
 12 Q. And did you acknowledge that you had not  
 13 shared the final version with Mr. Abbott?  
 14 MS. HENNESSEY:  
 15 A. Ms. Chaytor, I don't recall having that  
 16 discussion with Mr. Abbott. When we met with  
 17 the premier, Mr. Abbott did the talking with  
 18 the premier.  
 19 CHAYTOR, Q.C.:  
 20 Q. Okay. And what else happened in that meeting?  
 21 MS. HENNESSEY:  
 22 A. With the meeting with the premier?  
 23 CHAYTOR, Q.C.:  
 24 Q. Yes.  
 25 MS. HENNESSEY:

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1 A. It was very short meeting, that was the  
 2 discussion.  
 3 CHAYTOR, Q.C.:  
 4 Q. Okay. And was the premier upset by this?  
 5 MS. HENNESSEY:  
 6 A. The premier wasn't pleased.  
 7 CHAYTOR, Q.C.:  
 8 Q. Were you aware prior to August 18th, 2006 that  
 9 Minister Osborne was concerned that briefing  
 10 notes were leaving the department without his  
 11 knowledge?  
 12 MS. HENNESSEY:  
 13 A. Yes. I was aware that Minister Osborne wanted  
 14 to see briefing notes before they left the  
 15 department.  
 16 CHAYTOR, Q.C.:  
 17 Q. And would you have understood that that would  
 18 include a briefing note such as the August  
 19 18th briefing note?  
 20 MS. HENNESSEY:  
 21 A. Well, this particular note wasn't--I sent the  
 22 draft note to the deputy minister. The--I  
 23 didn't feel that I had control over this note  
 24 because it was being prepared at cabinet  
 25 secretariat.

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1 CHAYTOR, Q.C.:

2 Q. But you would have understood that Minister

3 Osborne would have wanted to see the August

4 18th briefing note?

5 MS. HENNESSEY:

6 A. Yes, I sent, I did send the draft note to the

7 deputy minister and the final note, based on

8 my recall, did not get sent.

9 CHAYTOR, Q.C.:

10 Q. Other than your e-mail that you received from

11 Ms. Predham, Heather Predham on this, did you

12 also have telephone discussions with Ms.

13 Predham around this note?

14 MS. HENNESSEY:

15 A. I recall speaking to Ms. Predham, asking her

16 to provide me with the information. I don't

17 recall any subsequent discussions with Ms.

18 Predham on it.

19 CHAYTOR, Q.C.:

20 Q. And when you asked Ms. Predham for the

21 information, did she express any concern as to

22 how the information would be used or who would

23 receive the information?

24 MS. HENNESSEY:

25 A. I indicated to her, as I recall, that the note

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1 was--that there was a note required in central

2 government and that they were looking for test

3 results.

4 CHAYTOR, Q.C.:

5 Q. And did Ms. Predham indicate that she would

6 have to check with anyone else within Eastern

7 Health prior to providing you with that

8 information?

9 MS. HENNESSEY:

10 A. Ms. Predham provided the information to me,

11 but, you know, acknowledging that it was draft

12 information and that Dr. Williams wasn't

13 available at that time.

14 CHAYTOR, Q.C.:

15 Q. And was there any caveat put on the provision

16 of the information as to who it could be

17 forwarded to?

18 MS. HENNESSEY:

19 A. Sorry, was there?

20 CHAYTOR, Q.C.:

21 Q. Was there any condition put on the

22 information, did Ms. Predham express any

23 concern about who the information may be

24 forwarded to?

25 MS. HENNESSEY:

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1 A. I think Ms. Predham would have been aware that

2 the note was being done for the Premier's

3 office.

4 CHAYTOR, Q.C.:

5 Q. Did you ever hear that Eastern Health were of

6 the understanding that briefing notes could be

7 protected from disclosure if they go directly

8 to Cabinet?

9 MS. HENNESSEY:

10 A. Sorry, did I hear?

11 CHAYTOR, Q.C.:

12 Q. Have you ever heard of that notion, that

13 briefing notes could be protected from

14 disclosure if they go directly to Cabinet?

15 MS. HENNESSEY:

16 A. Would Eastern Health have been aware of that?

17 CHAYTOR, Q.C.:

18 Q. Are you aware of that?

19 MS. HENNESSEY:

20 A. No, I'm not really aware of it, so I wouldn't

21 have communicated that to -

22 CHAYTOR, Q.C.:

23 Q. Have you ever heard a notion along those lines

24 expressed by Eastern Health?

25 MS. HENNESSEY:

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1 A. I don't recall being in any discussion with

2 Eastern Health around that particular point.

3 CHAYTOR, Q.C.:

4 Q. If we could just go back, please, to P-0192--

5 I'm sorry, it's P-0125, page 33. And under

6 "Action Required" it says "This notice

7 provided for information purposes only.

8 Should the Premier require further detail,

9 officials from Eastern Health, as well as

10 their legal counsel will be available for an

11 in-person briefing."

12 MS. HENNESSEY:

13 A. Yes.

14 CHAYTOR, Q.C.:

15 Q. And if we could go, please, to P-0192 page 5?

16 And this is the version of August 17th which

17 you've indicated was sent to Mr. Abbott.

18 MS. HENNESSEY:

19 A. Yes.

20 CHAYTOR, Q.C.:

21 Q. And that same paragraph appears there.

22 MS. HENNESSEY:

23 A. Right.

24 CHAYTOR, Q.C.:

25 Q. Where did that paragraph come from?

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1 MS. HENNESSEY:  
 2 A. Ms. McCormack would have put that paragraph in  
 3 the briefing note.  
 4 CHAYTOR, Q.C.:  
 5 Q. Do you recall having any feedback from Mr.  
 6 Abbott regarding that paragraph?  
 7 MS. HENNESSEY:  
 8 A. No, I did not have any feedback from Mr.  
 9 Abbott on that.  
 10 CHAYTOR, Q.C.:  
 11 Q. And if Mr. Abbott provided feedback on this  
 12 note, would you expect that it would have been  
 13 communicated through you?  
 14 MS. HENNESSEY:  
 15 A. If he provided feedback on this note, I would  
 16 think that because I had sent him the August  
 17 17th version that any feedback would have been  
 18 back to me.  
 19 CHAYTOR, Q.C.:  
 20 Q. So if Mr. Abbott has told the Commissioner  
 21 that in fact this paragraph was his idea,  
 22 you're not aware of that?  
 23 MS. HENNESSEY:  
 24 A. No, I'm not aware of that.  
 25 CHAYTOR, Q.C.:

