

<p>COMMISSION OF INQUIRY ON HORMONE RECEPTOR TESTING</p> <p>BEFORE THE HONOURABLE JUSTICE CAMERON - COMMISSIONER</p> <p>MAY 28, 2008</p> <p>Appearances:</p> <p>Bernard Coffey, Q.C. Commission Co-counsel Sandra Chaytor, Q.C. Commission Co-counsel</p> <p>Rolf Pritchard/Mark Mills Her Majesty in Right of NL</p> <p>Jane Hennebury Doctors Kara Laing et al</p> <p>Daniel Simmons Eastern Regional Integrated Health Authority</p> <p>Darlene Russell Members of the Breast Cancer Testing Class Action</p> <p>Jennifer Newbury Canadian Cancer Society (NL Division)</p> <p>Stacey O’Dea. Central, Western and Labrador-Grenfell Regional Integrated Health Authorities</p>	<p>LIST OF EXHIBITS</p> <p>EXHIBIT P-1478 Pg. 134</p> <p>EXHIBITS P-1480 THROUGH P-1497 INCLUSIVE Pg. 300</p> <p>EXHIBITS P-1500 THROUGH P-1506 INCLUSIVE Pg. 300</p> <p>EXHIBIT P-1508 Pg. 300</p> <p>EXHIBITS P-1510 THROUGH P-1519 INCLUSIVE Pg. 300</p> <p>EXHIBITS P-1535 THROUGH P-1564 INCLUSIVE Pg. 300</p>
<p>TABLE OF CONTENTS</p> <p>MS. MOIRA HENNESSEY - RESUMES THE STAND</p> <p>Examination by Sandra Chaytor, Q.C. - Cont’d Pgs. 4 - 247</p> <p>Examination by Daniel Simmons Pgs. 247 - 277</p> <p>Examination by Rolf Pritchard Pgs. 277 - 294</p> <p>Re-examination by Sandra Chaytor, Q.C. Pgs. 294 - 299</p> <p>MS. SUSAN BONNELL - SWORN</p> <p>Examination by Bernard Coffey, Q.C. Pgs. 299 - 356</p> <p>Certificate</p>	<p>Page 4</p> <p>1 COMMISSIONER: 2 Q. Please be seated. Ms. Chaytor. 3 MS. MOIRA HENNESSEY, EXAMINATION-IN-CHIEF BY SANDRA 4 CHAYTOR, Q.C. (CONTINUED) 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. Ms. Hennessey, when we broke, I believe we 12 were up to 2006. 13 MS. HENNESSEY: 14 A. Yes. 15 CHAYTOR, Q.C.: 16 Q. And, of course, going into then December 11th 17 of 2006 was the media technical briefing. 18 MS. HENNESSEY: 19 A. Yes. 20 CHAYTOR, Q.C.: 21 Q. Were you aware that that media technical 22 briefing would be taking place? 23 MS. HENNESSEY: 24 A. I was aware of a technical briefing, yes. 25 CHAYTOR, Q.C.:</p>

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1 Q. I'm sorry, can you speak up a little?
 2 MS. HENNESSEY:
 3 A. Yes, I was aware of a media technical
 4 briefing.
 5 CHAYTOR, Q.C.:
 6 Q. Okay. And were you involved at all in the
 7 preparation for that briefing by Eastern
 8 Health?
 9 MS. HENNESSEY:
 10 A. No, I was not.
 11 CHAYTOR, Q.C.:
 12 Q. Okay. And how did you become aware that it
 13 was taking place?
 14 MS. HENNESSEY:
 15 A. I believe our director of communications told
 16 me.
 17 CHAYTOR, Q.C.:
 18 Q. Okay. And if we could look, please, at P-
 19 0196? Okay. And at page 5 of 0196 we see an
 20 e-mail where Tansy forwarded documents,
 21 forwarded materials for ER/PR briefing?
 22 MS. HENNESSEY:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. And it's December 11th, 2006. And it was

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1 forwarded to you, amongst others.
 2 MS. HENNESSEY:
 3 A. Right.
 4 CHAYTOR, Q.C.:
 5 Q. So you did receive the materials for the
 6 briefing?
 7 MS. HENNESSEY:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. Okay. Prior to the briefing taking place?
 11 MS. HENNESSEY:
 12 A. Yeah. Yeah, I'm not sure what time the
 13 briefing occurred, but I did receive the
 14 materials.
 15 CHAYTOR, Q.C.:
 16 Q. Okay. And what did you do when you received
 17 the materials, did you review them?
 18 MS. HENNESSEY:
 19 A. What I can recall of that morning was I can
 20 remember reading the news release and at some
 21 point in time I would have read all the
 22 materials that were provided by Eastern
 23 Health.
 24 CHAYTOR, Q.C.:
 25 Q. I'm sorry, you said that when you received it,

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1 you read the release?
 2 MS. HENNESSEY:
 3 A. Yes, I seem to recall -
 4 CHAYTOR, Q.C.:
 5 Q. The press release?
 6 MS. HENNESSEY:
 7 A. - reading the press release, yeah.
 8 CHAYTOR, Q.C.:
 9 Q. Okay. And at some point in time you would
 10 have read all the materials?
 11 MS. HENNESSEY:
 12 A. Yes, at some point I would have read the
 13 materials.
 14 CHAYTOR, Q.C.:
 15 Q. Okay. And did that happen shortly after or
 16 before or around the time period December,
 17 2006, is that the time period you would have
 18 reviewed the material?
 19 MS. HENNESSEY:
 20 A. Yeah, I certainly would have reviewed the
 21 materials around that time frame, but whether
 22 it was that afternoon or evening, I don't
 23 recall.
 24 CHAYTOR, Q.C.:
 25 Q. So within that day or two-day period?

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1 MS. HENNESSEY:
 2 A. Yes, it certainly would have been during that
 3 time period.
 4 CHAYTOR, Q.C.:
 5 Q. Okay. And based on your review of the
 6 materials did you understand that Eastern
 7 Health would not be releasing certain
 8 documentation or certain information, I should
 9 say, to the public?
 10 MS. HENNESSEY:
 11 A. Yeah. I wasn't in the briefing with the
 12 minister.
 13 CHAYTOR, Q.C.:
 14 Q. In November?
 15 MS. HENNESSEY:
 16 A. On November 23rd. I wasn't briefed after that
 17 meeting, so when I saw the press release, I
 18 didn't have any context around the press
 19 release. I certainly was aware of the numbers
 20 that were in the press release.
 21 CHAYTOR, Q.C.:
 22 Q. And but my question was after you reviewed
 23 Eastern Health had fairly detailed question an
 24 answers.
 25 MS. HENNESSEY:

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1 A. Right, yeah.
 2 CHAYTOR, Q.C.:
 3 Q. And their slide presentations?
 4 MS. HENNESSEY:
 5 A. Yeah.
 6 CHAYTOR, Q.C.:
 7 Q. And it was, you know, fairly lengthy document
 8 that was forwarded to you and others in the
 9 department.
 10 MS. HENNESSEY:
 11 A. Right.
 12 CHAYTOR, Q.C.:
 13 Q. And based on your review of that did you
 14 realize that there were certain issues not
 15 going to be discussed by Eastern Health in the
 16 technical briefing?
 17 MS. HENNESSEY:
 18 A. I don't recall specifically, but I certainly
 19 would have read the materials. I knew there
 20 was some information there that with respect
 21 to the numbers that were going to be
 22 discussed, the 2790, the total number of
 23 patients, the 117 where there were treatment
 24 changes, I believe it was a total of 939. So
 25 I was certainly aware of those numbers.

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1 CHAYTOR, Q.C.:
 2 Q. And those were the only numbers included?
 3 MS. HENNESSEY:
 4 A. Yes.
 5 CHAYTOR, Q.C.:
 6 Q. The total number of patients with changed
 7 results, for example, that number was not
 8 included?
 9 MS. HENNESSEY:
 10 A. In the briefing materials?
 11 CHAYTOR, Q.C.:
 12 Q. Yes.
 13 MS. HENNESSEY:
 14 A. Yeah, I don't recall, Ms. Chaytor. I haven't
 15 reviewed the briefing material since then.
 16 CHAYTOR, Q.C.:
 17 Q. Okay. If we could--well, then, in terms of
 18 going into the technical media briefing, did
 19 you attend that?
 20 MS. HENNESSEY:
 21 A. No, I did not.
 22 CHAYTOR, Q.C.:
 23 Q. Did anyone from the department attend?
 24 MS. HENNESSEY:
 25 A. Not that I can recall. No, I'm pretty sure

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1 they didn't.
 2 CHAYTOR, Q.C.:
 3 Q. And was there any discussion around that,
 4 around somebody from the department attending?
 5 MS. HENNESSEY:
 6 A. Not that I'm aware of.
 7 CHAYTOR, Q.C.:
 8 Q. After the briefing did you have any
 9 discussions with anyone at Eastern Health?
 10 MS. HENNESSEY:
 11 A. I don't recall any discussions with anybody at
 12 Eastern Health after the briefing.
 13 CHAYTOR, Q.C.:
 14 Q. And were there any discussions within the
 15 department after the briefing in terms of how
 16 the briefing went?
 17 MS. HENNESSEY:
 18 A. I wasn't involved in any discussions within
 19 the department.
 20 CHAYTOR, Q.C.:
 21 Q. If we could have 0125, please, page 39? And,
 22 Ms. Hennessey, this is a briefing note. And
 23 the last briefing note I had brought you to
 24 yesterday was dated November 27th.
 25 MS. HENNESSEY:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. 2006.
 4 MS. HENNESSEY:
 5 A. Six, right.
 6 CHAYTOR, Q.C.:
 7 Q. And this one is also dated November 27th,
 8 2006.
 9 MS. HENNESSEY:
 10 A. Okay.
 11 CHAYTOR, Q.C.:
 12 Q. So there's two the same date.
 13 MS. HENNESSEY:
 14 A. Yeah.
 15 CHAYTOR, Q.C.:
 16 Q. But if we look at the issue identified here,
 17 it appears that perhaps this date is in error,
 18 as well, because the issue is identified as
 19 "Breast cancer survivors want answers about
 20 mistakes in the breast cancer screening test.
 21 Eastern Health discovered the problem a year
 22 and a half ago and on December 12th they
 23 released outcomes of the laboratory review."
 24 So it appears, certainly, that this can't a
 25 November 27th briefing note if it's referring

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1 to the December -
 2 MS. HENNESSEY:
 3 A. No. I just wonder in the key messages, would
 4 you just be able to -
 5 CHAYTOR, Q.C.:
 6 Q. Sure. And you can scroll down too, if you -
 7 MS. HENNESSEY:
 8 A. I'm sorry, I'm not -
 9 CHAYTOR, Q.C.:
 10 Q. That's okay, I'll do it for you then.
 11 MS. HENNESSEY:
 12 A. No, this was a draft of the December 12th
 13 briefing note.
 14 CHAYTOR, Q.C.:
 15 Q. Okay, so this is a draft of the December 12th?
 16 MS. HENNESSEY:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. Okay. Because, of course, there is a December
 20 12th briefing note, as well.
 21 MS. HENNESSEY:
 22 A. Yeah.
 23 CHAYTOR, Q.C.:
 24 Q. Now, under your key messages here the third
 25 key message states, "It is impossible to

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1 predict how the impact of this review will
 2 impact specific patients into the future. The
 3 delay in testing was only a matter of weeks or
 4 months and is unlikely to be significant. I
 5 must emphasize that in the vast majority of
 6 the cases tested and treated between 1997 and
 7 2004, the patient's treatment was confirmed
 8 appropriate."
 9 MS. HENNESSEY:
 10 A. Yeah.
 11 CHAYTOR, Q.C.:
 12 Q. Do you know where that information came from?
 13 MS. HENNESSEY:
 14 A. Yes, that information came from the briefing
 15 materials provided by Eastern Health.
 16 CHAYTOR, Q.C.:
 17 Q. The briefing materials for their media
 18 technical briefing?
 19 MS. HENNESSEY:
 20 A. Yes.
 21 CHAYTOR, Q.C.:
 22 Q. So the materials that were forwarded to you on
 23 December 11th?
 24 MS. HENNESSEY:
 25 A. Yes. I wasn't comfortable with that statement

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1 at the time so it didn't appear in the final
 2 note of December 12th.
 3 CHAYTOR, Q.C.:
 4 Q. And that a verbatim quote, though, out of
 5 those materials, isn't it?
 6 MS. HENNESSEY:
 7 A. I seem to recall that it is, yes.
 8 CHAYTOR, Q.C.:
 9 Q. And so you weren't comfortable with that, so
 10 who--this is indicated to have been drafted by
 11 Beverly Griffiths?
 12 MS. HENNESSEY:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. And approved by you. So was that Ms.
 16 Griffiths would have included that?
 17 MS. HENNESSEY:
 18 A. The first draft, the first draft would have
 19 been done by Ms. Griffiths.
 20 CHAYTOR, Q.C.:
 21 Q. Okay. And you took that quote out in the
 22 final version for December 12th?
 23 MS. HENNESSEY:
 24 A. Yes, I did.
 25 CHAYTOR, Q.C.:

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1 Q. And why is that, what were you uncomfortable
 2 with?
 3 MS. HENNESSEY:
 4 A. Well, I was uncomfortable with the statement
 5 about the delay in testing was only a matter
 6 of weeks because, as we spoke previously, the
 7 delay was initially three to four weeks and
 8 then it was up to six to eight weeks and then
 9 the, some of the test results, most of them
 10 came back by, that I was aware of, came back
 11 by February and but there was a small number
 12 that one of our briefing notes indicates
 13 didn't come back until May.
 14 CHAYTOR, Q.C.:
 15 Q. And the suggestion that "The delay is unlikely
 16 to be significant" were you comfortable with
 17 that statement?
 18 MS. HENNESSEY:
 19 A. Delay, no, I wasn't comfortable with that
 20 statement.
 21 CHAYTOR, Q.C.:
 22 Q. Okay. And at any point up to this point in
 23 time had there been any consultation with any
 24 of the physicians within the department as to
 25 whether or not any delay could be significant

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1 in terms of the impact on the patients?
 2 MS. HENNESSEY:
 3 A. There was no discussion with any of the
 4 physicians, or at least I didn't have any
 5 discussions with any of the physicians in the
 6 department at this time.
 7 CHAYTOR, Q.C.:
 8 Q. And the final sentence, "I must emphasize" and
 9 I assume that if this is going forward for the
 10 minister as a key message, it would be the
 11 minister emphasizing. "I must emphasize that
 12 in the vast majority of cases tested and
 13 treated between 1997 and 2005 the patient's
 14 treatment was confirmed appropriate."
 15 MS. HENNESSEY:
 16 A. Right.
 17 CHAYTOR, Q.C.:
 18 Q. Were you uncomfortable with that statement?
 19 MS. HENNESSEY:
 20 A. Ms. Chaytor, I'm not sure if I focused in on
 21 that particular point. I seem to recall that
 22 the comment with respect to the delay being
 23 only a matter of weeks was the trigger for me
 24 to take that out of the key message.
 25 CHAYTOR, Q.C.:

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1 Q. Okay. Okay, if we could look then to the next
 2 briefing note, which would be at 14--no, I'm
 3 sorry, I think it's 0125, page 46. And this
 4 briefing note then is the December 12th. So
 5 the one we were just looking at is the--was
 6 the draft?
 7 MS. HENNESSEY:
 8 A. Right.
 9 CHAYTOR, Q.C.:
 10 Q. And this one is also drafted by Ms. Griffiths,
 11 approved by you and it's dated December 12th.
 12 So this is the day after the technical
 13 briefing.
 14 MS. HENNESSEY:
 15 A. Yes.
 16 CHAYTOR, Q.C.:
 17 Q. And if we could just look, please, at 1459?
 18 And this is an e-mail from yourself to Connie
 19 Fry and Mary Crotty dated the same date, 8:18
 20 in the morning. And you're indicated you've
 21 asked Bev to revise the note based on
 22 yesterday's press release. "She may have some
 23 changes, as well. It may be wise to wait
 24 until I get there to avoid any unnecessary
 25 work." So this is you--you've already asked

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1 Ms. Griffiths to update the briefing note
 2 following Eastern Health's press release?
 3 MS. HENNESSEY:
 4 A. Yes, I would have, yeah.
 5 CHAYTOR, Q.C.:
 6 Q. And if we could go back then, please, to 0125,
 7 page 46? And the issue here is defined as "A
 8 mistake in testing may have lead to incorrect
 9 treatment for 117 women in this province
 10 suffering from breast cancer. Not receiving
 11 proper treatment could mean a life and death
 12 issue for women going through cancer." Where
 13 would that issue have come from?
 14 MS. HENNESSEY:
 15 A. Oh, I think that issue would have come from
 16 some media coverage at that time.
 17 CHAYTOR, Q.C.:
 18 Q. And then there's a number of anticipated
 19 questions, more anticipated questions.
 20 MS. HENNESSEY:
 21 A. Right.
 22 CHAYTOR, Q.C.:
 23 Q. And the first being whether the minister has
 24 lost confidence in the physicians and managers
 25 at Eastern Health responsible for breast

Page 20

1 cancer screening. And why would it refer to
 2 breast cancer screening?
 3 MS. HENNESSEY:
 4 A. I think that that was perhaps the wording that
 5 was used in the public.
 6 CHAYTOR, Q.C.:
 7 Q. And, of course, there was some confusion.
 8 Were you aware that some confusion around
 9 whether or not this was a test for breast
 10 cancer screening?
 11 MS. HENNESSEY:
 12 A. I was certainly clear that this was a test,
 13 the ER/PR was a test for following a breast
 14 cancer diagnosis.
 15 CHAYTOR, Q.C.:
 16 Q. And do you know if the minister would have
 17 been clear on that? This is showing up as an
 18 anticipated question for him.
 19 MS. HENNESSEY:
 20 A. Right. I can't really speak for the minister.
 21 I would think that he would be clear on it.
 22 CHAYTOR, Q.C.:
 23 Q. And there's a question as to why it's taken
 24 more than a year for Eastern Health to go
 25 public and release the results. And then the

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1 question, "What is the rate of error?"
 2 MS. HENNESSEY:
 3 A. Yeah.
 4 CHAYTOR, Q.C.:
 5 Q. And "When will," again, "breast cancer
 6 screening tests resume at the laboratory in
 7 St. John's?" So again, I take it, that's not
 8 correct, this was not about breast cancer
 9 screening?
 10 MS. HENNESSEY:
 11 A. No, it was on this ER/PR testing.
 12 CHAYTOR, Q.C.:
 13 Q. This issue, the third question of "What is the
 14 rate of error?" do you have any recollection
 15 around that question being posed in this
 16 briefing note?
 17 MS. HENNESSEY:
 18 A. Do I have any recollection around whether the
 19 note -
 20 CHAYTOR, Q.C.:
 21 Q. How that question appeared there or any
 22 discussions you had with Ms. Griffiths or Ms.
 23 Mundon about that question being in the
 24 briefing note?
 25 MS. HENNESSEY:

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1 A. I put the question in the briefing note
 2 because -
 3 CHAYTOR, Q.C.:
 4 Q. I'm sorry, you?
 5 MS. HENNESSEY:
 6 A. Put the question in the briefing note because
 7 we thought that the public may be interested
 8 in that.
 9 CHAYTOR, Q.C.:
 10 Q. Okay. So you were involved in inserting that
 11 question?
 12 MS. HENNESSEY:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. As an anticipated question?
 16 MS. HENNESSEY:
 17 A. Yeah, that it was a potential question.
 18 CHAYTOR, Q.C.:
 19 Q. And who did you have discussions with around
 20 that?
 21 MS. HENNESSEY:
 22 A. I seem to only recall having a discussion, a
 23 discussion with Ms. Mundon about the question.
 24 CHAYTOR, Q.C.:
 25 Q. And what was the nature of your discussion?

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1 MS. HENNESSEY:
 2 A. I think it was just as I said to you, that it
 3 was we thought that maybe the public would--
 4 that that question could get raised in the
 5 House of Assembly.
 6 CHAYTOR, Q.C.:
 7 Q. Yes. And then was there an answer put forward
 8 for the minister in the key messages or
 9 suggested responses to that question?
 10 MS. HENNESSEY:
 11 A. With respect to that question, we wouldn't, or
 12 at least I personally wouldn't be in a
 13 position to say whether medical error had
 14 occurred, that the class action suit had
 15 already begun with respect to this and that we
 16 were comfortable with that proceeding,
 17 continuing at that point, and that was
 18 certainly, you know, this was an operational
 19 issue for Eastern Health and that they were
 20 comfortable with that.
 21 CHAYTOR, Q.C.:
 22 Q. Yes. So that, your answer to my question is
 23 about whether or not an error had been made?
 24 MS. HENNESSEY:
 25 A. Yeah.

Page 24

1 CHAYTOR, Q.C.:
 2 Q. The question posed being "What is the rate of
 3 error?"
 4 MS. HENNESSEY:
 5 A. Yes.
 6 CHAYTOR, Q.C.:
 7 Q. Or I guess another way of saying it would be
 8 rate of conversion?
 9 MS. HENNESSEY:
 10 A. Yeah.
 11 CHAYTOR, Q.C.:
 12 Q. Was there an answer to that question set
 13 forward anywhere in the briefing note?
 14 MS. HENNESSEY:
 15 A. There is no, there's no answer in that with
 16 respect to the rate of conversion.
 17 CHAYTOR, Q.C.:
 18 Q. Okay. And why is that?
 19 MS. HENNESSEY:
 20 A. I don't think there was any particular reason
 21 why that was not included.
 22 CHAYTOR, Q.C.:
 23 Q. So even though there's only four questions
 24 anticipated and the numbers certainly, you had
 25 access to the numbers?

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1 MS. HENNESSEY:
 2 A. Yes, I did.
 3 CHAYTOR, Q.C.:
 4 Q. The numbers existed within the department?
 5 MS. HENNESSEY:
 6 A. Yeah.
 7 CHAYTOR, Q.C.:
 8 Q. Okay. But those numbers weren't included in
 9 the briefing note, the numbers which would
 10 have allowed the calculation of rate of
 11 conversions?
 12 MS. HENNESSEY:
 13 A. There may not have been in this briefing note
 14 that the table that was provided, or the
 15 information that was provided by Eastern
 16 Health was provided to the minister in the
 17 November 23rd meeting and it was attached to
 18 our November 27th briefing note.
 19 CHAYTOR, Q.C.:
 20 Q. Yes, and it's not attached to this briefing
 21 note?
 22 MS. HENNESSEY:
 23 A. No.
 24 CHAYTOR, Q.C.:
 25 Q. And this is after Eastern Health has made the

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1 decision that they're not going to disclose
 2 the overall number of conversions?
 3 MS. HENNESSEY:
 4 A. This briefing note would have been done after
 5 that, yes.
 6 CHAYTOR, Q.C.:
 7 Q. Yes. So -
 8 COMMISSIONER:
 9 Q. I'm sorry, I'm not sure I follow. You're
 10 saying that the information that had been
 11 provided to the department from Eastern
 12 Health, which gave at least raw data had been
 13 attached to the briefing note of?
 14 MS. HENNESSEY:
 15 A. November 27th that the minister had.
 16 COMMISSIONER:
 17 Q. So you didn't think you had to give it to him
 18 again, was that it?
 19 MS. HENNESSEY:
 20 A. Well, the minister had it in his briefing
 21 binder.
 22 COMMISSIONER:
 23 Q. But I'm sorry, maybe it's just that I don't
 24 understand. I'm still having difficulty with
 25 purpose and how briefing notes work because

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1 they don't seem to be for the purpose of
 2 providing information. And I just had this
 3 silly idea that that's why you provide the
 4 minister with information.
 5 MS. HENNESSEY:
 6 A. Yeah, there's -
 7 THE COMMISSIONER:
 8 Q. But it seems to me that--I can understand that
 9 there are occasions when perhaps the Minister
 10 needs to have information which does not
 11 become public or not become public until
 12 later.
 13 MS. HENNESSEY:
 14 A. Yes.
 15 THE COMMISSIONER:
 16 Q. But is there another method of getting
 17 information to the Minister on a regular basis
 18 about something other than briefing notes?
 19 MS. HENNESSEY:
 20 A. The only other method would be in our daily
 21 briefings with the Minister when the House was
 22 in session.
 23 THE COMMISSIONER:
 24 Q. Okay, and when I've seen a number of briefing
 25 notes over time, then there's a lot of

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1 repetition.
 2 MS. HENNESSEY:
 3 A. Yes.
 4 THE COMMISSIONER:
 5 Q. And I somehow have the belief that what would
 6 happen was that you would, in effect, update
 7 the briefing book by taking out the older
 8 version and putting in the newer one. But
 9 that's not right?
 10 MS. HENNESSEY:
 11 A. Well, I'm personally not involved in the
 12 process, but with--at this point in time,
 13 Minister Osborne was our Minister and he kept
 14 all of his briefing notes in his book. His
 15 secretary -
 16 THE COMMISSIONER:
 17 Q. Okay. Is that the normal process? The most--
 18 somewhere along the way, I had gotten the view
 19 that a briefing note is designed to let the
 20 Minister have the most current information so
 21 that if the Minister is asked a question in
 22 either the House of Assembly or on other
 23 occasions, perhaps by a member of the press,
 24 the Minister would have the up-to-date
 25 information with which to answer the question.

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1 Is that the idea?
 2 MS. HENNESSEY:
 3 A. That's certainly the idea and the Minister has
 4 some basic information in his note, but he had
 5 more details in the previous note, which was
 6 in his book. But the table didn't get
 7 attached to this note.
 8 THE COMMISSIONER:
 9 Q. Okay. So did you treat the briefing--you,
 10 i.e. the Department, treat the briefing of
 11 Minister Osborne differently, because of his
 12 habit of keeping briefing notes, than you did
 13 other ministers? If this had been Mr.
 14 Ottenheimer -
 15 MS. HENNESSEY:
 16 A. Yes.
 17 THE COMMISSIONER:
 18 Q. - who it would appear did not keep his
 19 briefing notes historically, you know what I
 20 mean, keep the series of--would you have put
 21 more information in his briefing note, knowing
 22 that he wasn't going to keep the old one?
 23 MS. HENNESSEY:
 24 A. I don't think that I would have made a
 25 conscious decision around it. At this point

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1 in time, I knew that Minister Osborne kept his
 2 materials.
 3 CHAYTOR, Q.C.:
 4 Q. Okay, so Ms. Hennessey, at this point in time
 5 then, the third bullet refers to the 939
 6 breast cancer patients who were retested, the
 7 117 who had recommended changes in their
 8 treatment, okay, and then when we look at page
 9 48 -
 10 MS. HENNESSEY:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. - we have "the detail on the test results are
 14 as follows."
 15 MS. HENNESSEY:
 16 A. Right.
 17 CHAYTOR, Q.C.:
 18 Q. The total number of cases of ER/PR tests,
 19 2760. Total number of patients retested, 939.
 20 Patients requirement treatment changes, 117.
 21 In the prior briefing notes, there had been a
 22 bullet which said "further details attached"
 23 and that was the November 23rd briefing note -
 24 MS. HENNESSEY:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. - which was attached, and then that's missing
 3 from the December 12th.
 4 MS. HENNESSEY:
 5 A. Yes, and I don't think that that was
 6 intentionally missing from this note. It was
 7 perhaps just overlooked.
 8 CHAYTOR, Q.C.:
 9 Q. And it doesn't appear in any further briefing
 10 notes. I would suggest to you that the total
 11 number of conversions doesn't appear until May
 12 16th, 2007, after that number has been
 13 released to the public.
 14 MS. HENNESSEY:
 15 A. There was certainly more detail in the notes
 16 in May, yes, I agree with you.
 17 CHAYTOR, Q.C.:
 18 Q. No, but the total number of patients that had
 19 conversions no longer appears in the briefing
 20 note. After the December 11th technical
 21 briefing by Eastern Health in which they made
 22 the conscious decision not to refer to that
 23 number -
 24 MS. HENNESSEY:
 25 A. Right.

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1 CHAYTOR, Q.C.:
 2 Q. - it also is no longer referred to in
 3 Government's briefing notes until May 16th,
 4 2007. So did the Department agree with
 5 Eastern Health's position not to refer to that
 6 number?
 7 MS. HENNESSEY:
 8 A. Unfortunately, I don't have a lot of context
 9 around it, back in November, because I wasn't
 10 briefed on the file, so I used Eastern
 11 Health's briefing materials to prepare these
 12 briefing notes and I wasn't in any further
 13 discussions with the Minister. So I don't
 14 have the context around what the Minister's
 15 understanding may have been.
 16 CHAYTOR, Q.C.:
 17 Q. Yes, but you read--I'm wondering what your
 18 understanding was and what your position was,
 19 because you're the person approving these
 20 briefing notes for the Minister.
 21 MS. HENNESSEY:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. Which he would, should he be called upon, rely
 25 upon to speak publicly on the issue.

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1 MS. HENNESSEY:
 2 A. Right.
 3 CHAYTOR, Q.C.:
 4 Q. And I would suggest to you that that number is
 5 noticeably absent from this point four
 6 version. That had been, it appears to be,
 7 somewhat of a deliberate decision on Eastern
 8 Health's position--part, and they've--some
 9 people have articulated that and I'm sure
 10 we'll hear from others as to the thinking
 11 behind that decision, and I'm wondering
 12 whether or not the Department concurred with
 13 that decision.
 14 MS. HENNESSEY:
 15 A. I can't speak on behalf of the Department with
 16 respect to that issue because I wasn't -
 17 CHAYTOR, Q.C.:
 18 Q. What about yourself in approving the briefing
 19 notes?
 20 MS. HENNESSEY:
 21 A. I did that briefing note based on the
 22 information that Eastern Health had provided.
 23 Because I hadn't been briefed on the subject,
 24 I was working on the assumption that the
 25 information that was in the press release was

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1 acceptable to the Department.
 2 CHAYTOR, Q.C.:
 3 Q. So you worked on that assumption?
 4 MS. HENNESSEY:
 5 A. Yeah.
 6 CHAYTOR, Q.C.:
 7 Q. And if we could look then, please, at a couple
 8 of the paragraphs then that you do put in your
 9 briefing note, and first of all, we have the
 10 paragraph I just brought you to regarding the
 11 numbers.
 12 MS. HENNESSEY:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. The fourth bullet under key messages. You
 16 also go on to say "there were multiple factors
 17 involved. Since legal proceedings have been
 18 initiated, we will have to allow the legal
 19 process to determine if in fact error has
 20 occurred." Where did you get that
 21 information?
 22 MS. HENNESSEY:
 23 A. That information would have been, I think,
 24 taken from the briefing materials from Eastern
 25 Health.