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1 Q. Ms. Hennessey, is there anything else on  
 2 reflection concerning this August 18th  
 3 briefing note and its creation that you recall  
 4 that you haven't told us or anything else that  
 5 you think we should know about this note?  
 6 MS. HENNESSEY:  
 7 A. I don't recall anything else, I tried to  
 8 explain to you how this note was prepare and  
 9 what happened with the note. If I think of  
 10 anything else, I'll certainly let you know,  
 11 but I don't recall anything else.  
 12 CHAYTOR, Q.C.:  
 13 Q. Okay, thank you. That issue about having  
 14 discussed with Ms. McCormack the status of the  
 15 reports -  
 16 MS. HENNESSEY:  
 17 A. Right.  
 18 CHAYTOR, Q.C.:  
 19 Q. And pointing out to, well the paragraph is  
 20 right here on the screen, the reasons for the  
 21 erroneous results and steps taken to prevent  
 22 reoccurrence.  
 23 MS. HENNESSEY:  
 24 A. Right.  
 25 CHAYTOR, Q.C.:

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1 Q. You said that you did have a discussion with  
 2 Ms. McCormack around that?  
 3 MS. HENNESSEY:  
 4 A. I had a brief discussion, it was August the  
 5 18th. I think you need to remember that I was  
 6 trying to manage this note for a period of  
 7 time when I was actually in Labrador with the  
 8 Minister.  
 9 CHAYTOR, Q.C.:  
 10 Q. Yes. I understand and you recall your  
 11 discussion with her on August 18th?  
 12 MS. HENNESSEY:  
 13 A. Yes.  
 14 CHAYTOR, Q.C.:  
 15 Q. About the word "greatly" and the two edits to  
 16 the brief.  
 17 MS. HENNESSEY:  
 18 A. Yes.  
 19 CHAYTOR, Q.C.:  
 20 Q. To the briefing note. The discussion,  
 21 however, around this paragraph, what do you  
 22 recall about that and what action happened  
 23 following that?  
 24 MS. HENNESSEY:  
 25 A. I do recall a very brief discussion about

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1 that, I don't recall all the details and I  
 2 don't think that there was any action taken on  
 3 it.  
 4 CHAYTOR, Q.C.:  
 5 Q. And your best recollection on that is that you  
 6 pointed out to Ms. McCormack that you were of  
 7 the understanding the reports were back?  
 8 MS. HENNESSEY:  
 9 A. That the reports had been received.  
 10 CHAYTOR, Q.C.:  
 11 Q. And the recommendations were implemented.  
 12 MS. HENNESSEY:  
 13 A. Yes.  
 14 CHAYTOR, Q.C.:  
 15 Q. And what was Ms. McCormack's response to you  
 16 pointing that out to her?  
 17 MS. HENNESSEY:  
 18 A. I don't recall specifically, Ms. Chaytor, at  
 19 this point in time. I do recall a very brief  
 20 discussion that my understanding was different  
 21 on this point.  
 22 CHAYTOR, Q.C.:  
 23 Q. So I take it she must have given you some  
 24 other understanding?  
 25 MS. HENNESSEY:

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1 A. Well what's written there is based on  
 2 information she would have gotten from Eastern  
 3 Health.  
 4 CHAYTOR, Q.C.:  
 5 Q. And I take it then she refused to change that  
 6 portion of the note?  
 7 MS. HENNESSEY:  
 8 A. I don't think that we talked about refusing to  
 9 change information. At that point in time the  
 10 note was ready to be circulated and that there  
 11 was no further discussion on it.  
 12 CHAYTOR, Q.C.:  
 13 Q. Okay. Ms. Hennessey, was it your  
 14 understanding and I'm going to move on now  
 15 from the August 18th note, was it your  
 16 understanding that Eastern Health was  
 17 conducting a statistical analysis of the data  
 18 from the ER/PR testing or retesting, I should  
 19 say?  
 20 MS. HENNESSEY:  
 21 A. I understood that there was a review of  
 22 statistics being done.  
 23 CHAYTOR, Q.C.:  
 24 Q. And who told you that?  
 25 MS. HENNESSEY:

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1 A. I believe that information would have come  
 2 from Heather Predham.  
 3 CHAYTOR, Q.C.:  
 4 Q. And what is it that you understood that to  
 5 mean, that there was a review of the  
 6 statistics happening?  
 7 MS. HENNESSEY:  
 8 A. I guess my understanding of a review of  
 9 statistics would be that once the data was  
 10 prepared, that they would do some analysis  
 11 around the information. Now whether my  
 12 understanding and Ms. Predham's understanding  
 13 of a statistical review are the same, I  
 14 wouldn't be able to comment.  
 15 CHAYTOR, Q.C.:  
 16 Q. And did waiting for that statistical analysis  
 17 to take place in any way delay you from  
 18 seeking information from Eastern Health  
 19 regarding the retesting?  
 20 MS. HENNESSEY:  
 21 A. No, I understood that the statistical review  
 22 was being done that fall, that they were in  
 23 the process of finalizing the test results  
 24 based on the--the tumor panel was, you know,  
 25 joined that spring, that the tumor panel was

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1 meeting regularly to review the test results  
 2 and to make contact with the patients and that  
 3 once that review was finished, that a  
 4 statistical review or analysis was being done  
 5 and that that was being done during the fall  
 6 of--the fall of 2006, that that was being done  
 7 and they were also rechecking to be sure that  
 8 all the patients had been contacted.  
 9 CHAYTOR, Q.C.:  
 10 Q. So I take it it was something more, this  
 11 statistical analysis was something more than  
 12 just providing numbers as we see in August of  
 13 2006?  
 14 MS. HENNESSEY:  
 15 A. That would be my understanding of a  
 16 statistical analysis.  
 17 CHAYTOR, Q.C.:  
 18 Q. You were expecting more than that. And did  
 19 the department ever receive such analysis from  
 20 Eastern Health?  
 21 MS. HENNESSEY:  
 22 A. The next information that the department  
 23 received with respect to the test results was,  
 24 as far as I know in the November 23rd meeting  
 25 with the Minister.