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1 CHAYTOR, Q.C.:
 2 Q. And if we could look then at P-0104, please,
 3 page 30? Question nine, these are the Q and
 4 A's -
 5 MS. HENNESSEY:
 6 A. Yes.
 7 CHAYTOR, Q.C.:
 8 Q. - that would have been forwarded to you on
 9 December 11th.
 10 MS. HENNESSEY:
 11 A. Right.
 12 CHAYTOR, Q.C.:
 13 Q. And were drafted for the press or the media
 14 technical briefing.
 15 MS. HENNESSEY:
 16 A. Right.
 17 CHAYTOR, Q.C.:
 18 Q. "What is the rate of error? How many people
 19 converted?" and that is a question anticipated
 20 in the briefing note that we just looked at.
 21 MS. HENNESSEY:
 22 A. Yes, yeah.
 23 CHAYTOR, Q.C.:
 24 Q. And then if we come down through that, "now
 25 that the legal proceedings have been

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1 initiated, we will have to allow the legal
 2 process to determine if in fact error has
 3 occurred."
 4 MS. HENNESSEY:
 5 A. Yes.
 6 CHAYTOR, Q.C.:
 7 Q. So that's a direct quote taken out of Eastern
 8 Health's material?
 9 MS. HENNESSEY:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. If we could go back, please, to 0125, page 47?
 13 And under suggested responses, there's two,
 14 and the second bullet talks about "Eastern
 15 Health has implemented," and now we see the
 16 wording "or in the process of implementing -
 17 MS. HENNESSEY:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. - all recommendations from the external
 21 reviews. A dedicated lab has been identified
 22 to perform the ER/PR testing, with three
 23 designated technologists, a medical director
 24 and a dedicated cutter, and all staff received
 25 specialized training. A centre of excellence

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1 for breast cancer cases has been established,
 2 so the examination and reporting will be
 3 directed to a dedicated group of pathologists.
 4 The dedicated lab has established a quality
 5 management program, and the accreditation
 6 process has been initiated for the entire
 7 laboratory department." And where did you
 8 receive that information?
 9 MS. HENNESSEY:
 10 A. That information would have come from Eastern
 11 Health.
 12 CHAYTOR, Q.C.:
 13 Q. Okay, and was that also terminology that was
 14 taken from the briefing materials?
 15 MS. HENNESSEY:
 16 A. If I recall correctly, it was.
 17 CHAYTOR, Q.C.:
 18 Q. It was?
 19 MS. HENNESSEY:
 20 A. Yeah.
 21 CHAYTOR, Q.C.:
 22 Q. So I take it, Ms. Hennessey, you had reviewed
 23 the materials?
 24 MS. HENNESSEY:
 25 A. This was the December 12th?

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1 CHAYTOR, Q.C.:
 2 Q. Yes.
 3 MS. HENNESSEY:
 4 A. Yes, I would have reviewed them.
 5 CHAYTOR, Q.C.:
 6 Q. And had reviewed it in enough detail to be
 7 able to quote from it and use references from
 8 it?
 9 MS. HENNESSEY:
 10 A. Yes, I would have reviewed the materials and
 11 used references from it.
 12 CHAYTOR, Q.C.:
 13 Q. And I take it then, you were also aware--the
 14 question that I showed you a moment ago where
 15 there was going to be refusal to refer to a
 16 rate of error and having to let the legal
 17 process determine if in fact error occurred -
 18 MS. HENNESSEY:
 19 A. Yeah.
 20 CHAYTOR, Q.C.:
 21 Q. - that same question also, if we could just go
 22 back to it, 0104, page 30, that question "how
 23 many people converted? What is the rate of
 24 error? How many people converted?" goes on to
 25 say, "the numbers of individual conversions

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1 are not relevant and turn the process into a
 2 numbers game. What is relevant is the number
 3 of people whose care may change as a result of
 4 the process, and that was 117." So I take it
 5 you were well aware that Eastern Health was
 6 not intending to refer to any other number, in
 7 terms of people who had a change in treatment,
 8 other than--sorry, in terms of people who had
 9 a change in result, other than the 117 who had
 10 a change in treatment?
 11 MS. HENNESSEY:
 12 A. I was certainly working on the assumption that
 13 the information--you know, I didn't have any
 14 discussion with the Minister or the Deputy
 15 Minister on this, so I was working on the
 16 assumption that what was in the press release
 17 was okay.
 18 CHAYTOR, Q.C.:
 19 Q. And you were aware that what was in the press
 20 release was that Eastern Health was not going
 21 to refer to the overall numbers of conversions
 22 because they felt that was not relevant?
 23 MS. HENNESSEY:
 24 A. I don't know if I would be able to say that.
 25 I'm not sure that I would have focused on

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1 this--you know, that particular paragraph
 2 about the numbers game.
 3 CHAYTOR, Q.C.:
 4 Q. Well, it was focused on enough to pick one
 5 sentence out of it, about the legal
 6 proceedings.
 7 MS. HENNESSEY:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. So were you aware that Eastern Health did not
 11 intend to refer to the total number of
 12 patients who had a change in results?
 13 MS. HENNESSEY:
 14 A. I think at that point in time, that I would
 15 have been aware that, you know, that Eastern
 16 Health released certain pieces of information
 17 and that they were comfortable with allowing
 18 the Court proceedings to determine error.
 19 CHAYTOR, Q.C.:
 20 Q. And they were not releasing other pieces of
 21 information, you were aware of that?
 22 MS. HENNESSEY:
 23 A. Well, I certainly had seen the sheet, you
 24 know, the November 23rd, the data sheet, and
 25 known that there was information in that that

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1 was not released.
 2 CHAYTOR, Q.C.:
 3 Q. Yes. So you were aware that all of the
 4 numbers on the November 23rd sheet were not
 5 contained in their media technical briefing
 6 materials?
 7 MS. HENNESSEY:
 8 A. Right.
 9 CHAYTOR, Q.C.:
 10 Q. Yes, and from that, you could draw the
 11 conclusion that they were not going to release
 12 all of the numbers?
 13 MS. HENNESSEY:
 14 A. I certainly was aware that all of the
 15 information that was in the data sheet were
 16 not in the press release.
 17 CHAYTOR, Q.C.:
 18 Q. And you had no discussions with your Deputy
 19 Minister or Minister about that?
 20 MS. HENNESSEY:
 21 A. No, I do not recall. I recall that there was
 22 a briefing that day, on December the 12th. It
 23 was a short briefing, but I don't recall any
 24 discussion on these points during that
 25 meeting.

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1 CHAYTOR, Q.C.:
 2 Q. So there was a meeting within the Department
 3 on December 12th?
 4 MS. HENNESSEY:
 5 A. There would have been the noon time or roughly
 6 there of the noon time briefing.
 7 CHAYTOR, Q.C.:
 8 Q. And who attended that meeting?
 9 MS. HENNESSEY:
 10 A. The Minister would have been there and the
 11 Deputy Minister.
 12 CHAYTOR, Q.C.:
 13 Q. And yourself?
 14 MS. HENNESSEY:
 15 A. And I would have been there.
 16 CHAYTOR, Q.C.:
 17 Q. Was Ms. Mundon there?
 18 MS. HENNESSEY:
 19 A. Ms. Mundon would have been there, and there
 20 were probably other executive people there,
 21 but I just don't recall exactly who was in the
 22 room.
 23 CHAYTOR, Q.C.:
 24 Q. Okay, and what was discussed in terms of the
 25 ER/PR issue in that meeting?

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1 MS. HENNESSEY:
 2 A. I think it was--if I recall correctly, it was
 3 a very limited discussion. That particular
 4 day, there was very little time for the
 5 briefing.
 6 CHAYTOR, Q.C.:
 7 Q. Okay, and this was the day following the
 8 December 11th technical briefing?
 9 MS. HENNESSEY:
 10 A. Yes, it was.
 11 CHAYTOR, Q.C.:
 12 Q. So do I take it that the technical briefing
 13 was the subject of discussion?
 14 MS. HENNESSEY:
 15 A. I don't recall there being a lot of discussion
 16 around the technical briefing.
 17 CHAYTOR, Q.C.:
 18 Q. What do you recall?
 19 MS. HENNESSEY:
 20 A. At that meeting, we would have provided the
 21 briefing note to the Minister. I don't recall
 22 a discussion on it.
 23 CHAYTOR, Q.C.:
 24 Q. So you gave the Minister the December 12th
 25 briefing note?

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1 MS. HENNESSEY:
 2 A. Yes, the Minister and the Deputy Minister
 3 would have had the December 12th briefing
 4 note.
 5 CHAYTOR, Q.C.:
 6 Q. Would the Deputy Minister already have signed
 7 off on the briefing note?
 8 MS. HENNESSEY:
 9 A. The Deputy Minister may have seen the note.
 10 Some days, if we're--if the time frame is
 11 tight to get a note finished, the Deputy
 12 Minister may be seeing it for the first time
 13 in the briefing, but on many occasions, the
 14 note would have gone to the Deputy Minister
 15 before the briefing. I can't recall
 16 specifically.
 17 CHAYTOR, Q.C.:
 18 Q. So you gave the briefing note--in that
 19 meeting, you gave the briefing note to the
 20 Minister?
 21 MS. HENNESSEY:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. The updated December 12th one?
 25 MS. HENNESSEY:

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1 A. Yes, the briefing note, the Minister and the
 2 Deputy Minister would have had the briefing
 3 note.
 4 CHAYTOR, Q.C.:
 5 Q. Yes, and you were aware that that briefing
 6 note did not attach the November 23rd full
 7 numbers to the briefing note, and you were
 8 aware that Eastern Health had not or was
 9 planning not to refer to all of the numbers.
 10 MS. HENNESSEY:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. Did you bring that to the attention of the
 14 Deputy and the Minister in that meeting?
 15 MS. HENNESSEY:
 16 A. Ms. Chaytor, I don't believe there was a lot
 17 of time that day to do a detailed briefing
 18 with the Minister.
 19 CHAYTOR, Q.C.:
 20 Q. And would you think that that would have been
 21 important information to share with the
 22 Minister and Deputy Minister?
 23 MS. HENNESSEY:
 24 A. Well, at that point in time, I think I was
 25 working on the assumption that the information

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1 that was released by Eastern Health was okay,
 2 from the Department's perspective.
 3 CHAYTOR, Q.C.:
 4 Q. So you were assuming that the Deputy and the
 5 Minister had already agreed to this approach?
 6 MS. HENNESSEY:
 7 A. Well, I really didn't know the difference, as
 8 I said, because I wasn't briefed on the
 9 subject. So I was working--I used Eastern
 10 Health's briefing materials and we prepared
 11 the note.
 12 CHAYTOR, Q.C.:
 13 Q. Okay, and Ms. Mundon had told you some things
 14 that had happened in the November 23rd
 15 briefing.
 16 MS. HENNESSEY:
 17 A. Yeah.
 18 CHAYTOR, Q.C.:
 19 Q. Because you remembered having a discussion
 20 with her about the exchange between Mr. Hynes
 21 and Dr. Laing with respect to the deceased -
 22 MS. HENNESSEY:
 23 A. I can certainly remember some detail on the
 24 deceased--the discussion around the deceased
 25 patients.

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1 CHAYTOR, Q.C.:
 2 Q. Why did you think that the Department would be
 3 okay with only releasing some of the
 4 information and not all of it?
 5 MS. HENNESSEY:
 6 A. I don't--I think I just worked--I mean, I
 7 didn't have the context around it. I wasn't
 8 at the meeting. I wasn't engaged in any
 9 discussions at that time, so the information
 10 that was provided by Eastern Health, I
 11 accepted as it was.
 12 CHAYTOR, Q.C.:
 13 Q. And in terms of, though, your knowledge of the
 14 Department and your knowledge of the Minister
 15 in particular, Mr. Osborne, did you have
 16 reason to think that would be an acceptable
 17 approach, that not all of the information
 18 would be released?
 19 MS. HENNESSEY:
 20 A. Sorry, I wonder could you ask that question
 21 again?
 22 CHAYTOR, Q.C.:
 23 Q. Did you have reason to think, based on your
 24 knowledge of the Department -
 25 MS. HENNESSEY:

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1 A. Right.
 2 CHAYTOR, Q.C.:
 3 Q. - and your knowledge of Minister Osborne, that
 4 it would be an acceptable approach that not
 5 all the information would be released
 6 publicly?
 7 MS. HENNESSEY:
 8 A. Ms. Chaytor, I guess I have to repeat that I
 9 didn't have any context around this situation
 10 at the time.
 11 CHAYTOR, Q.C.:
 12 Q. Well, what about around any other situation?
 13 Had you had experience with the Department
 14 agreeing not to release all information to the
 15 public in another situation or a similar
 16 situation in which--concerning the public
 17 health system?
 18 MS. HENNESSEY:
 19 A. I don't recall being in a discussion of that
 20 nature on previous files.
 21 CHAYTOR, Q.C.:
 22 Q. If we could go back, please, to 0125, page 47?
 23 Actually, I'm sorry, could we go back again to
 24 0104, page 30? Before we leave question nine,
 25 this is the part that--question nine on page

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1 30, "now that legal proceedings have been
 2 initiated, we will have to allow the legal
 3 process to determine if in fact error has
 4 occurred." And now if we could go back,
 5 please, to 0125, page 46, where we see that
 6 inserted "since legal proceedings have been
 7 initiated." By including that answer in the
 8 briefing note, do I take it that the
 9 Department was accepting and adopting that
 10 position? That since legal proceedings have
 11 now been initiated, we will have to allow the
 12 legal process to determine if in fact error
 13 has occurred.
 14 MS. HENNESSEY:
 15 A. Ms. Chaytor, I--we prepared the briefing note,
 16 we sent it on to the Deputy Minister and the
 17 Minister. I was not asked to make any changes
 18 in that.
 19 CHAYTOR, Q.C.:
 20 Q. So nobody came back--the Minister or the
 21 Deputy Minister didn't come back and say,
 22 well, Ms. Hennessey, that's--where did this
 23 come from, that's not the department's
 24 position?
 25 MS. HENNESSEY:

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1 A. No, there was no discussion with me on that
 2 point.
 3 CHAYTOR, Q.C.:
 4 Q. And back to page 47, "Eastern Health has
 5 implemented or are in the process of
 6 implementing all recommendations from the
 7 external reviews." We had some discussion,
 8 Ms. Hennessey, yesterday around the use of
 9 that wording.
 10 MS. HENNESSEY:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. And you had indicated that on earlier briefing
 14 notes you had used this wording "implemented
 15 or in the process of implementing".
 16 MS. HENNESSEY:
 17 A. Right.
 18 CHAYTOR, Q.C.:
 19 Q. And Mr. Abbott had corrected that and referred
 20 to just implemented, that the recommendations
 21 had been implemented.
 22 MS. HENNESSEY:
 23 A. Yes, there certainly was an occasion when that
 24 happened.
 25 CHAYTOR, Q.C.:

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1 Q. Yes, okay. And did Mr. Abbott come back on
 2 this occasion and make any changes to the
 3 briefing note in that respect?
 4 MS. HENNESSEY:
 5 A. Mr. Abbott did not make any changes in the
 6 note.
 7 CHAYTOR, Q.C.:
 8 Q. And did you have any discussion with him as to
 9 why it was now okay to be saying implemented
 10 or in the process of implementing. It's now
 11 later, it's, you know, December 2006 now and
 12 that had been changed in earlier briefing
 13 notes.
 14 MS. HENNESSEY:
 15 A. Yeah, there was no discussion at that point on
 16 this particular issue.
 17 CHAYTOR, Q.C.:
 18 Q. So did the department learn at this point in
 19 time that in fact all the recommendations had
 20 not been implemented?
 21 MS. HENNESSEY:
 22 A. At that point in time I would think that we--
 23 to be honest with you, I don't know whether we
 24 would have checked with Eastern Health again
 25 at that point in time. I mean, we tried to

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1 check as we moved along with respect to the
 2 implementation of the recommendations and at
 3 certain points I wasn't clear as to the status
 4 of the recommendations.
 5 CHAYTOR, Q.C.:
 6 Q. And if we come down then to the second last
 7 bullet on page 47 -
 8 MS. HENNESSEY:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. "In the review period from 1997 to 2005, there
 12 were 2,760 ER/PR tests conducted at the
 13 laboratory; 939 of these tests were originally
 14 negative and were sent to Mount Sinai for
 15 retesting. This number represents about 34
 16 percent of the patients tested for breast
 17 cancer. All retesting has been completed."
 18 Now, Ms. Hennessey, in prior briefing notes
 19 there was reference to 27 percent, the number
 20 representing 27 percent of the patients tested
 21 for breast cancer were ER negative.
 22 MS. HENNESSEY:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. And how does this briefing note end up saying

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1 34 percent?
 2 MS. HENNESSEY:
 3 A. This was the first time that we knew the total
 4 number of cases, the 2,760, so I did do that
 5 calculation there.
 6 CHAYTOR, Q.C.:
 7 Q. I'm sorry, this is the first time you knew the
 8 total number?
 9 MS. HENNESSEY:
 10 A. Of the total number of cases reviewed, I think
 11 it was 2,760.
 12 CHAYTOR, Q.C.:
 13 Q. And you would have had that information,
 14 though, from the November briefing note?
 15 MS. HENNESSEY:
 16 A. Yes. And I did do a calculation there.
 17 CHAYTOR, Q.C.:
 18 Q. Okay, and you did the calculation to figure
 19 out that in fact 939 negatives over a total
 20 test of 2,760 equals 34 percent, not 27
 21 percent.
 22 MS. HENNESSEY:
 23 A. Yes, that's when the calculation would have
 24 been done.
 25 CHAYTOR, Q.C.:

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1 Q. And then you changed that in the briefing note
 2 from previous briefing notes.
 3 MS. HENNESSEY:
 4 A. I did make a change there, yes, I did.
 5 CHAYTOR, Q.C.:
 6 Q. Thirty-four percent. And that number had gone
 7 up from what you had originally been told. I
 8 believe it was as early as your notes of
 9 August 5th that we looked at a couple of days
 10 ago, indicating there had been a survey across
 11 Canada, do you remember those notes that you
 12 took that day?
 13 MS. HENNESSEY:
 14 A. Yes, I do.
 15 CHAYTOR, Q.C.:
 16 Q. And the range that was given to you at that
 17 point in time?
 18 MS. HENNESSEY:
 19 A. Right.
 20 CHAYTOR, Q.C.:
 21 Q. So what did you understand to be the
 22 significance of that number? Thirty-four
 23 percent.
 24 MS. HENNESSEY:
 25 A. I guess I would have just thought that the

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1 previous notes had the number 27 percent in
 2 them and that it had, it was higher than what
 3 I was aware of before then.
 4 CHAYTOR, Q.C.:
 5 Q. Yes, and did you also understand that it was
 6 higher than what you had been told would be a
 7 reasonable range to expect for negative ER?
 8 MS. HENNESSEY:
 9 A. I don't know whether I would have been focused
 10 on that particular point then, but to answer
 11 your question, I think the range was 25/75,
 12 27/73 right.
 13 CHAYTOR, Q.C.:
 14 Q. Twenty-five percent negative; seventy-five
 15 percent positive?
 16 MS. HENNESSEY:
 17 A. Yeah, because the information in our other
 18 note said it was 27 percent and 73 percent.
 19 CHAYTOR, Q.C.:
 20 Q. And so it's now at 34 percent, which would be
 21 higher than the range expected.
 22 MS. HENNESSEY:
 23 A. Yeah.
 24 CHAYTOR, Q.C.:
 25 Q. And did you ask any questions of Eastern

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1 Health around that?
 2 MS. HENNESSEY:
 3 A. I don't recall at this particular point in
 4 December having a discussion with Eastern
 5 Health on it.
 6 CHAYTOR, Q.C.:
 7 Q. And did you point out the discrepancy to them
 8 in the number, from 27 percent and tell them,
 9 well no, I've done the math, it's actually 34
 10 percent?
 11 MS. HENNESSEY:
 12 A. Did I have a discussion with Eastern Health on
 13 this?
 14 CHAYTOR, Q.C.:
 15 Q. Yes, did you point out that discrepancy to
 16 them?
 17 MS. HENNESSEY:
 18 A. I don't recall having a discussion with
 19 Eastern Health on that point.
 20 CHAYTOR, Q.C.:
 21 Q. And did you point that out to anyone in the
 22 department?
 23 MS. HENNESSEY:
 24 A. At that briefing, at that time, I don't recall
 25 a discussion on that point.

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1 THE COMMISSIONER:
 2 Q. Ms. Hennessey, is there a method, I don't
 3 know, highlighting or underlining changing
 4 type or something of that nature, so that
 5 changes which are made in briefing notes from
 6 prior occasions are more obvious for the
 7 Minister who might be reading them?
 8 MS. HENNESSEY:
 9 A. Well, Commissioner, that has been introduced
 10 in the department now that when we're making
 11 changes in the briefing notes that they be
 12 highlighted, but I don't recall exactly when
 13 the change took place, but -
 14 THE COMMISSIONER:
 15 Q. Was it in operation at this time?
 16 MS. HENNESSEY:
 17 A. I don't believe it was. It is a change in
 18 practice in the department now.
 19 THE COMMISSIONER:
 20 Q. Thank you.
 21 CHAYTOR, Q.C.:
 22 Q. And if we could look at, please, P-1461, page
 23 2? And this is Mr. Osborne has been kind
 24 enough to give us, he kept his original copies
 25 of the briefing notes and the handwritten

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1 notes that you see on this are his notes.
 2 MS. HENNESSEY:
 3 A. Yes.
 4 CHAYTOR, Q.C.:
 5 Q. So this is his copy of the December 12th.
 6 MS. HENNESSEY:
 7 A. Right.
 8 CHAYTOR, Q.C.:
 9 Q. And he's made some notes in the margins and
 10 underlined certain things. It certainly would
 11 appear that he read through it carefully. Do
 12 you recall having a discussion with him and
 13 him asking any questions about the content?
 14 MS. HENNESSEY:
 15 A. I don't recall, other than at the December
 16 12th briefing where everyone was present, but
 17 I don't recall any detailed discussions with
 18 him on the content.
 19 CHAYTOR, Q.C.:
 20 Q. And then at the bottom he appears to have
 21 picked up on the difference between the 27
 22 percent and 34 percent.
 23 MS. HENNESSEY:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. He's put a question mark and says "previous
 2 briefing note said 27 percent."
 3 MS. HENNESSEY:
 4 A. Yes.
 5 CHAYTOR, Q.C.:
 6 Q. So do you recall was that pointed out to him
 7 by you or did he pick up on that himself?
 8 MS. HENNESSEY:
 9 A. I would think that he picked up on that
 10 himself.
 11 CHAYTOR, Q.C.:
 12 Q. Now, Ms. Hennessey, having gone through the
 13 effort of doing the calculation on the
 14 negativity rate -
 15 MS. HENNESSEY:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. Did you do any other calculations?
 19 MS. HENNESSEY:
 20 A. I didn't do any other calculations, except I
 21 believe there was a note in May, 2007 with
 22 respect to the 317 patients, the 763 and I did
 23 a calculation there.
 24 THE COMMISSIONER:
 25 Q. I'm sorry, Ms. Hennessey, could I ask you to

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1 speak up a little. You're fighting the wind
 2 this morning and it's, unfortunately we have a
 3 background noise because of the wind, so I'm
 4 not quite picking up what you heard, you were
 5 saying?
 6 MS. HENNESSEY:
 7 A. I didn't do any further calculations, as far
 8 as I can recall until May of 2007 when the
 9 details were included in the Minister's
 10 briefing note. And it stated that it was 317
 11 conversions out of the, I think the 763 and I
 12 did the calculation and it was 42 percent.
 13 CHAYTOR, Q.C.:
 14 Q. So in May of 2007, after those numbers become
 15 a matter of public record, you did then
 16 calculate a conversion rate.
 17 MS. HENNESSEY:
 18 A. Yeah, I did do a calculation in the briefing--
 19 that's what I recall.
 20 CHAYTOR, Q.C.:
 21 Q. And why didn't you do that before?
 22 MS. HENNESSEY:
 23 A. As I said previously, the Deputy Minister
 24 asked me to report the numbers as Eastern
 25 Health presented them, now why I did pick up

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1 the calculations at this point, I think I just
 2 did them, I don't have any -
 3 CHAYTOR, Q.C.:
 4 Q. Yes, because they didn't give you the 34
 5 percent, that was your own initiative, not
 6 Eastern Health's.
 7 MS. HENNESSEY:
 8 A. This was my initiative, yes, it was.
 9 CHAYTOR, Q.C.:
 10 Q. And so why didn't you calculate a potential
 11 conversion rate, for example, back in December
 12 of 2006 when you had all the numbers?
 13 MS. HENNESSEY:
 14 A. Why I didn't do a statistical analysis on it?
 15 CHAYTOR, Q.C.:
 16 Q. No, no, just a simple conversion rate which
 17 you did the ultimately in May of 2007.
 18 MS. HENNESSEY:
 19 A. I guess I wasn't focused on it.
 20 CHAYTOR, Q.C.:
 21 Q. Was it because, Ms. Hennessey, that you knew
 22 Eastern Health was trying to not do that
 23 calculation and were not releasing the overall
 24 number of conversions.
 25 MS. HENNESSEY:

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1 A. It certainly wasn't related to that. I didn't
 2 do it or not do it in that context.
 3 CHAYTOR, Q.C.:
 4 Q. If we could look at P-0197 please? Now this
 5 is an e-mail then from Ms. Mundon to Elizabeth
 6 Matthews and Andrew Nolan, December 12th,
 7 2006, "briefing note for Premier on ER/PR for
 8 the Premier's attention. This issue is in the
 9 media today." And this is December 12th, I
 10 take it, was the December 12th, 2006 briefing
 11 note?
 12 MS. HENNESSEY:
 13 A. Yes, that would be the note.
 14 CHAYTOR, Q.C.:
 15 Q. And that note was forwarded for the Premier's
 16 information on that date?
 17 MS. HENNESSEY:
 18 A. That note was certainly sent to his
 19 communications director.
 20 CHAYTOR, Q.C.:
 21 Q. Yes, for his attention or information anyhow.
 22 MS. HENNESSEY:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. How usual was that for the note in the

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1 department to, and the department's actual
 2 briefing note to be forwarded on to the
 3 Premier?
 4 MS. HENNESSEY:
 5 A. How usual was it?
 6 CHAYTOR, Q.C.:
 7 Q. Yes.
 8 MS. HENNESSEY:
 9 A. I don't know whether it was a real usual
 10 occurrence for the note to go directly to the
 11 Premier's office.
 12 CHAYTOR, Q.C.:
 13 Q. So it's an unusual occurrence?
 14 MS. HENNESSEY:
 15 A. Yes.
 16 CHAYTOR, Q.C.:
 17 Q. And why was it done in this case?
 18 MS. HENNESSEY:
 19 A. I don't recall why this note was sent directly
 20 to the Premier's office. I don't know whether
 21 I would have known.
 22 CHAYTOR, Q.C.:
 23 Q. That it was?
 24 MS. HENNESSEY:
 25 A. Right.

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1 CHAYTOR, Q.C.:
 2 Q. So Ms. Mundon would have sent this without you
 3 knowing?
 4 MS. HENNESSEY:
 5 A. Ms. Chaytor, I don't recall specifically at
 6 this time whether, you know, I was aware of
 7 this or not.
 8 CHAYTOR, Q.C.:
 9 Q. And based on our discussion yesterday, I would
 10 take it that the normal route would be for the
 11 note to go through Cabinet Secretariat and
 12 they do some of their own formatting, you were
 13 explaining to us yesterday.
 14 MS. HENNESSEY:
 15 A. Yeah, our normal process is to route the notes
 16 through Cabinet Secretariat.
 17 CHAYTOR, Q.C.:
 18 Q. Did anybody from the Premier's office raise
 19 any concern with any content in the briefing
 20 note?
 21 MS. HENNESSEY:
 22 A. I wasn't at any discussions around this topic.
 23 CHAYTOR, Q.C.:
 24 Q. Are you aware through other people whether or
 25 not there was any question that came back from

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1 the Premier's office regarding the content of
 2 the December 12th briefing note.
 3 MS. HENNESSEY:
 4 A. I'm not aware of whether there was any
 5 communication back to the department on it.
 6 CHAYTOR, Q.C.:
 7 Q. If we could look at P-1458 please?
 8 MS. HENNESSEY:
 9 A. Ms. Hennessey, this is another e-mail
 10 communication, same day, December 12th, and
 11 you're writing to Ms. Griffiths asking her to
 12 call Dr. Howell to determine when retesting
 13 will resume in St. John's. The PR is silent."
 14 I take it that means the press release is
 15 silent.
 16 MS. HENNESSEY:
 17 A. Press release.
 18 CHAYTOR, Q.C.:
 19 Q. "Except to say it will be next year. Peter
 20 Dawe has stated that Eastern Health can't say
 21 when retesting will resume." So I take it,
 22 Ms. Hennessey, you were following the media
 23 coverage in the aftermath of the December 11th
 24 technical briefing?
 25 MS. HENNESSEY:

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1 A. I certainly would have seen the media
 2 coverage, yes.
 3 CHAYTOR, Q.C.:
 4 Q. And you're asking Ms. Griffiths to contact Dr.
 5 Howell, who is the VP Medical at Eastern
 6 Health.
 7 MS. HENNESSEY:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. Is that a normal chain of communication?
 11 MS. HENNESSEY:
 12 A. With respect to Ms. Griffiths contacting -
 13 CHAYTOR, Q.C.:
 14 Q. Dr. Howell.
 15 MS. HENNESSEY:
 16 A. Dr. Howell? I think when we were going
 17 through this process, Ms. Griffiths, her
 18 primary contacts on the file were Ms. Predham
 19 and Mrs. Pilgrim. The regional consultants
 20 who worked with me, they oftentimes contact
 21 Vice-Presidents or Assistant Executive
 22 Directors in our regional health authorities,
 23 so I wouldn't have viewed it as an unusual
 24 occurrence for Ms. Griffiths to contact Dr.
 25 Howell.