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1 CHAYTOR, Q.C.:  
 2 Q. Right, the one-page briefing note, November  
 3 23rd?  
 4 MS. HENNESSEY:  
 5 A. The one-page listing of the test results.  
 6 CHAYTOR, Q.C.:  
 7 Q. Right. And that, I take it too was not what  
 8 you were expecting to receive.  
 9 MS. HENNESSEY:  
 10 A. I would have viewed that as a reporting of  
 11 data, not a statistical analysis.  
 12 CHAYTOR, Q.C.:  
 13 Q. So, did -  
 14 MS. HENNESSEY:  
 15 A. Now, I -  
 16 CHAYTOR, Q.C.:  
 17 Q. - the department ever receive the statistical  
 18 analysis that you were expecting?  
 19 MS. HENNESSEY:  
 20 A. Um (phonetic) -  
 21 CHAYTOR, Q.C.:  
 22 Q. If we could look at P-1477, please, page four  
 23 and again this is typed version of notes we've  
 24 received from Mr. Hynes concerning October  
 25 20th, 2006 executive meeting.

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1 MS. HENNESSEY:  
 2 A. Yes.  
 3 CHAYTOR, Q.C.:  
 4 Q. And indicated in his note is "ER/PR after a  
 5 year all patients still not notified." And do  
 6 you recall this discussion at the executive  
 7 meeting on October 20th, 2006?  
 8 MS. HENNESSEY:  
 9 A. I don't recall that specific discussion, but I  
 10 do know that Eastern Health was still checking  
 11 at that point in time to ensure that all the  
 12 patients had been notified.  
 13 CHAYTOR, Q.C.:  
 14 Q. And was this a concern within the department  
 15 that a year later all the patients hadn't been  
 16 notified?  
 17 MS. HENNESSEY:  
 18 A. Yes, at that point in time it was a concern.  
 19 CHAYTOR, Q.C.:  
 20 Q. And if we can look at P-0125, page 35, please?  
 21 This is the October 24th, 2006 briefing note,  
 22 prepared by Ms. Griffiths and approved by you?  
 23 MS. HENNESSEY:  
 24 A. Yes.  
 25 CHAYTOR, Q.C.:

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1 Q. Okay, and this refers to, under "Current  
 2 Status: that Eastern had not public released  
 3 the results of the retesting at this time,  
 4 except confidentially to individual patients.  
 5 The authority is currently reviewing all  
 6 charts to ensure that all individuals have  
 7 been contacted. The full review should be  
 8 completed by the end of November."  
 9 MS. HENNESSEY:  
 10 A. Yes.  
 11 CHAYTOR, Q.C.:  
 12 Q. So that was your understanding in terms of the  
 13 status of patient contact at that point in  
 14 time?  
 15 MS. HENNESSEY:  
 16 A. Yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. And if we could have P-1450 please? This is a  
 19 meeting of your executive committee.  
 20 MS. HENNESSEY:  
 21 A. Yes.  
 22 CHAYTOR, Q.C.:  
 23 Q. And you are in attendance on this day, as is  
 24 Tansy Mundon and it's November 3rd, 2006,  
 25 Darrell Hynes and John Abbott are also there.

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1 And briefing notes, circulation protocol.  
 2 "Briefing notes for central agencies must be  
 3 signed off by DM and Minister prior to being  
 4 sent." And I take it central agencies  
 5 includes Cabinet Secretariat?  
 6 MS. HENNESSEY:  
 7 A. Yes, it would.  
 8 CHAYTOR, Q.C.:  
 9 Q. And how did this come to be discussed on  
 10 November 3rd, 2006?  
 11 MS. HENNESSEY:  
 12 A. I seem to recall that there was a briefing  
 13 note and another program area that went to  
 14 central government without sign off.  
 15 CHAYTOR, Q.C.:  
 16 Q. Was there any discussion at this point in time  
 17 about the August 18th, 2006 note?  
 18 MS. HENNESSEY:  
 19 A. No, there wasn't.  
 20 CHAYTOR, Q.C.:  
 21 Q. Did it occur to you that the briefing note for  
 22 Cabinet Secretariat of that date had not been  
 23 signed off by the DM and Minister?  
 24 MS. HENNESSEY:  
 25 A. I don't recall specifically this meeting of

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1 November 2006.  
 2 CHAYTOR, Q.C.:  
 3 Q. And if we could turn please to P-0125, page  
 4 37, and again Ms. Hennessey, this is a  
 5 briefing note, question and answer briefing  
 6 note and it's drafted by Ms. Griffiths,  
 7 approved by you.  
 8 MS. HENNESSEY:  
 9 A. Right.  
 10 CHAYTOR, Q.C.:  
 11 Q. November 6th, 2006. And this indicates under  
 12 "Other suggested responses, the consultant's  
 13 recommendations have been implemented. They  
 14 return to Eastern Health in early April of  
 15 this year to assess the programs and were  
 16 pleased that measures were put in place to  
 17 address the concerns."  
 18 MS. HENNESSEY:  
 19 A. Right.  
 20 CHAYTOR, Q.C.:  
 21 Q. Do you know where that information came from,  
 22 that the consultants were pleased that  
 23 measures had been put in place to address the  
 24 concerns?  
 25 MS. HENNESSEY:

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1 A. I don't recall specifically, but I would think  
 2 that that came from information that was  
 3 gathered in preparing this briefing note.  
 4 CHAYTOR, Q.C.:  
 5 Q. And Ms. Hennessey, what's your next  
 6 involvement? This is now up to November 6th,  
 7 2006, what's your next involvement on this  
 8 file?  
 9 MS. HENNESSEY:  
 10 A. I was not involved in the November 23rd  
 11 meeting with the Minister, with Eastern  
 12 Health.  
 13 CHAYTOR, Q.C.:  
 14 Q. And why is that, why didn't you attend that  
 15 meeting?  
 16 MS. HENNESSEY:  
 17 A. I wasn't asked to attend the meeting and I  
 18 know at that point in time that I was busy,  
 19 there was an issue with respect to pharmacists  
 20 at Eastern Health and in other places in the  
 21 province, but in particular at Eastern Health  
 22 that Minister Osborne asked me to spend a fair  
 23 amount of time on.  
 24 CHAYTOR, Q.C.:  
 25 Q. And were you advised then following the