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1 CHAYTOR, Q.C.:
 2 Q. And do you recall what response was received
 3 to this query?
 4 MS. HENNESSEY:
 5 A. I think that the response was that the
 6 retesting would resume in the new year.
 7 CHAYTOR, Q.C.:
 8 Q. And then did you have any further contact or
 9 discussions with Eastern Health prior to--we
 10 understand the testing resumed in February.
 11 MS. HENNESSEY:
 12 A. Right.
 13 CHAYTOR, Q.C.:
 14 Q. Was there any further contact or discussions
 15 with Eastern Health prior to the testing
 16 resuming?
 17 MS. HENNESSEY:
 18 A. I don't recall further discussions with
 19 Eastern Health between December and February.
 20 CHAYTOR, Q.C.:
 21 Q. On this issue?
 22 MS. HENNESSEY:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. So, were you even notified that it was going

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1 to happen or did you learn about the testing
 2 resuming after the fact?
 3 MS. HENNESSEY:
 4 A. I can't recall specifically when we found out
 5 that the testing would resume in February
 6 2007.
 7 CHAYTOR, Q.C.:
 8 Q. Okay. And did the department do anything to
 9 assure itself that, in fact, it was ready,
 10 that the laboratory was ready for the testing
 11 to resume?
 12 MS. HENNESSEY:
 13 A. I guess from my perspective Eastern Health was
 14 managing this file and that they would make
 15 the determination when they felt it was
 16 appropriate to resume testing in St. John's.
 17 CHAYTOR, Q.C.:
 18 Q. Up to that point in time, February 2007, had
 19 the department even seen the list of
 20 recommendations, the spreadsheet with the list
 21 of recommendations? There's a spreadsheet
 22 which ultimately gets sent to the department -
 23 MS. HENNESSEY:
 24 A. Right.
 25 CHAYTOR, Q.C.:

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1 Q. - but up to February 2007 had the department
 2 seen or requested that spreadsheet?
 3 MS. HENNESSEY:
 4 A. I saw the list of recommendations when Mr.
 5 Pritchard showed it to me in December 2007.
 6 CHAYTOR, Q.C.:
 7 Q. That's the first time you saw it?
 8 MS. HENNESSEY:
 9 A. Yes, that I saw the list of recommendations.
 10 CHAYTOR, Q.C.:
 11 Q. And to your knowledge, did anyone in the
 12 department see that list which would give the
 13 outline or the status of the recommendations,
 14 it outlines the recommendations and the status
 15 of completion, did anyone see that in the
 16 department prior to the testing resuming in
 17 February 2007?
 18 MS. HENNESSEY:
 19 A. I'm not aware that anybody would have seen
 20 that document. I guess I can only speak for
 21 myself that I saw the document in December
 22 2007 when Mr. Pritchard showed it to me.
 23 CHAYTOR, Q.C.:
 24 Q. And did you understand when the testing
 25 resumed that it would be for all areas of the

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1 province?
 2 MS. HENNESSEY:
 3 A. I assumed that it was, at that point, I
 4 subsequently learned in May 2007 that the
 5 retesting had resumed for the St. John's'
 6 hospitals only.
 7 CHAYTOR, Q.C.:
 8 Q. And when and how did you learn that?
 9 MS. HENNESSEY:
 10 A. I learned it some time in May 2007. I'm not
 11 sure I recall specifically, but I think it was
 12 brought to the Minister's attention.
 13 CHAYTOR, Q.C.:
 14 Q. And perhaps after the minister had said
 15 otherwise in the House. Do you recall that?
 16 MS. HENNESSEY:
 17 A. I think it happened around the 22, 23 because
 18 I know that there was a meeting with the, on
 19 May 24 with the chief pathologists or the
 20 senior physician leaders in the four health
 21 authorities and this was a topic of discussion
 22 at that time.
 23 CHAYTOR, Q.C.:
 24 Q. If we could look, please, at P-0126, page 19
 25 and this is a May 16 briefing note, so I've

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1 skipped ahead here, but it refers to the
 2 retesting having taken place or the testing
 3 having resumed. "In addition, as a measure of
 4 quality control, some tests are sent to Mount
 5 Sinai to ensure accuracy of results over time.
 6 Eastern Health resumed ER/PR testing in St.
 7 John's on February 1, 2007. We are confident
 8 that Eastern Health has implemented the
 9 appropriate new measures to ensure the highest
 10 standard of care for breast cancer patients".
 11 And that's a key message in this briefing note
 12 -
 13 MS. HENNESSEY:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. - referring to the testing having resumed.
 17 MS. HENNESSEY:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. And the measures that have been taken. Ms.
 21 Hennessey, what assurance had the department
 22 received prior to the testing resuming that
 23 Eastern Health had implemented all appropriate
 24 new measures to ensure the highest standard of
 25 care?

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1 MS. HENNESSEY:
 2 A. We would have been relying on information that
 3 Eastern Health provided to us, either in
 4 discussions--I don't recall any written
 5 materials during this time period from Eastern
 6 Health.
 7 CHAYTOR, Q.C.:
 8 Q. Do you recall any discussions even around the
 9 issue prior to the testing resuming?
 10 MS. HENNESSEY:
 11 A. In February 2007?
 12 CHAYTOR, Q.C.:
 13 Q. Or leading up to February 2007. At any time
 14 after--you told that you didn't recall having
 15 discussions on the issue with Eastern Health
 16 between, after December 2006. So, I'm
 17 wondering what assurances were received prior
 18 to February 1, 2007 as to whether, in fact,
 19 the lab was ready to recommence testing?
 20 MS. HENNESSEY:
 21 A. I don't know whether we would have received
 22 any specific assurances. I mean, at that
 23 point in time, from my perspective, we had
 24 confidence that the senior staff at Eastern
 25 Health were taking measures to ensure that it

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1 was safe to resume testing in St. John's.
 2 CHAYTOR, Q.C.:
 3 Q. And what documentation did you have presented
 4 to you reassure you of that?
 5 MS. HENNESSEY:
 6 A. I don't think that I had any specific
 7 documentation.
 8 CHAYTOR, Q.C.:
 9 Q. You hadn't seen any of the external review
 10 reports?
 11 MS. HENNESSEY:
 12 A. No.
 13 CHAYTOR, Q.C.:
 14 Q. And you hadn't seen the list of
 15 recommendations and the status of those
 16 recommendations?
 17 MS. HENNESSEY:
 18 A. I hadn't seen the, as I said to you, the
 19 document I saw in December 2007 when Mr.
 20 Pritchard showed it to me.
 21 CHAYTOR, Q.C.:
 22 Q. Yes. If we could look at 0126, please, page
 23 4. Ms. Hennessey, I believe this is the first
 24 briefing note then in 2007, March 9, 2007.
 25 MS. HENNESSEY:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. Okay. And do you have a new minister at that
 4 point in time?
 5 MS. HENNESSEY:
 6 A. Yes, we do.
 7 CHAYTOR, Q.C.:
 8 Q. So, Mr. Wiseman is now the minister?
 9 MS. HENNESSEY:
 10 A. Yes, I believe he came to the department
 11 sometime in January.
 12 CHAYTOR, Q.C.:
 13 Q. Okay. And if we look through this briefing
 14 note.
 15 MS. HENNESSEY:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. We have that same point, that "Eastern Health
 19 resumed ER/PR testing in St. John's on
 20 February 1, 2007 and we are confident Eastern
 21 Health has implemented the appropriate new
 22 measures to ensure the high standard of care
 23 for breast cancer patients". And you didn't
 24 know at this point in time that it was only
 25 for St. John's area hospitals?

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1 MS. HENNESSEY:
 2 A. In March, 2007?
 3 CHAYTOR, Q.C.:
 4 Q. Yes.
 5 MS. HENNESSEY:
 6 A. You thought it was for the entire province?
 7 MS. HENNESSEY:
 8 A. Yes, at that point.
 9 CHAYTOR, Q.C.:
 10 Q. Not just Eastern Health's region?
 11 MS. HENNESSEY:
 12 A. No. It would have been May before I learned
 13 that it was for the St. John's' hospitals
 14 only.
 15 CHAYTOR, Q.C.:
 16 Q. Yes. And "the details on the test results are
 17 as follows:" and you give the total number of
 18 cases, the total patients retested and the
 19 patients receiving treatment changes. And
 20 there's no attachment of the November 23
 21 listing.
 22 MS. HENNESSEY:
 23 A. Yeah.
 24 CHAYTOR, Q.C.:
 25 Q. And I take it the new minister also would not

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1 have had available to him the August 18, 2006
 2 briefing note which went to cabinet
 3 secretariat?
 4 MS. HENNESSEY:
 5 A. I don't know. I'm pretty sure the minister
 6 would not have had the August 18 briefing
 7 note at that time. I don't--I can't comment
 8 on whether the other briefing notes were
 9 available to this minister.
 10 CHAYTOR, Q.C.:
 11 Q. Okay. And the total numbers which would have
 12 been found in the November 23, 2006 briefing
 13 note or the August 18, 2006 briefing notes,
 14 such as they were up to that point in time,
 15 the new minister would not have had those
 16 total numbers made available to him?
 17 MS. HENNESSEY:
 18 A. The information from the November 23?
 19 CHAYTOR, Q.C.:
 20 Q. Yes.
 21 MS. HENNESSEY:
 22 A. Briefing, that data sheet, it wasn't attached
 23 to this briefing note.
 24 CHAYTOR, Q.C.:
 25 Q. Right. And the numbers aren't otherwise

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1 included in his briefing note?
 2 MS. HENNESSEY:
 3 A. Right.
 4 CHAYTOR, Q.C.:
 5 Q. But would you agree that it'd be important for
 6 a new minister coming in to have as much
 7 information as possible available to him to
 8 bring him up to speed on the issue?
 9 MS. HENNESSEY:
 10 A. Yes, it would have been helpful to have
 11 attached that detail to this note.
 12 CHAYTOR, Q.C.:
 13 Q. And why wasn't all the numbers given to the
 14 new minister?
 15 MS. HENNESSEY:
 16 A. With respect to the data sheet, why we didn't
 17 -
 18 CHAYTOR, Q.C.:
 19 Q. Well, for example, the issue that becomes
 20 really, as you know, the crucial issue in May
 21 of 2007 which the minister ultimately is the
 22 person having to speak to then is the total
 23 number of conversions. Why isn't that number
 24 included?
 25 MS. HENNESSEY:

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1 A. I don't know why it wasn't included in this
 2 note. I do know that it is in our May notes.
 3 If I had briefed the minister on my files, it
 4 could very well have been discussed, but -
 5 CHAYTOR, Q.C.:
 6 Q. Do you recall -
 7 MS. HENNESSEY:
 8 A. - I'm only looking at that in hindsight.
 9 CHAYTOR, Q.C.:
 10 Q. Would -
 11 COMMISSIONER:
 12 Q. I'm sorry, I didn't--I'm not sure I quite
 13 caught your answer. You said you only knew
 14 you briefed the minister?
 15 MS. HENNESSEY:
 16 A. No, I did not do a--when the new minister came
 17 to the department, my briefings, I was
 18 scheduled on two, if not three occasions to
 19 brief the minister on my files and the -
 20 THE COMMISSIONER:
 21 Q. That's what I thought you had said yesterday.
 22 MS. HENNESSEY:
 23 A. Yes, the sessions were cancelled by his office
 24 because of his other commitments.
 25 THE COMMISSIONER:

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1 Q. Okay. So, back to Ms. Chaytor's question, was
 2 there any other way that the minister would
 3 have gotten the information since you did the
 4 briefing note and you hadn't gotten to brief
 5 him.
 6 MS. HENNESSEY:
 7 A. The minister would have only, I think, had the
 8 details, unless he had access to the previous
 9 briefing binders on this topic.
 10 CHAYTOR, Q.C.:
 11 Q. So, given that you didn't get an opportunity
 12 to give him a verbal briefing on the files you
 13 were handling, wouldn't it be all the more
 14 important to make sure there's extra detail
 15 included in his briefing notes?
 16 MS. HENNESSEY:
 17 A. Yes, it would have been of benefit given that
 18 it was a new minister when this note was
 19 prepared to have the details that were
 20 subsequently put in the May briefing note.
 21 CHAYTOR, Q.C.:
 22 Q. Was Mr. Wiseman ever told that Eastern Health
 23 had not given out all the information in
 24 December 2006?
 25 MS. HENNESSEY:

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1 A. I didn't have any discussion with Mr. Wiseman
 2 on the ER/PR testing until May.
 3 CHAYTOR, Q.C.:
 4 Q. After the matter breaks in the media?
 5 MS. HENNESSEY:
 6 A. Yes, my recall of the first discussion with
 7 Minister Wiseman on this file was in the May
 8 15 meeting.
 9 CHAYTOR, Q.C.:
 10 Q. And that's after it has become a matter of
 11 public concern again?
 12 MS. HENNESSEY:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. Yes. If we could go then, please, to P-0126,
 16 page eight. Ms. Hennessey, this is the next
 17 briefing note that we have.
 18 MS. HENNESSEY:
 19 A. Right.
 20 CHAYTOR, Q.C.:
 21 Q. And it's indicated to be drafted by Ms.
 22 Griffiths and approved by yourself, April 19,
 23 2007.
 24 MS. HENNESSEY:
 25 A. Yes.

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1 CHAYTOR, Q.C.:

2 Q. And this briefing note for the first time has

3 an asterisk at the end.

4 MS. HENNESSEY:

5 A. Yes.

6 CHAYTOR, Q.C.:

7 Q. And then a couple of sentences in italics.

8 "The definition of negative has changed within

9 this seven year period. Oncologists

10 previously believe that tumors with less than

11 30 percent positivity for ER/PR should be

12 considered negative. With advancing

13 understanding of cancer and treatment, the

14 negative rate is dropped down to ten percent

15 and now to one percent. Today oncologists

16 believe that any positive result is worthy of

17 hormonal therapy". Where did that information

18 come from?

19 MS. HENNESSEY:

20 A. Ms. Griffiths would have added that to that

21 annex. I don't know if I can recall exactly

22 where that information came from.

23 CHAYTOR, Q.C.:

24 Q. So, you're saying that when you saw this

25 briefing note after being drafted by Ms.

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1 Griffiths that annex was already included and

2 that particular reference was already there?

3 MS. HENNESSEY:

4 A. Yes.

5 CHAYTOR, Q.C.:

6 Q. And you didn't make any inquiry of Ms.

7 Griffiths as to where she got that

8 information?

9 MS. HENNESSEY:

10 A. I don't recall making an inquiry.

11 CHAYTOR, Q.C.:

12 Q. So, we need to ask Ms. Griffiths about that.

13 Is that something that you had otherwise heard

14 anyone from Eastern Health say or otherwise

15 hear in relation to this issue?

16 MS. HENNESSEY:

17 A. I may have heard it said earlier in this file

18 by one of the oncologists.

19 CHAYTOR, Q.C.:

20 Q. And who would that have been?

21 MS. HENNESSEY:

22 A. I think it would have been Dr. Laing.

23 CHAYTOR, Q.C.:

24 Q. And did you -

25 THE COMMISSIONER:

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1 Q. Doctor who?

2 MS. HENNESSEY:

3 A. Dr. Laing, sorry.

4 THE COMMISSIONER:

5 Q. Thank you.

6 CHAYTOR, Q.C.:

7 Q. And did you understand that in St. John's that

8 oncologists, or in Newfoundland that, today

9 oncologists believe that any positive result

10 is worthy of hormonal therapy, that they were

11 treating or could treat down as low as one

12 percent now?

13 MS. HENNESSEY:

14 A. I don't recall being focused on that

15 particular sentence. I seem to recall--

16 there's something in my memory with respect to

17 the other statements with respect to the

18 numbers. But it certainly wasn't a piece of

19 information that I would have been focused on,

20 nor would I be able to fully understand.

21 CHAYTOR, Q.C.:

22 Q. And that's the last briefing note then prior

23 to the matter becoming public concern -

24 MS. HENNESSEY:

25 A. Yes.

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1 CHAYTOR, Q.C.:

2 Q. - in May of 2205. So, in the meantime did you

3 have any further dealings on this issue prior

4 to May 15? You tell us that you attended a

5 meeting May 15.

6 MS. HENNESSEY:

7 A. Yes.

8 CHAYTOR, Q.C.:

9 Q. Did you have any other dealings on this file

10 in the interim?

11 MS. HENNESSEY:

12 A. I do not recall having any further dealings on

13 this file in the interim. As I mentioned

14 before, this was one of many files that -

15 CHAYTOR, Q.C.:

16 Q. Yes.

17 MS. HENNESSEY:

18 A. - had joined the spring session of the House

19 of Assembly. I mentioned the number 27 in the

20 fall of 2005 and the numbers certainly went up

21 to the 40 range that I was trying to keep

22 current for ministers during the House of

23 Assembly and the spring sessions.

24 CHAYTOR, Q.C.:

25 Q. Okay. If we could look back, please, at 1462,

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1 page one. Actually, this is the--it's just a
 2 different number, we have this exhibited a
 3 couple of times, but this is the briefing note
 4 of March 9 and again, this referred to breast
 5 cancer screening test and this would be the
 6 information being given to your new minister.
 7 MS. HENNESSEY:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. And the question, what has government done to
 11 ensure the reliability and accuracy of the
 12 ER/PR testing at St. John's' hospitals was
 13 posed as a question that he could be asked.
 14 And the issue again about the recommendations.
 15 It's now written that Eastern Health has
 16 implemented the recommendations from two
 17 external reviews. So, as of March 9, 2007,
 18 were you of the understanding that, in fact,
 19 all the recommendations had now been
 20 implemented?
 21 MS. HENNESSEY:
 22 A. Based on that statement, as it's written, I
 23 would have to assume that.
 24 CHAYTOR, Q.C.:
 25 Q. Okay. Ms. Hennessey, tell us then your next

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1 involvement being the May 15 meeting. What do
 2 you recall about that meeting?
 3 MS. HENNESSEY:
 4 A. What I recall about the meeting was that the
 5 story had broken in the media with respect to
 6 rate of conversions and that the minister or
 7 the deputy minister asked Eastern Health to
 8 come in for a meeting on the topic. And I
 9 believe it was Mr. Tilley and Dr. Howell and I
 10 seem to recall, I believe, Ms. Predham was
 11 with them for that meeting.
 12 CHAYTOR, Q.C.:
 13 Q. Okay. And prior to then the meeting with Mr.
 14 Tilley and others from Eastern Health, was
 15 there a meeting within the department?
 16 MS. HENNESSEY:
 17 A. There was not a meeting that morning. That
 18 was the only--not that I'm aware of--it was
 19 the only meeting that I attended.
 20 CHAYTOR, Q.C.:
 21 Q. And how asked you to attend this meeting?
 22 MS. HENNESSEY:
 23 A. I think it would have been the deputy
 24 minister.
 25 CHAYTOR, Q.C.:

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1 Q. And did you have any discussion with the
 2 deputy minister then as to the purpose of the
 3 meeting?
 4 MS. HENNESSEY:
 5 A. I understood the purpose of the meeting was
 6 for Eastern Health to provide an update to the
 7 current health minister.
 8 CHAYTOR, Q.C.:
 9 Q. And did you and Mr. Abbott also discuss the
 10 ER/PR issue or anything at all surrounding the
 11 ER/PR issue?
 12 MS. HENNESSEY:
 13 A. With the minister?
 14 CHAYTOR, Q.C.:
 15 Q. No, when he came to see you to invite you
 16 along to the meeting, what was discussed
 17 between you and Mr. Abbott.
 18 MS. HENNESSEY:
 19 A. If I recall correctly it may have been Mr.
 20 Abbott or his office asked me to attend the
 21 meeting.
 22 CHAYTOR, Q.C.:
 23 Q. So you don't recall any discussion with Mr.
 24 Abbott or -
 25 MS. HENNESSEY:

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1 A. I don't recall a discussion with Mr. Abbott
 2 prior to the meeting?
 3 CHAYTOR, Q.C.:
 4 Q. Do you recall any discussion with the minister
 5 prior to the meeting?
 6 MS. HENNESSEY:
 7 A. No, I don't.
 8 CHAYTOR, Q.C.:
 9 Q. Okay. So, what happens in the meeting?
 10 MS. HENNESSEY:
 11 A. During the meeting, if I recall correctly, Mr.
 12 Tilley provided some information to the
 13 minister.
 14 CHAYTOR, Q.C.:
 15 Q. And what information was that?
 16 MS. HENNESSEY:
 17 A. I don't recall the specifics around it that
 18 day.
 19 CHAYTOR, Q.C.:
 20 Q. Well, how about the generalities, I'll take
 21 that.
 22 MS. HENNESSEY:
 23 A. He may have -
 24 CHAYTOR, Q.C.:
 25 Q. What do you recall that was said?

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1 MS. HENNESSEY:
 2 A. - discussed the information that had been
 3 released publicly in December.
 4 CHAYTOR, Q.C.:
 5 Q. So, Mr. Tilley may have discussed what had
 6 been released in December?
 7 MS. HENNESSEY:
 8 A. Yeah, yeah.
 9 CHAYTOR, Q.C.:
 10 Q. Do you recall what else was discussed?
 11 MS. HENNESSEY:
 12 A. I don't recall specifically. I can recall
 13 myself leaving the meeting shortly before it
 14 was finished because I had to deal with some
 15 other issues that day, but I don't recall--I
 16 have to be fair that I don't have a clear
 17 recollection of that meeting.
 18 CHAYTOR, Q.C.:
 19 Q. So, you do recall that Mr. Tilley may have
 20 provided information to the minister about
 21 what happened in December 2006. Was this the
 22 first time the minister was hearing that
 23 information, to your knowledge?
 24 MS. HENNESSEY:
 25 A. To my knowledge, that was the first briefing

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1 that the minister had.
 2 CHAYTOR, Q.C.:
 3 Q. What was the tone of this meeting?
 4 MS. HENNESSEY:
 5 A. Sorry?
 6 CHAYTOR, Q.C.:
 7 Q. What was the tone of the meeting?
 8 MS. HENNESSEY:
 9 A. The tone, I think the minister was asking a
 10 lot of questions quickly of Eastern Health. I
 11 don't recall it being, you know, if you ask me
 12 was it heated or anything like that, I don't
 13 recall -
 14 CHAYTOR, Q.C.:
 15 Q. You don't recall it being that type of a
 16 meeting?
 17 MS. HENNESSEY:
 18 A. No, I don't recall it being that type of a
 19 meeting.
 20 CHAYTOR, Q.C.:
 21 Q. Do you recall, was the minister under a short
 22 time period here, he was about to head into
 23 the House and needed as much information as he
 24 could have at that point in time.
 25 MS. HENNESSEY:

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1 A. It was certainly, that was the case and I
 2 think the meeting occurred and it was probably
 3 late morning and that there was a short time
 4 period between when the meeting occurred and
 5 when the minister would have gone into the
 6 House of Assembly.
 7 CHAYTOR, Q.C.:
 8 Q. Did you take notes of that meeting?
 9 MS. HENNESSEY:
 10 A. I tried, as I mentioned yesterday or the day
 11 before, that I went back to see if I had any
 12 notes of that meeting and I don't have any.
 13 CHAYTOR, Q.C.:
 14 Q. Okay. So, is it that you didn't take notes or
 15 you no longer have them?
 16 MS. HENNESSEY:
 17 A. I would think it's a case where I didn't take
 18 notes.
 19 CHAYTOR, Q.C.:
 20 Q. Okay. And is that unusual for you not to take
 21 notes at a meeting?
 22 MS. HENNESSEY:
 23 A. I take notes at most meetings that I attend,
 24 but I don't necessarily take them at every
 25 meeting that I do.

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1 CHAYTOR, Q.C.:
 2 Q. Okay. And other than--can you remember at all
 3 anything else that was discussed while you
 4 were present for the meeting? How long did
 5 this meeting go on?
 6 MS. HENNESSEY:
 7 A. I don't recall specifically, the length of it.
 8 CHAYTOR, Q.C.:
 9 Q. Well, was it an hour, was it two minutes, was
 10 it longer than an hour?
 11 MS. HENNESSEY:
 12 A. It might have been in the range of hour, but
 13 it wasn't two minutes. It was certainly
 14 longer than that.
 15 CHAYTOR, Q.C.:
 16 Q. Maybe around an hour.
 17 MS. HENNESSEY:
 18 A. Yeah, but I can't say, you know, 100 percent
 19 sure that it was an hour.
 20 CHAYTOR, Q.C.:
 21 Q. Was there any discussion about patient
 22 notification in the meeting, whether or not
 23 the patients had all been notified?
 24 MS. HENNESSEY:
 25 A. I don't recall whether there was a discussion

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1 on that point.

2 CHAYTOR, Q.C.:

3 Q. Do you recall whether or not there was a

4 discussion about the external review reports?

5 MS. HENNESSEY:

6 A. I don't recall a discussion in that meeting

7 about the external review reports.

8 CHAYTOR, Q.C.:

9 Q. Do you recall whether or not anybody asked to

10 be provided with the external review reports

11 during that meeting?

12 MS. HENNESSEY:

13 A. I don't recall a discussion on that in that

14 meeting.

15 CHAYTOR, Q.C.:

16 Q. Is that something that you think you would

17 recall?

18 MS. HENNESSEY:

19 A. With respect to whether the external review

20 reports were requested?

21 CHAYTOR, Q.C.:

22 Q. Yes, bearing in mind that you had asked for

23 the general findings back in November 2005.

24 MS. HENNESSEY:

25 A. Yeah.

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1 CHAYTOR, Q.C.:

2 Q. And is that something you think, if somebody

3 had now requested those reports, do you think

4 you might recall?

5 MS. HENNESSEY:

6 A. I think I would recall that because I was of

7 the understanding that these reports were

8 protected under the Evidence Act. So, I think

9 I would recall that, but as I say, I left the

10 meeting -

11 CHAYTOR, Q.C.:

12 Q. Yes.

13 MS. HENNESSEY:

14 A. - a little bit early.

15 CHAYTOR, Q.C.:

16 Q. So, if that issue came up, it was after you

17 had left the room or you just don't recall?

18 MS. HENNESSEY:

19 A. I don't recall that particular issue coming up

20 in that meeting.

21 CHAYTOR, Q.C.:

22 Q. Okay. Is there anything else that you can

23 tell the Commissioner about that meeting?

24 MS. HENNESSEY:

25 A. No, I'm sorry, I can't recall any details on

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1 that meeting.

2 CHAYTOR, Q.C.:

3 Q. Mr. Tilley was telling the minister

4 information about what had happened in

5 December 2006. Did you tell the minister that

6 you were aware that Eastern Health had not

7 given out all the information?

8 MS. HENNESSEY:

9 A. I don't recall being in an interaction with

10 the minister on that point in that meeting.

11 CHAYTOR, Q.C.:

12 Q. So, you didn't speak at the meeting?

13 MS. HENNESSEY:

14 A. I don't recall speaking at that meeting.

15 CHAYTOR, Q.C.:

16 Q. Did you, at any time, afterwards, tell the

17 minister that you were aware that Eastern

18 Health was not going to give out all the

19 information or hadn't given out all the

20 information?

21 MS. HENNESSEY:

22 A. During that particular week, I don't recall a

23 discussion with the minister on that point.

24 CHAYTOR, Q.C.:

25 Q. Have you ever told the minister that?

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1 MS. HENNESSEY:

2 A. Sorry, I'm missing the question.

3 CHAYTOR, Q.C.:

4 Q. Have you ever told the minister that you were

5 aware that Eastern Health had not given out

6 all the information at the December 11, 2006

7 media briefing? Have you ever told the

8 minister that?

9 MS. HENNESSEY:

10 A. I don't recall being in a discussion with the

11 minister on that point.

12 CHAYTOR, Q.C.:

13 Q. Okay. Now, you indicated in answering my

14 questions around the external review reports

15 in particular that you don't recall that

16 coming up in that meeting.

17 MS. HENNESSEY:

18 A. No.

19 CHAYTOR, Q.C.:

20 Q. Do you recall that coming up in other

21 discussions?

22 MS. HENNESSEY:

23 A. The external review reports?

24 CHAYTOR, Q.C.:

25 Q. External review reports, their existence or

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1 the department being interested in either
 2 obtaining copies or information contained in
 3 the reports?
 4 MS. HENNESSEY:
 5 A. I do recall in a meeting on May 21, 2007 when
 6 we were reviewing the options that government
 7 was considering with respect to a review of
 8 ER/PR testing that the minister asked me to
 9 contact the solicitor working in the
 10 department, with respect to the disclosure of
 11 the peer reviews and the Evidence Act and the
 12 Public Inquiries Act.
 13 CHAYTOR, Q.C.:
 14 Q. Okay. So in a meeting on May 21, you're in a
 15 meeting with the minister?
 16 MS. HENNESSEY:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. Who else is in the meeting?
 20 MS. HENNESSEY:
 21 A. Mr. Abbott was there.
 22 CHAYTOR, Q.C.:
 23 Q. Sorry.
 24 MS. HENNESSEY:
 25 A. Mr. Abbott was there.

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1 CHAYTOR, Q.C.:
 2 Q. Anybody else?
 3 MS. HENNESSEY:
 4 A. I think Ms. Mundon was there.
 5 CHAYTOR, Q.C.:
 6 Q. And what was the purpose of this meeting?
 7 MS. HENNESSEY:
 8 A. This was a meeting to discuss the options for,
 9 that government was considering for the review
 10 of the ER/PR testing.
 11 CHAYTOR, Q.C.:
 12 Q. Okay. And in the course of that meeting, the
 13 minister asked you to contact a solicitor
 14 within the department to seek advice.
 15 MS. HENNESSEY:
 16 A. Yes, he did.
 17 CHAYTOR, Q.C.:
 18 Q. Okay. How did that topic even come up at that
 19 point in time, the topic of the external
 20 reviews?
 21 MS. HENNESSEY:
 22 A. I don't recall, Ms. Chaytor. At that point in
 23 time I was dealing with the death of a cousin,
 24 so I was trying to provide assistance to the
 25 minister while dealing with some difficult

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1 personal circumstances. At the time I do
 2 recall the minister asking me to contact the
 3 solicitor working in the department on that
 4 issue.
 5 CHAYTOR, Q.C.:
 6 Q. And do you recall who brought the topic up?
 7 Who brought up the topic of the existence of
 8 the external reviews?
 9 MS. HENNESSEY:
 10 A. I don't recall. I didn't bring the topic up,
 11 but whether it was the minister or the deputy
 12 minister, I don't recall specifically.
 13 CHAYTOR, Q.C.:
 14 Q. Okay. And this was in the context of the
 15 government trying to decide whether or not to
 16 have a public inquiry or what kind of review
 17 process to follow on this issue.
 18 MS. HENNESSEY:
 19 A. It was certainly during that discussion that
 20 afternoon.
 21 CHAYTOR, Q.C.:
 22 Q. Okay. And you were asked--at any time in that
 23 discussion, did Mr. Abbott indicate that he
 24 had already requested the external reports
 25 from Mr. Tilley or did that come up?