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1 meeting what was discussed?  
 2 MS. HENNESSEY:  
 3 A. I wasn't briefed by Mr. Abbott after the  
 4 meeting.  
 5 CHAYTOR, Q.C.:  
 6 Q. And did anyone tell you what had been  
 7 discussed in the meeting?  
 8 MS. HENNESSEY:  
 9 A. The only point that I can recall was that  
 10 there was some heated discussion, I think,  
 11 between an oncologist and the Minister's staff  
 12 with respect to the deceased patients.  
 13 CHAYTOR, Q.C.:  
 14 Q. I'm sorry, heated discussion?  
 15 MS. HENNESSEY:  
 16 A. Discussion.  
 17 CHAYTOR, Q.C.:  
 18 Q. Between an oncologist?  
 19 MS. HENNESSEY:  
 20 A. Who was in the meeting and the Minister's  
 21 staff.  
 22 CHAYTOR, Q.C.:  
 23 Q. And who was the person from the Minister's  
 24 staff?  
 25 MS. HENNESSEY:

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1 A. I seem to recall that it was the Minister's  
 2 policy advisor, Mr. Hynes.  
 3 CHAYTOR, Q.C.:  
 4 Q. And who was the oncologist?  
 5 MS. HENNESSEY:  
 6 A. I'm not sure if I knew at that time who the  
 7 oncologist was who was in the meeting.  
 8 CHAYTOR, Q.C.:  
 9 Q. And who relayed this information to you?  
 10 MS. HENNESSEY:  
 11 A. I seem to recall it was either--and it was  
 12 just a passing comment, that it was either Mr.  
 13 Hynes or Ms. Mundon.  
 14 CHAYTOR, Q.C.:  
 15 Q. And so I take it Mr. Hynes and Ms. Mundon were  
 16 both in the meeting?  
 17 MS. HENNESSEY:  
 18 A. Yes.  
 19 CHAYTOR, Q.C.:  
 20 Q. And did they tell you about any other  
 21 discussion as to what information was provided  
 22 to the Minister? For example, did you receive  
 23 a copy of the November 23rd briefing note from  
 24 Eastern Health?  
 25 MS. HENNESSEY:

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1 A. I did receive that table or the summary that  
 2 when we were preparing the November 27th  
 3 briefing note for the House of Assembly that  
 4 Mr. Abbott put that sheet of paper in my hand  
 5 and said "be sure that that gets attached to  
 6 the Minister's briefing note."  
 7 CHAYTOR, Q.C.:  
 8 Q. Okay, so Mr. Abbott gave that to you?  
 9 MS. HENNESSEY:  
 10 A. Yes.  
 11 CHAYTOR, Q.C.:  
 12 Q. Were there any discussions then--following the  
 13 November 23rd meeting, were there any  
 14 discussions in the department in terms of what  
 15 would be disclosed by Eastern Health? Did you  
 16 understand they were gearing up for a public  
 17 disclosure on the issue?  
 18 MS. HENNESSEY:  
 19 A. I certainly understood that there would be a  
 20 public or a media briefing within a couple of  
 21 weeks.  
 22 CHAYTOR, Q.C.:  
 23 Q. Okay, and do you recall any discussions in the  
 24 department as to why information would be  
 25 forthcoming through that briefing?

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1 MS. HENNESSEY:  
 2 A. No, I wasn't in any discussions in the  
 3 department about what information would be  
 4 disclosed in that briefing.  
 5 CHAYTOR, Q.C.:  
 6 Q. Do you recall any discussion regarding  
 7 disclosure of the total number of conversions  
 8 or an error rate, anything along those lines?  
 9 MS. HENNESSEY:  
 10 A. I don't recall being in any discussion on it.  
 11 CHAYTOR, Q.C.:  
 12 Q. Whether you took part in the discussion or  
 13 not, do you recall hearing anything around the  
 14 department about those issues?  
 15 MS. HENNESSEY:  
 16 A. I don't recall hearing anything specifically.  
 17 CHAYTOR, Q.C.:  
 18 Q. Anything at all, generally or otherwise?  
 19 MS. HENNESSEY:  
 20 A. No, I wasn't briefed coming out -  
 21 CHAYTOR, Q.C.:  
 22 Q. No, I understand that.  
 23 MS. HENNESSEY:  
 24 A. - following that meeting and I don't recall  
 25 being in any discussions with the Deputy

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1 Minister or the Minister on what would be  
 2 disclosed.  
 3 CHAYTOR, Q.C.:  
 4 Q. And did you otherwise hear anything in the  
 5 department following that meeting about  
 6 conversion rates, number of total changes with  
 7 changed results -  
 8 MS. HENNESSEY:  
 9 A. No, I wasn't at any discussion on the  
 10 information that was in that November 23rd -  
 11 CHAYTOR, Q.C.:  
 12 Q. And did you hear any discussion that others  
 13 were partaking in around those issues?  
 14 MS. HENNESSEY:  
 15 A. Any discussions within the department?  
 16 CHAYTOR, Q.C.:  
 17 Q. Yes.  
 18 MS. HENNESSEY:  
 19 A. I don't recall any details around that.  
 20 CHAYTOR, Q.C.:  
 21 Q. And what about then outside the department?  
 22 MS. HENNESSEY:  
 23 A. I wasn't involved in any discussions with  
 24 Eastern Health at that time.  
 25 CHAYTOR, Q.C.:

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1 Q. Or anyone else outside the department.  
 2 MS. HENNESSEY:  
 3 A. I wasn't involved in any discussions outside.  
 4 CHAYTOR, Q.C.:  
 5 Q. And are you otherwise aware as to whether or  
 6 not such discussions took place?  
 7 MS. HENNESSEY:  
 8 A. I don't know.  
 9 CHAYTOR, Q.C.:  
 10 Q. Okay, when Mr. Abbott gave you the briefing  
 11 note from Eastern Health, the November 23rd  
 12 page, what did you do with it?  
 13 MS. HENNESSEY:  
 14 A. I attached it to the Minister's briefing note  
 15 of November 27th. I can remember scanning the  
 16 information and thinking that it was not  
 17 significantly different from the information  
 18 of August, 2006.  
 19 CHAYTOR, Q.C.:  
 20 Q. So you looked at it enough to form the  
 21 conclusion it wasn't a whole lot different  
 22 than what you had received three months  
 23 before?  
 24 MS. HENNESSEY:  
 25 A. Yeah, I didn't literally go back and get my

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1 sheet of paper and compare the two, but  
 2 scanning it, I didn't see it as being  
 3 significantly different.  
 4 CHAYTOR, Q.C.:  
 5 Q. And were you surprised by that?  
 6 MS. HENNESSEY:  
 7 A. I don't know whether I reacted with surprise  
 8 to it.  
 9 CHAYTOR, Q.C.:  
 10 Q. You were expecting that there was a  
 11 statistical analysis taking place, that was  
 12 going to be happening in the fall?  
 13 MS. HENNESSEY:  
 14 A. Yeah.  
 15 CHAYTOR, Q.C.:  
 16 Q. So were you expecting it to be significantly  
 17 different or something more than what had been  
 18 provided earlier?  
 19 MS. HENNESSEY:  
 20 A. Well the information, because I wasn't in the  
 21 meeting, the information was provided in that  
 22 meeting and was accepted by the Deputy  
 23 Minister and I just accepted the piece of  
 24 paper from him and attached it to the note.  
 25 CHAYTOR, Q.C.:

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1 Q. Yes, and you looked at it enough, though, to  
 2 notice that the numbers were comparable to  
 3 what had been provided three months before?  
 4 MS. HENNESSEY:  
 5 A. Yeah, I mean I think there were some changes,  
 6 but that they weren't significant.  
 7 CHAYTOR, Q.C.:  
 8 Q. Ms. Hennessey, based on the information that  
 9 you had, if the department wanted to calculate  
 10 at that point in time the total number of  
 11 alive patients who had conversions, did the  
 12 department have the information to be able to  
 13 do that?  
 14 MS. HENNESSEY:  
 15 A. Based on the information, based on that sheet  
 16 of paper, the data that had been provided by  
 17 Eastern Health, I mean, I think from a pure  
 18 mathematical you could do a calculation, but I  
 19 think there was a number of factors that, you  
 20 know, came into consideration with respect to  
 21 calculating an error rate and I think, you  
 22 know, the threshold for positive and negative  
 23 had changed over time.  
 24 CHAYTOR, Q.C.:  
 25 Q. No, no, I didn't say error rate, I said number

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1 of conversions, the number of people who had  
 2 changed results.  
 3 MS. HENNESSEY:  
 4 A. Well, you could take, for the patients who had  
 5 been retested, I would think that you could  
 6 take the information and calculate the change  
 7 in the number of conversions.  
 8 CHAYTOR, Q.C.:  
 9 Q. And given that the numbers hadn't changed too  
 10 much from August -  
 11 MS. HENNESSEY:  
 12 A. Right.  
 13 CHAYTOR, Q.C.:  
 14 Q. That exercise could have been completed in  
 15 August as well, with the numbers that were  
 16 provided at that point in time?  
 17 MS. HENNESSEY:  
 18 A. Yes, on a pure mathematical basis, a  
 19 calculation could be done.  
 20 CHAYTOR, Q.C.:  
 21 Q. As to how many patients had had a change in  
 22 their results?  
 23 MS. HENNESSEY:  
 24 A. Yes.  
 25 CHAYTOR, Q.C.:

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1 Q. Yes, okay, and you say that there's a number  
 2 of factors that would come into play?  
 3 MS. HENNESSEY:  
 4 A. Well, I think that was with respect to error,  
 5 right, because there had been some--a change  
 6 in the threshold with respect to positive and  
 7 negative, and some of it I don't understand,  
 8 you know. I know that--I don't know whether  
 9 you would include the retro converters and I  
 10 don't know enough about that in the  
 11 calculation or not.  
 12 CHAYTOR, Q.C.:  
 13 Q. Okay, and this change in the threshold from  
 14 positive to negative, did you have an  
 15 impression as to how many people that would  
 16 have affected?  
 17 MS. HENNESSEY:  
 18 A. No, I didn't.  
 19 CHAYTOR, Q.C.:  
 20 Q. Based on the numbers that were given  
 21 previously?  
 22 MS. HENNESSEY:  
 23 A. No.  
 24 CHAYTOR, Q.C.:  
 25 Q. Would the number 13 stand out in your mind as

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1 being probably 13 people?  
 2 MS. HENNESSEY:  
 3 A. There's no particular number stands out in my  
 4 mind. If I looked at the sheet again now, you  
 5 know, maybe I could determine that.  
 6 CHAYTOR, Q.C.:  
 7 Q. And where are you getting this understanding  
 8 if you were to look at an error rate that  
 9 these factors would have to be taken into  
 10 consideration? Where do you--what discussion  
 11 did you take part in or overhear to know about  
 12 these things?  
 13 MS. HENNESSEY:  
 14 A. With respect to -  
 15 CHAYTOR, Q.C.:  
 16 Q. Yes, the information that you were just giving  
 17 us.  
 18 THE COMMISSIONER:  
 19 Q. The change in the threshold.  
 20 CHAYTOR, Q.C.:  
 21 Q. Yes, and the factors -  
 22 MS. HENNESSEY:  
 23 A. Right, I mean -  
 24 THE COMMISSIONER:  
 25 Q. What makes you think that would have to be



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1 considered?

2 MS. HENNESSEY:

3 A. The change in the threshold was identified in

4 many of our briefing notes with respect to at

5 one point the threshold was 30 percent and

6 then it was, I think, changed to ten percent

7 and then down to one percent.

8 CHAYTOR, Q.C.:

9 Q. Yes, but the fact that those would be factors

10 that would have to be taken into consideration

11 before you would look at calculating an error

12 rate?

13 MS. HENNESSEY:

14 A. Yeah, I wasn't in any discussion on that. I

15 guess that's just, you know, a given that I

16 have a finance background, I would have looked

17 at that. I don't recall, Ms. Chaytor, being

18 in any discussion in November 2006 on this

19 file.

20 CHAYTOR, Q.C.:

21 Q. At any point in time, I'm just wondering where

22 that information would come from, where you

23 would have understood that there would be

24 factors to come into play in calculating an

25 error rate. I'm just wondering where you

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1 would have gotten that information, and you

2 also mentioned, for example, whether you would

3 include the retro converters.