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1 MS. HENNESSEY:
 2 A. No, I don't recall him indicating that.
 3 CHAYTOR, Q.C.:
 4 Q. Okay. Were you aware that Mr. Abbott had
 5 requested the external review reports or that
 6 Mr. Tilley was certainly intending to forward
 7 the external review reports to Mr. Abbott?
 8 Were you aware of that?
 9 MS. HENNESSEY:
 10 A. I wasn't aware of that information. I have
 11 since learned it, you know, through this
 12 process.
 13 CHAYTOR, Q.C.:
 14 Q. Through the Inquiry.
 15 MS. HENNESSEY:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. So, you hadn't heard that before?
 19 MS. HENNESSEY:
 20 A. No.
 21 CHAYTOR, Q.C.:
 22 Q. Mr. Abbott had never shared that with you?
 23 MS. HENNESSEY:
 24 A. No, he hadn't.
 25 CHAYTOR, Q.C.:

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1 Q. And when the minister asked you to get a legal
 2 opinion on this, on the issue of the external
 3 review reports, what did you understand, what
 4 was the concern, why was a legal opinion
 5 needed?
 6 MS. HENNESSEY:
 7 A. I think it had to do--I guess the Minister
 8 just wanted some information on the disclosure
 9 as it related to the Evidence Act or the
 10 Public Inquiries Act.
 11 CHAYTOR, Q.C.:
 12 Q. Okay.
 13 MS. HENNESSEY:
 14 A. I did get the information from the solicitor
 15 working in the Department and communicated it
 16 to the Minister.
 17 CHAYTOR, Q.C.:
 18 Q. And how long was that after the May 21st
 19 meeting? Did you request that information on
 20 that day?
 21 MS. HENNESSEY:
 22 A. I spoke to the solicitor -
 23 CHAYTOR, Q.C.:
 24 Q. That day?
 25 MS. HENNESSEY:

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1 A. - that afternoon. Yes, I did.
 2 CHAYTOR, Q.C.:
 3 Q. That afternoon, and when did you receive a
 4 response back?
 5 MS. HENNESSEY:
 6 A. The solicitor gave me--I don't have a written
 7 document from the solicitor, but the solicitor
 8 shared the views at that point.
 9 CHAYTOR, Q.C.:
 10 Q. Yes, and I'm wondering when that was. Was it
 11 the same day, the next day?
 12 MS. HENNESSEY:
 13 A. Oh, it was that same afternoon.
 14 CHAYTOR, Q.C.:
 15 Q. That same afternoon?
 16 MS. HENNESSEY:
 17 A. Yes, it was May 21st.
 18 CHAYTOR, Q.C.:
 19 Q. Okay. So that same afternoon, you requested
 20 the opinion, received the opinion and did you
 21 then relay that to the Minister?
 22 MS. HENNESSEY:
 23 A. I communicated the information that the
 24 solicitor provided or my understanding of what
 25 the solicitor provided to me, and as you know,

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1 I'm not a lawyer, so it would be my
 2 understanding of what was provided to me, I
 3 communicated it to the Minister.
 4 CHAYTOR, Q.C.:
 5 Q. Okay, and what was the Minister's response?
 6 MS. HENNESSEY:
 7 A. I don't--I think he accepted the information.
 8 I don't recall specifically.
 9 CHAYTOR, Q.C.:
 10 Q. Did he have any follow-up questions for you?
 11 MS. HENNESSEY:
 12 A. No, he didn't ask me any follow-up questions.
 13 CHAYTOR, Q.C.:
 14 Q. To your knowledge, did the Minister ever
 15 request copies of the reports?
 16 MS. HENNESSEY:
 17 A. I'm not aware whether the Minister requested
 18 copies of the reports.
 19 CHAYTOR, Q.C.:
 20 Q. If we could look at 1477, please? And Ms.
 21 Hennessey, in this discussion with the
 22 Minister around getting the legal opinion and
 23 around the external review reports -
 24 MS. HENNESSEY:
 25 A. Right.

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1 CHAYTOR, Q.C.:
 2 Q. - did you indicate to the Minister that you
 3 had requested the findings from those reports
 4 some almost two years prior?
 5 MS. HENNESSEY:
 6 A. I don't recall specifically addressing that
 7 point with the Minister, going back to fall
 8 2005.
 9 CHAYTOR, Q.C.:
 10 Q. But did you indicate to him that that had been
 11 something you were interested in finding out
 12 yourself sometime before?
 13 MS. HENNESSEY:
 14 A. In the discussion back in the fall of 2005, I
 15 had asked for some of the general findings. I
 16 had not asked for the reports.
 17 CHAYTOR, Q.C.:
 18 Q. No, but you'd asked for the general findings.
 19 MS. HENNESSEY:
 20 A. Yes.
 21 CHAYTOR, Q.C.:
 22 Q. Did you tell that to the Minister, that you
 23 had gone looking for the general findings back
 24 in November 2005?
 25 MS. HENNESSEY:

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1 A. I don't recall a discussion on that point with
 2 the Minister that afternoon.
 3 CHAYTOR, Q.C.:
 4 Q. Well, what did you discuss around that? What
 5 do you recall?
 6 MS. HENNESSEY:
 7 A. I recall that, you know, providing the
 8 information that the solicitor provided to me
 9 to the Minister and shortly after that, the
 10 Deputy Minister made a phone call to Mr.
 11 Tilley.
 12 CHAYTOR, Q.C.:
 13 Q. Okay.
 14 THE COMMISSIONER:
 15 Q. You said that--I just want to make sure I'm
 16 clear on the point of whether or not you ever
 17 advised the Minister that you had sought, not
 18 the reports themselves but the
 19 recommendations.
 20 MS. HENNESSEY:
 21 A. I did not have a discussion with the Minister
 22 on that point that afternoon.
 23 THE COMMISSIONER:
 24 Q. Well, that's the point. You added "that
 25 afternoon." Does that indicate you, at some

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1 other point, advised the Minister, talked to
 2 the Minister about that?
 3 MS. HENNESSEY:
 4 A. I don't remember being in any discussions
 5 after that with the Minister on it.
 6 THE COMMISSIONER:
 7 Q. Okay. So as far as--when you say "that
 8 afternoon" you're really meaning that you have
 9 never--you had never advised the Minister that
 10 you had, quite sometime earlier, in 2005,
 11 sought information about the recommendations
 12 and not received it?
 13 MS. HENNESSEY:
 14 A. I didn't have a discussion on it with the
 15 Minister on that.
 16 THE COMMISSIONER:
 17 Q. Okay. So did you ever have a discussion with
 18 the Deputy Minister on that?
 19 MS. HENNESSEY:
 20 A. I don't recall, Commissioner, having any
 21 further discussions on that point, other than
 22 that afternoon on May 21st.
 23 THE COMMISSIONER:
 24 Q. Okay. Can I conclude then that nobody in the
 25 Department of Health knew that you were

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1 looking for the recommendations and that you
 2 had not gotten them?
 3 MS. HENNESSEY:
 4 A. I don't know whether you can conclude that. I
 5 didn't have a discussion with this Minister at
 6 that time.
 7 THE COMMISSIONER:
 8 Q. Well, that's what I'm--obviously that's where
 9 I'm going. I'm trying to find out whether or
 10 not--this was something that peaked your
 11 interest. You, you have told us, without any
 12 prompting from anybody else, sought that
 13 information. That was my understanding from
 14 what you had said. Is that correct?
 15 MS. HENNESSEY:
 16 A. Back in the fall of 2005, I think that I did
 17 seek some information.
 18 THE COMMISSIONER:
 19 Q. Yes.
 20 MS. HENNESSEY:
 21 A. Yes.
 22 THE COMMISSIONER:
 23 Q. And my understanding is that you did not
 24 because someone requested you to do it, but
 25 because you felt that that was information

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1 that could be useful?
 2 MS. HENNESSEY:
 3 A. I felt it was information, you know, on the
 4 general findings. I certainly didn't request
 5 copies of the reports.
 6 THE COMMISSIONER:
 7 Q. Yes, I understood that from what you said.
 8 MS. HENNESSEY:
 9 A. Yes.
 10 THE COMMISSIONER:
 11 Q. Now what I need to know is whether or not you
 12 told any Minister that you have had from the
 13 time of--from 2005 onward to this point -
 14 MS. HENNESSEY:
 15 A. Yes.
 16 THE COMMISSIONER:
 17 Q. - that you had sought that information. Did
 18 you tell any Minister that?
 19 MS. HENNESSEY:
 20 A. I don't -
 21 THE COMMISSIONER:
 22 Q. Any of those ministers you had over that
 23 period of time.
 24 MS. HENNESSEY:
 25 A. I don't recall a discussion on the peer review

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1 reports, having a discussion with the Minister
 2 on it, either Minister on that point.
 3 THE COMMISSIONER:
 4 Q. Did you talk to any of the deputy ministers
 5 you had during the period of time?
 6 MS. HENNESSEY:
 7 A. At that point, it would have been only one
 8 deputy. Mr. Abbott would have been the deputy
 9 for that time.
 10 THE COMMISSIONER:
 11 Q. For all of that period. Did you tell Mr.
 12 Abbott that you had gone looking for this
 13 information?
 14 MS. HENNESSEY:
 15 A. I don't recall whether Mr. Abbott and I had a
 16 discussion on that particular point.
 17 THE COMMISSIONER:
 18 Q. So you're confident that you didn't tell a
 19 Minister that?
 20 MS. HENNESSEY:
 21 A. Yes.
 22 THE COMMISSIONER:
 23 Q. But you don't know whether you and Mr. Abbott
 24 might have discussed it?
 25 MS. HENNESSEY:

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1 A. I don't recall having a conversation with the
 2 Minister. I can't be as clear with respect to
 3 Mr. Abbott.
 4 THE COMMISSIONER:
 5 Q. Thank you. Okay.
 6 CHAYTOR, Q.C.:
 7 Q. Perhaps we could look at 1477 then, please,
 8 page one, and Ms. Hennessey, this is, again,
 9 the letter of May 23rd, 2008, that we received
 10 from Mr. Pritchard.
 11 MS. HENNESSEY:
 12 A. Right.
 13 CHAYTOR, Q.C.:
 14 Q. And it concerned the couple of points that you
 15 wanted to clarify from our -
 16 MS. HENNESSEY:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. - from our interview of you.
 20 MS. HENNESSEY:
 21 A. Right.
 22 CHAYTOR, Q.C.:
 23 Q. "In relation to whether she ever discussed the
 24 external reviews with a minister, she states
 25 'I was in a meeting with the Minister and

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1 Deputy Minister on May 21st, 2007 in the
 2 Executive Board Room, Department of Health and
 3 Community Services. Based on my recall, the
 4 purpose of the meeting was to discuss the
 5 options that Government was considering for
 6 review of ER/PR. The Minister asked me to
 7 telephone a solicitor working with the
 8 Department to ask about disclosure of quality
 9 review reports and the Evidence Act and the
 10 Public Inquiries Act. I communicated this
 11 information back to the Minister. The
 12 Minister then asked the Deputy Minister to
 13 telephone the CEO at Eastern Health and
 14 shortly after that call commenced,'" you took
 15 another phone call and you left the meeting.
 16 A couple of points then on that. Did
 17 you--did the Minister understand, as you told
 18 us yesterday, that at some point in time you
 19 came to realize that the reviews must have
 20 identified problems with the testing? You
 21 came to that appreciation at some point in
 22 time.
 23 MS. HENNESSEY:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. Did the Minister understand that those reports
 2 likely shed light on the problems with the
 3 testing?
 4 MS. HENNESSEY:
 5 A. Ms. Chaytor, I don't know what the Minister
 6 understood at this point in time.
 7 CHAYTOR, Q.C.:
 8 Q. Well, did you tell him what you understood?
 9 Did you tell the Minister, "Minister, I
 10 believe that those reports were done, those
 11 reviews were done in the immediate aftermath
 12 of the problem having been detected -
 13 MS. HENNESSEY:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. - and that it likely sheds light on the
 17 problems with the testing"?
 18 MS. HENNESSEY:
 19 A. I don't recall the specific discussion with
 20 Minister Wiseman on this issue.
 21 CHAYTOR, Q.C.:
 22 Q. Do you recall--well, did you have the sense
 23 that he understood the import of those reviews
 24 and what likely might be contained in the
 25 reports?

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1 MS. HENNESSEY:
 2 A. At this point in time, I don't know whether
 3 the Minister would have been aware of that.
 4 CHAYTOR, Q.C.:
 5 Q. Well, why was the Minister -
 6 MS. HENNESSEY:
 7 A. I mean, this -
 8 CHAYTOR, Q.C.:
 9 Q. - seeking information regarding the reports?
 10 MS. HENNESSEY:
 11 A. I don't know. All I can say is that this is
 12 my recall of that afternoon is that the
 13 Minister asked me to contact a solicitor
 14 working in the Department with respect to
 15 disclosure of the peer reviews and the
 16 Evidence Act and the Public Inquiries Act.
 17 CHAYTOR, Q.C.:
 18 Q. Yes, and it's not just under the Evidence Act
 19 though any protection for it. You understood
 20 that you weren't--the opinion that was being
 21 sought wasn't, I take it, whether the
 22 Department could receive the reports. That
 23 wasn't the import of looking for an opinion
 24 from the solicitor. Is that right? Was it
 25 that the Department wanted to receive those

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1 reports? Is that why you were asked to get an
 2 opinion from the solicitor?
 3 THE COMMISSIONER:
 4 Q. And remember that you mustn't tell us what the
 5 solicitor said.
 6 MS. HENNESSEY:
 7 A. That's why I'm struggling, Commissioner,
 8 because I understand that the information is
 9 solicitor-client privileged.
 10 THE COMMISSIONER:
 11 Q. That's right. So you must not tell us what
 12 the solicitor said to you.
 13 CHAYTOR, Q.C.:
 14 Q. And I've been careful not to ask you that.
 15 THE COMMISSIONER:
 16 Q. So rest assured that we're not asking you in
 17 any way what the solicitor might have said to
 18 you.
 19 MS. HENNESSEY:
 20 A. Okay.
 21 CHAYTOR, Q.C.:
 22 Q. Did you understand that Mr. Wiseman or the
 23 Department was interested in this opinion so
 24 the Department could receive the reports?
 25 MS. HENNESSEY:

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1 A. I don't remember, you know, that piece of
 2 conversation about Department receiving the
 3 reports.
 4 CHAYTOR, Q.C.:
 5 Q. Okay. Was it then -
 6 MS. HENNESSEY:
 7 A. This was not a lengthy discussion with the
 8 Minister. I was asked to get some information
 9 from a solicitor. I communicated it back to
 10 the Minister and then the Deputy Minister
 11 initiated a call to the CEO.
 12 THE COMMISSIONER:
 13 Q. Did you leave the room to make this call and
 14 come back? Did you leave the meeting twice or
 15 just once?
 16 MS. HENNESSEY:
 17 A. No, I only left the meeting once. The meeting
 18 was in our Executive boardroom. The call was
 19 placed to Mr. Tilley and shortly after the
 20 call commenced, I had a cousin who was dying
 21 at the time and I took a phone call and I left
 22 the meeting and I went to Holyrood.
 23 THE COMMISSIONER:
 24 Q. Okay. So that was--I'm just inquiring about
 25 the timing of your contact with the solicitor

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1 really. You know, you indicate that you
 2 contacted the person, the solicitor involved,
 3 and you reported back to the Minister.
 4 MS. HENNESSEY:
 5 A. Yes.
 6 THE COMMISSIONER:
 7 Q. Did you do that during the course of the
 8 meeting or was that something you did
 9 subsequent to leaving the meeting?
 10 MS. HENNESSEY:
 11 A. While the meeting was on with the Minister and
 12 Deputy Minister, he asked me to call the
 13 solicitor. I left the executive boardroom,
 14 went outside. I don't know if I -
 15 THE COMMISSIONER:
 16 Q. That was my questions really.
 17 MS. HENNESSEY:
 18 A. Okay, so I -
 19 THE COMMISSIONER:
 20 Q. So you left the meeting--you left it before it
 21 -
 22 MS. HENNESSEY:
 23 A. I just left the room.
 24 THE COMMISSIONER:
 25 Q. Yes.