4 MS. HENNESSEY:

5 A. Well, I don't know much about the retro

6 converters at all. I mean, with respect to

7 the change in the threshold, I'm not sure if I

8 can explain it to you clearly.

9 CHAYTOR, Q.C.:

10 Q. No, no, that's fine. I'm just wondering, you

11 know, if--you know, where you would get that

12 information.

13 MS. HENNESSEY:

14 A. I mean, I think I would have heard reference

15 to the threshold somewhere, you know, along

16 the way in this file, but to be able to tell

17 you exactly when I heard about it -

18 THE COMMISSIONER:

19 Q. I don't think the question was directed to

20 where you had heard about either retro

21 converters or change in threshold.

22 MS. HENNESSEY:

23 A. Yes.

24 THE COMMISSIONER:

25 Q. Rather the question was what made you believe

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1 that these were factors that were relevant in

2 dealing with an error rate.

3 MS. HENNESSEY:

4 A. Commissioner, I don't recall. It may be that

5 it's late in the day.

6 THE COMMISSIONER:

7 Q. Well, I suppose it's--really the question is

8 whether or not that was something that--for

9 example, if you have an interest in or have in

10 the past dealt with error rates for something,

11 did you, you know, at that time consider,

12 okay, how do you go about determining an error

13 rate, and what you conclude and what you don't

14 -

15 MS. HENNESSEY:

16 A. Right, yeah.

17 THE COMMISSIONER:

18 Q. - or were you party to a conversation in which

19 somebody might have raised, well, error rate

20 is complicated here for these reasons, that

21 kind of thing.

22 MS. HENNESSEY:

23 A. I may have been party to a discussion on that,

24 but -

25 THE COMMISSIONER:

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1 Q. Do you remember where that might have been and

2 who might have been involved?

3 MS. HENNESSEY:

4 A. No, I don't.

5 CHAYTOR, Q.C.:

6 Q. Ms. Predham (sic.), so the numbers were

7 available in the Department in August of 2006,

8 or you certainly had seen numbers?

9 MS. HENNESSEY:

10 A. Yes.

11 CHAYTOR, Q.C.:

12 Q. And then some changed numbers or slightly

13 changed numbers -

14 MS. HENNESSEY:

15 A. Yeah.

16 CHAYTOR, Q.C.:

17 Q. - comparable numbers, I believe you said, in

18 November of 2006, and in terms of figuring out

19 the number of women who had or patients who

20 had had changed results, that calculation

21 could have been made at either of those points

22 in time?

23 MS. HENNESSEY:

24 A. Right.

25 CHAYTOR, Q.C.:

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1 Q. Do you know whether or not anyone in the  
 2 Department did that exercise?  
 3 MS. HENNESSEY:  
 4 A. I'm not aware that anybody in the Department  
 5 did that exercise.  
 6 CHAYTOR, Q.C.:  
 7 Q. Did you?  
 8 MS. HENNESSEY:  
 9 A. No, I didn't.  
 10 CHAYTOR, Q.C.:  
 11 Q. And why not?  
 12 MS. HENNESSEY:  
 13 A. I was reporting the information that had been  
 14 provided to me by Eastern Health. I did not  
 15 do any analysis on the data.  
 16 THE COMMISSIONER:  
 17 Q. Is that because you felt it wasn't part of  
 18 what you had to do or it was somebody else's  
 19 job or the Department didn't care or what?  
 20 MS. HENNESSEY:  
 21 A. I think it was the case, if I go back to  
 22 October 2005 when I was asked to accept the  
 23 information as provided by Eastern Health,  
 24 that's what I did.  
 25 THE COMMISSIONER:

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1 Q. So once again, you're only a conduit?  
 2 MS. HENNESSEY:  
 3 A. With respect -  
 4 THE COMMISSIONER:  
 5 Q. Just conveying information that's flowing  
 6 through you. You're not applying your mind -  
 7 MS. HENNESSEY:  
 8 A. On that particular point, I did not spend any  
 9 time doing an analysis.  
 10 CHAYTOR, Q.C.:  
 11 Q. If we can look at -  
 12 THE COMMISSIONER:  
 13 Q. I'm sorry.  
 14 CHAYTOR, Q.C.:  
 15 Q. Go ahead.  
 16 THE COMMISSIONER:  
 17 Q. But you seem to be a person who's quite  
 18 interested in precision and accuracy.  
 19 MS. HENNESSEY:  
 20 A. Right.  
 21 THE COMMISSIONER:  
 22 Q. You have cited a number of cases, perhaps with  
 23 one exception, but you've cited a number of  
 24 cases where you went back to people because of  
 25 what you saw as errors or imprecise statements

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1 of information, which many other people might  
 2 have just let run by. And yet, you didn't  
 3 think to run any of the numbers on this.  
 4 MS. HENNESSEY:  
 5 A. I didn't run the numbers because, as I said to  
 6 you, based on my initial discussion with the  
 7 Deputy Minister on this file when he said to  
 8 accept the numbers as presented by Eastern  
 9 Health, that's what I did. I didn't do any  
 10 analysis on the data.  
 11 THE COMMISSIONER:  
 12 Q. Okay.  
 13 CHAYTOR, Q.C.:  
 14 Q. Now Ms. Hennessey, we are going to see though,  
 15 in a briefing note to come, that you do  
 16 calculate the positivity rate. You do  
 17 calculate it as being something other than the  
 18 27 percent.  
 19 MS. HENNESSEY:  
 20 A. Yes, I did in one note.  
 21 CHAYTOR, Q.C.:  
 22 Q. So you did do that at that point in time?  
 23 MS. HENNESSEY:  
 24 A. Yes, I did do that one calculation.  
 25 CHAYTOR, Q.C.:

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1 Q. If we could look at P-0179 please? This is an  
 2 e-mail from yourself to Ms. Griffiths and this  
 3 is on the date that the Minister was being  
 4 briefed.  
 5 MS. HENNESSEY:  
 6 A. Yes.  
 7 CHAYTOR, Q.C.:  
 8 Q. November 23rd. And you're writing to Ms.  
 9 Griffiths to let her know that "the issue was  
 10 on CBC TV tonight." It's 7:21 at night. "You  
 11 may already be aware as well, George Tilley  
 12 met with the Minister today to provide an  
 13 update. We need to update the briefing note  
 14 tomorrow so it is ready for the House for  
 15 Monday. Can you please check with Tansy on  
 16 the key messages? Tansy was at the meeting  
 17 with Eastern and may have some suggested  
 18 changes. If you didn't see the news, you can  
 19 tell her what the headline is." And if we can  
 20 look, please at 0125, page 43?  
 21 This is a briefing note that's dated  
 22 November 27th 2006, prepared by Ms. Griffiths,  
 23 approved by yourself. So four days later we  
 24 have this briefing note.  
 25 MS. HENNESSEY:

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1 A. Right.  
 2 CHAYTOR, Q.C.:  
 3 Q. The issue is indicated to be "breast cancer  
 4 survivors want answers about mistakes in  
 5 breast cancer screening tests." Did that  
 6 catch your attention, Ms. Hennessey, that it's  
 7 saying breast cancer screening tests?  
 8 MS. HENNESSEY:  
 9 A. Yeah, I think that was what was being reported  
 10 in the media at that time.  
 11 CHAYTOR, Q.C.:  
 12 Q. Okay, so this is not intended to be the issue  
 13 as identified within the Department. This is  
 14 what the media is saying?  
 15 MS. HENNESSEY:  
 16 A. Yes, that's what the media was saying.  
 17 CHAYTOR, Q.C.:  
 18 Q. But there was no indication here to say that  
 19 that's in error, that it's not breast cancer  
 20 screening tests?  
 21 MS. HENNESSEY:  
 22 A. No, in that particular issue, there's no  
 23 reference to that.  
 24 CHAYTOR, Q.C.:  
 25 Q. Okay. And it goes on to say, "Eastern Health

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1 discovered the problem a year and a half ago,  
 2 but they are still not saying what went wrong  
 3 or how many women got false results." So I  
 4 take it that's what's also being reported in  
 5 the media?  
 6 MS. HENNESSEY:  
 7 A. Yes.  
 8 CHAYTOR, Q.C.:  
 9 Q. And then when we look at the anticipated  
 10 questions, Ms. Hennessey, we have, "Why is it  
 11 taking so long for cancer survivors to get  
 12 answers? Have all those affected been  
 13 notified? Are all test results back? What  
 14 assurances can you give the public this won't  
 15 happen again?" So in terms of identifying the  
 16 issue that's coming out in the media.  
 17 MS. HENNESSEY:  
 18 A. Right.  
 19 CHAYTOR, Q.C.:  
 20 Q. The two points being what went wrong and how  
 21 many women got false results. Can you explain  
 22 why neither of those questions appear under  
 23 "Anticipated questions" when those are the two  
 24 questions being posed in the media?  
 25 MS. HENNESSEY:

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1 A. No, I can't.  
 2 CHAYTOR, Q.C.:  
 3 Q. Ms. Hennessey, at this point in time you  
 4 understand that the data has been provided by  
 5 Eastern Health?  
 6 MS. HENNESSEY:  
 7 A. Yes.  
 8 CHAYTOR, Q.C.:  
 9 Q. The numbers are in?  
 10 MS. HENNESSEY:  
 11 A. Yeah.  
 12 CHAYTOR, Q.C.:  
 13 Q. They're planning to go public with a media  
 14 briefing in a couple of weeks?  
 15 MS. HENNESSEY:  
 16 A. Right, yes.  
 17 CHAYTOR, Q.C.:  
 18 Q. And that they're planning to resume testing?  
 19 Did you understand that in late -  
 20 MS. HENNESSEY:  
 21 A. That they were planning to resume testing in  
 22 February.  
 23 CHAYTOR, Q.C.:  
 24 Q. Yes. Did you at that point in time, and these  
 25 questions being posed now again in the media,

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1 what went wrong, did you go back looking for  
 2 the general findings that you had requested  
 3 the November previous?  
 4 MS. HENNESSEY:  
 5 A. When this note was being prepared, I didn't go  
 6 back to Eastern Health at this time.  
 7 CHAYTOR, Q.C.:  
 8 Q. And why not?  
 9 MS. HENNESSEY:  
 10 A. I think, Ms. Chaytor, I'm sure you appreciate  
 11 that this is not the only file that I was  
 12 managing, that I was doing my best to manage  
 13 quite a number of files in the department and  
 14 I have to rely on staff who work with me to  
 15 assist in the preparation of briefing  
 16 materials.  
 17 CHAYTOR, Q.C.:  
 18 Q. Ms. Hennessey, did you have concerns that you  
 19 were having to approve briefing notes without  
 20 having had the benefit of attending all the  
 21 meetings and briefings related to the issue?  
 22 MS. HENNESSEY:  
 23 A. Yes, I did have some concerns about that  
 24 throughout, you know, the couple of years  
 25 because at certain points in the file I felt I

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1 wasn't as close to the file as perhaps, you  
 2 know, it would have been more helpful if I had  
 3 been in some of these, the meetings with  
 4 Eastern Health in preparing the briefing  
 5 notes. But having said that, the briefing  
 6 notes, when they were done, were sent on to  
 7 the deputy minister for his review and sign  
 8 off and, you know, the changes that he would  
 9 have wanted made would have come back to me.

10 CHAYTOR, Q.C.:

11 Q. And there were times, though, that he also  
 12 wasn't necessarily involved or didn't attend  
 13 all the meetings, either?

14 MS. HENNESSEY:

15 A. With respect to the meetings with the minister  
 16 with Eastern Health I understood, rightly or  
 17 wrongly, that he was present for in all the  
 18 meetings with Eastern Health.

19 CHAYTOR, Q.C.:

20 Q. Except you told us yesterday the August 15th  
 21 one?

22 MS. HENNESSEY:

23 A. Oh, except the August 15th, I'm sorry, yeah.

24 CHAYTOR, Q.C.:

25 Q. Okay.

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1 COMMISSIONER:

2 Q. Ms. Chaytor, wherever you can find a  
 3 convenient place, we'll break.

4 CHAYTOR, Q.C.:

5 Q. Did you, in your experience in working with  
 6 Minister Osborne, and he would have been your  
 7 minister that you're preparing these note for  
 8 at this point in time.

9 MS. HENNESSEY:

10 A. Right.

11 CHAYTOR, Q.C.:

12 Q. Did you find him to ask a lot of questions and  
 13 try to be fully informed on issues?

14 MS. HENNESSEY:

15 A. Minister Osborne did, he was what I call a  
 16 detail minister and he did ask a number of  
 17 questions on different files.

18 CHAYTOR, Q.C.:

19 Q. Okay. And was that also true on the ER/PR  
 20 issue, did he ask a lot of questions?

21 MS. HENNESSEY:

22 A. With respect to fall 2006 I do not recall a  
 23 lot of personal engagement with Mr. Osborne on  
 24 this file.

25 CHAYTOR, Q.C.:

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1 Q. Do you recall him coming back on any of your  
 2 briefing notes and asking for any more  
 3 information?

4 MS. HENNESSEY:

5 A. I don't recall. I mean, if--we would have  
 6 done with Minister Osborne, we would have  
 7 done--when the House of Assembly was in  
 8 session, we would have done daily briefings  
 9 and if there was any changes that he wanted  
 10 made, they would have been made at that time.

11 CHAYTOR, Q.C.:

12 Q. Are you aware of another meeting that took  
 13 place in November, 2006 involving the deputy  
 14 minister, Mr. Tilley and the communications  
 15 personnel from the department and Eastern  
 16 Health?

17 MS. HENNESSEY:

18 A. I do remember. I wasn't involved in the  
 19 meeting, but I do remember that there was a  
 20 meeting.

21 CHAYTOR, Q.C.:

22 Q. And what did you understand to be the purpose  
 23 of that meeting?

24 MS. HENNESSEY:

25 A. I understood the purpose of the meeting was to

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1 try and improve, I guess, improve  
 2 communications among the communications staff  
 3 between the department and Eastern Health.

4 CHAYTOR, Q.C.:

5 Q. So was there a sense that there was an issue  
 6 between communications between the department  
 7 and Eastern Health?

8 MS. HENNESSEY:

9 A. My sense was that Ms. Mundon felt that she was  
 10 not always getting the information that she  
 11 was requesting from Eastern Health.

12 CHAYTOR, Q.C.:

13 Q. And did she discuss that with you?

14 MS. HENNESSEY:

15 A. Just very briefly. I mean, Ms. Mundon  
 16 reported to Mr. Abbott and I think that was  
 17 the purpose of that meeting was to talk about  
 18 some of the issues that existed between the  
 19 two organizations related to communications.

20 CHAYTOR, Q.C.:

21 Q. And, actually, that meeting, I believe, may  
 22 have taken place the first week of December as  
 23 opposed to I think I said late November, but  
 24 it's probably December 4th.

25 MS. HENNESSEY:

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1 A. Yeah.

2 CHAYTOR, Q.C.:

3 Q. So what did Ms. Mundon tell you, was she able

4 to give you any specific examples of what her-

5 -why she was concerned?

6 MS. HENNESSEY:

7 A. I don't recall specific examples. I do recall

8 her saying when the meeting was over that she

9 didn't feel that the issues had been resolved.

10 CHAYTOR, Q.C.:

11 Q. Okay. Did she tell you anything else that was

12 discussed in that meeting?

13 MS. HENNESSEY:

14 A. No, she did not.

15 CHAYTOR, Q.C.:

16 Q. Okay.

17 MS. HENNESSEY:

18 A. Not that I can recall, anyway.

19 CHAYTOR, Q.C.:

20 Q. And her sense, Ms. Mundon's sense was that she

21 wasn't--the communications personnel at

22 Eastern Health weren't communicating

23 effectively with her or completely with her?

24 MS. HENNESSEY:

25 A. Yeah, my sense was that there was some

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1 challenges between Eastern Health and the

2 department in the area of communications, but

3 -

4 CHAYTOR, Q.C.:

5 Q. Did you -

6 MS. HENNESSEY:

7 A. - I mean, Ms. Mundon would be better position

8 to speak to the details around that than I am.

9 CHAYTOR, Q.C.:

10 Q. Was that your experience, as well, did you

11 have any concerns yourself about receiving

12 information from Eastern Health?

13 MS. HENNESSEY:

14 A. When I was dealing with Heather Predham and

15 Dr. Williams and Mr. Tilley on this file, I

16 felt that the information--you know, I didn't

17 feel that I was struggling to get information

18 from these officials.

19 CHAYTOR, Q.C.:

20 Q. Did you have any sense that unless the

21 department asked a direct question of Eastern

22 Health it may not be getting a complete

23 answer?

24 MS. HENNESSEY:

25 A. With respect to a complete picture around a

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1 situation?

2 CHAYTOR, Q.C.:

3 Q. Around this issue.

4 MS. HENNESSEY:

5 A. I'm just trying to think back. I mean, as

6 I've said through my testimony, there's a

7 number of people at Eastern Health involved in

8 this, there was a number of people in the

9 department and, you know, if we felt that we

10 weren't getting a clear picture throughout,

11 maybe we weren't asking the right questions.

12 CHAYTOR, Q.C.:

13 Q. Okay. Is that a sentiment that you heard

14 anyone express in the department, that there's

15 a sense that unless the department asks a

16 direct question it may not be getting a

17 complete answer from Eastern Health, do you

18 recall anyone expressing a sentiment to that

19 effect?

20 MS. HENNESSEY:

21 A. I wasn't in any--I don't recall being in any

22 discussions with the deputy minister on that.

23 CHAYTOR, Q.C.:

24 Q. How about Ms. Mundon, was that the nature of

25 the complaint that Ms. Mundon communicated to

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1 you?

2 MS. HENNESSEY:

3 A. Yeah, I think she may have expressed, you

4 know, from a communications perspective that

5 she wasn't getting the full picture.

6 CHAYTOR, Q.C.:

7 Q. Commissioner.

8 COMMISSIONER:

9 Q. All right. We're ready to break. We'll break

10 until 9:30 in the morning. I've been asked to

11 advise counsel to not turn off your computers

12 because there's a small gift arriving for you

13 shortly. 9:30.

14 Upon conclusion at 5:00 p.m.

CERTIFICATE

1  
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 27th day of May, A.D., 2008 before the  
6 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 27th day of May, A.D., 2008  
13 Judy Moss

Inquiry on Hormone Receptor Testing

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