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1 MS. HENNESSEY:
 2 A. To make the call to the solicitor. I'm not
 3 sure whether I did it on the Deputy's phone or
 4 whether I did it on the secretary's phone.
 5 THE COMMISSIONER:
 6 Q. No, the point being -
 7 MS. HENNESSEY:
 8 A. But I did it in the immediate area.
 9 THE COMMISSIONER:
 10 Q. No, the point being is that that would be
 11 additional period of time where you would not
 12 be privy to the conversation. That's the
 13 reason I'm asking this.
 14 MS. HENNESSEY:
 15 A. Yes, it was a period of time when I was on the
 16 call to the solicitor.
 17 THE COMMISSIONER:
 18 Q. Yes.
 19 MS. HENNESSEY:
 20 A. The solicitor decided to check and the
 21 solicitor called me back. So I took a
 22 subsequent call from the solicitor.
 23 THE COMMISSIONER:
 24 Q. Okay.
 25 MS. HENNESSEY:

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1 A. And that call was outside the meeting room.
 2 THE COMMISSIONER:
 3 Q. Okay.
 4 CHAYTOR, Q.C.:
 5 Q. And that's while the meeting is still in
 6 progress, the solicitor got back to you?
 7 MS. HENNESSEY:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. Okay, so it was a very short period of time?
 11 MS. HENNESSEY:
 12 A. Oh yes, it was a very short period of time.
 13 CHAYTOR, Q.C.:
 14 Q. And my question really was why was the
 15 Minister seeking this opinion? Was it so the
 16 Department could receive the reports?
 17 MS. HENNESSEY:
 18 A. I think it had to do with the disclosure of
 19 the reports. I don't recall a discussion with
 20 the Minister around receipt of the reports.
 21 CHAYTOR, Q.C.:
 22 Q. Because it's very specific what you said here,
 23 in terms of he asked and you have recollection
 24 he asked you to telephone his solicitor to ask
 25 about disclosure of quality review reports -

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1 MS. HENNESSEY:
 2 A. Yeah.
 3 CHAYTOR, Q.C.:
 4 Q. - and the Evidence Act and the Public
 5 Inquiries Act.
 6 MS. HENNESSEY:
 7 A. Right.
 8 CHAYTOR, Q.C.:
 9 Q. Okay, so if it wasn't so the Department could
 10 receive the reports, was there a concern
 11 expressed that if a public inquiry were called
 12 that the reports could become a matter of
 13 public disclosure?
 14 MS. HENNESSEY:
 15 A. Was that point discussed with the Minister?
 16 CHAYTOR, Q.C.:
 17 Q. Yes.
 18 MS. HENNESSEY:
 19 A. I don't recall a specific discussion. I don't
 20 recall being present for on that point with
 21 the Minister.
 22 CHAYTOR, Q.C.:
 23 Q. Do you recall that concern being expressed at
 24 all?
 25 MS. HENNESSEY:

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1 A. I don't know how to respond to your question
 2 because I don't know--where I'm not used to
 3 dealing with this solicitor-client privilege.
 4 CHAYTOR, Q.C.:
 5 Q. Okay, not whether the -
 6 MS. HENNESSEY:
 7 A. I don't know, you know, how to respond to your
 8 question.
 9 CHAYTOR, Q.C.:
 10 Q. Okay.
 11 MS. HENNESSEY:
 12 A. It's not that I'm unwilling to respond to your
 13 question. I just don't know how to respond.
 14 CHAYTOR, Q.C.:
 15 Q. Okay. So not what the solicitor said, but
 16 what was said otherwise in the room, in the
 17 meeting room, by either Mr. Wiseman or Mr.
 18 Abbott or I don't know if Ms. Mundon weighed
 19 in on it at all, but whether or not there was
 20 concern expressed that if a public inquiry
 21 were to be called, that those reports could
 22 become a matter of public record?
 23 MS. HENNESSEY:
 24 A. Ms. Chaytor, I have to be honest, I don't
 25 recall the specifics around it. Like I say, I

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1 was under considerable stress that afternoon,
 2 trying to participate in this meeting and I
 3 had been the whole weekend back and forth to
 4 Holyrood.
 5 CHAYTOR, Q.C.:
 6 Q. So other than in that meeting, do you recall
 7 such concern being expressed?
 8 MS. HENNESSEY:
 9 A. I don't recall being in any other discussion
 10 on this point.
 11 CHAYTOR, Q.C.:
 12 Q. So you don't know why the Minister was
 13 interested in this specific--receiving this
 14 specific legal opinion?
 15 MS. HENNESSEY:
 16 A. I don't.
 17 CHAYTOR, Q.C.:
 18 Q. You were asked to do this without being told
 19 or without any understanding as to why, what
 20 was the import to this? You don't know why?
 21 MS. HENNESSEY:
 22 A. I was asked to get the information with
 23 respect to, you know, disclosure of the
 24 reports as it related to the two Acts, and
 25 that was the information that I got from the

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1 solicitor, and based on my understanding of
 2 what I was told, I communicated that back to
 3 the Minister.
 4 CHAYTOR, Q.C.:
 5 Q. Did you tell the Minister that you were of the
 6 understanding that the reports were protected
 7 under the Evidence Act?
 8 MS. HENNESSEY:
 9 A. I certainly understood that at that time.
 10 CHAYTOR, Q.C.:
 11 Q. And did you tell that to the Minister?
 12 MS. HENNESSEY:
 13 A. Ms. Chaytor, I don't recall.
 14 CHAYTOR, Q.C.:
 15 Q. Okay. Now you indicate that the Minister
 16 asked the Deputy Minister to phone Mr. Tilley?
 17 MS. HENNESSEY:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. What was the purpose of that call?
 21 MS. HENNESSEY:
 22 A. The purpose of that call, or at least what I
 23 can recall from the start of it, was to talk
 24 about the peer review process.
 25 CHAYTOR, Q.C.:

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1 Q. Had you received the opinion back from the
 2 solicitor at that point in time?
 3 MS. HENNESSEY:
 4 A. I did have the opinion from the solicitor,
 5 yeah.
 6 CHAYTOR, Q.C.:
 7 Q. And was that opinion shared with Mr. Tilley?
 8 MS. HENNESSEY:
 9 A. As I said, I left the meeting just shortly--I
 10 left the meeting shortly after the call began
 11 with Mr. Tilley and I don't know--I don't
 12 recall being there for a discussion around it.
 13 I do recall just very briefly that Mr. Tilley
 14 was explaining the review process to the
 15 Minister when I left.
 16 CHAYTOR, Q.C.:
 17 Q. Okay, so Mr. -
 18 MS. HENNESSEY:
 19 A. But I don't recall the details around it,
 20 because I left.
 21 CHAYTOR, Q.C.:
 22 Q. So Mr. Tilley is on the speaker phone, I take
 23 it?
 24 MS. HENNESSEY:
 25 A. Yes, he is, and I left the meeting pretty

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1 quickly when I took the phone call.
 2 CHAYTOR, Q.C.:
 3 Q. And the Minister is still in the room and the
 4 Deputy Minister is still in the room and
 5 you're still in the room for part of this
 6 call?
 7 MS. HENNESSEY:
 8 A. Yes, for a short part of it.
 9 CHAYTOR, Q.C.:
 10 Q. And the Minister asked, after you came back
 11 into the room with the opinion from the
 12 solicitor -
 13 MS. HENNESSEY:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. - the Minister asked Mr. Abbott to call Mr.
 17 Tilley?
 18 MS. HENNESSEY:
 19 A. Yes, he did.
 20 CHAYTOR, Q.C.:
 21 Q. What did you understand was the purpose of the
 22 phone call to Mr. Tilley?
 23 MS. HENNESSEY:
 24 A. I understood it was to talk to Mr. Tilley
 25 about the peer review reports.

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1 CHAYTOR, Q.C.:

2 Q. And did you understand it was also to discuss

3 the opinion that had just been received from

4 the solicitor? Was that going to be part of

5 the discussion?

6 MS. HENNESSEY:

7 A. I wasn't in the meeting long enough to know

8 whether that was part of the discussion.

9 CHAYTOR, Q.C.:

10 Q. No, whether it was, but what was the purpose--

11 what was the intent of calling him? Was that

12 going to be part of the discussion, to let Mr.

13 Tilley know this information?

14 MS. HENNESSEY:

15 A. It may or may not have been. I really don't

16 know.

17 CHAYTOR, Q.C.:

18 Q. And you're saying while you remained in the

19 room, the legal opinion didn't get told to Mr.

20 Tilley?

21 MS. HENNESSEY:

22 A. I shared the legal opinion with the Minister

23 prior to the phone call.

24 CHAYTOR, Q.C.:

25 Q. Yes, and did that get told to Mr. Tilley while

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1 you were in the room?

2 MS. HENNESSEY:

3 A. I don't recall. Like I said, I left. I took

4 a phone call, I left the discussion really

5 quickly.

6 CHAYTOR, Q.C.:

7 Q. So what was discussed with Mr. Tilley while

8 you were in the room?

9 MS. HENNESSEY:

10 A. All I can remember was that the discussion was

11 on the process that was followed for peer

12 review.

13 CHAYTOR, Q.C.:

14 Q. Okay, so what was that?

15 MS. HENNESSEY:

16 A. I wasn't there for the discussion around the

17 process. I do recall that that was raised.

18 CHAYTOR, Q.C.:

19 Q. Was Mr. Tilley expecting this phone call?

20 MS. HENNESSEY:

21 A. I don't think he would have been expecting it.

22 It was on a Monday afternoon on a long

23 weekend.

24 CHAYTOR, Q.C.:

25 Q. Okay, but there was no trouble reaching him on

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1 a Monday afternoon on a long weekend? You

2 were able to reach him?

3 MS. HENNESSEY:

4 A. I mean, Mr. Abbott was able to reach him.

5 CHAYTOR, Q.C.:

6 Q. Okay, and what do you recall then, what was

7 said?

8 MS. HENNESSEY:

9 A. Sorry?

10 CHAYTOR, Q.C.:

11 Q. What was said then on the telephone exchange,

12 while you were in the room, what was said?

13 MS. HENNESSEY:

14 A. In the telephone exchange with Mr. Tilley?

15 CHAYTOR, Q.C.:

16 Q. Mr. Tilley, yes.

17 MS. HENNESSEY:

18 A. As I said to you, all I recall is that it was

19 on the process followed by peer, for the peer

20 review. And I don't recall any details on it.

21 As I said -

22 CHAYTOR, Q.C.:

23 Q. Yes, but tell me that, like you're saying it

24 was the process followed by peer review, which

25 doesn't mean a whole lot to me, so I'm just

Page 128

1 wondering what exactly was said?

2 MS. HENNESSEY:

3 A. I mean, that's all that I can recall being

4 there for. It was, I can remember something

5 about the words "the process followed for peer

6 review" and I left the meeting. I took a

7 phone call, I left the meeting. I had a cousin

8 who was dying and I went to Holyrood.

9 CHAYTOR, Q.C.:

10 Q. And, you know, and I apologize for pressing

11 you on this point, but this is new information

12 to us that -

13 MS. HENNESSEY:

14 A. Okay. And -

15 CHAYTOR, Q.C.:

16 Q. - and unfortunately the other people involved

17 have already been here and gone, so you're the

18 only source at this stage, anyhow, that we

19 would have to get this information.

20 MS. HENNESSEY:

21 A. And I provided this information because I do

22 recall you asking me.

23 CHAYTOR, Q.C.:

24 Q. Yes.

25 MS. HENNESSEY:

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1 A. Was I in any discussions with the minister,
 2 and I do recall back in January or February
 3 saying, no, that I wasn't, because I seem to
 4 recall that when it was raised, I was thinking
 5 about in the context of Minister Ottenheimer,
 6 it was in that time period when it was raised.
 7 So I felt when I recalled the information, I
 8 wanted to provide you, provide it to you.
 9 CHAYTOR, Q.C.:
 10 Q. Yes. And we appreciate that. When did you
 11 recall this information?
 12 MS. HENNESSEY:
 13 A. When did I recall the information?
 14 CHAYTOR, Q.C.:
 15 Q. Yes.
 16 MS. HENNESSEY:
 17 A. I can't--I don't recall specifically when I
 18 recalled the information.
 19 CHAYTOR, Q.C.:
 20 Q. Okay, well, you're in to see us, as you say,
 21 January, February of this year?
 22 MS. HENNESSEY:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. Okay. Was it shortly after your interview?

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1 MS. HENNESSEY:
 2 A. No, it was near the end, right, like, in the
 3 last few weeks, right.
 4 CHAYTOR, Q.C.:
 5 Q. Okay. And what do you mean by few weeks, was
 6 it the past month?
 7 MS. HENNESSEY:
 8 A. I'm just trying to think. Yes, I believe it
 9 would have been in the past month.
 10 CHAYTOR, Q.C.:
 11 Q. So about a month ago?
 12 MS. HENNESSEY:
 13 A. It may have been less than that, but, Ms.
 14 Chaytor, I don't remember exactly.
 15 CHAYTOR, Q.C.:
 16 Q. And when you recalled, what did you do with
 17 the information?
 18 MS. HENNESSEY:
 19 A. When I recalled the information?
 20 CHAYTOR, Q.C.:
 21 Q. Yes.
 22 MS. HENNESSEY:
 23 A. When I met with Mr. Pritchard -
 24 CHAYTOR, Q.C.:
 25 Q. Did you tell Mr. Pritchard right away?

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1 MS. HENNESSEY:
 2 A. Oh, I do recall now when I remembered. It
 3 was--sorry about that. I remembered it
 4 because it was the same, it was Monday of the
 5 long weekend and I was getting ready for my
 6 testimony.
 7 CHAYTOR, Q.C.:
 8 Q. So just in the past -
 9 MS. HENNESSEY:
 10 A. Yeah, just in the--that's right -
 11 CHAYTOR, Q.C.:
 12 Q. Two weeks?
 13 MS. HENNESSEY:
 14 A. Yes, yeah.
 15 CHAYTOR, Q.C.:
 16 Q. Okay. And what was it that caused you to
 17 recollect this meeting?
 18 MS. HENNESSEY:
 19 A. I think what put it in my mind was that I was
 20 reading the materials to get ready for the
 21 testimony, it was a beautiful sunny afternoon,
 22 it was Monday the long weekend and it came
 23 back to me at that time. Because it was the
 24 same--I mean, it was a different date, but it
 25 was the Monday of the long weekend last year.

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1 CHAYTOR, Q.C.:
 2 Q. Okay, so that's everything that you can recall
 3 that happened in the May 21st meeting, that's
 4 all -
 5 MS. HENNESSEY:
 6 A. For the--with respect to this--I mean, I can
 7 remember being in the meeting with respect to
 8 discussing the options -
 9 CHAYTOR, Q.C.:
 10 Q. Yes, but everything you've told us now, that's
 11 it?
 12 MS. HENNESSEY:
 13 A. That's what -
 14 CHAYTOR, Q.C.:
 15 Q. You discussed the options?
 16 MS. HENNESSEY:
 17 A. Yes, that's what I can recall, Ms. Chaytor.
 18 CHAYTOR, Q.C.:
 19 Q. Okay. And the phone call with Mr. Tilley, who
 20 was doing the talking, it was Mr. Tilley and
 21 who else?
 22 MS. HENNESSEY:
 23 A. Well, it would have been Mr. Tilley, Mr.
 24 Abbott, the minister.
 25 CHAYTOR, Q.C.:

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1 Q. Okay. And did you speak on that phone call?

2 MS. HENNESSEY:

3 A. Did I speak in the -

4 CHAYTOR, Q.C.:

5 Q. Yes, during the course of the phone call?

6 MS. HENNESSEY:

7 A. I'm sure I said hello to Mr. Tilley, but I

8 don't recall whether I spoke on any points. I

9 left the meeting really quickly.

10 CHAYTOR, Q.C.:

11 Q. And Mr. Tilley was explaining the peer review

12 process. So did somebody ask him to do that,

13 was there a question to him about the peer

14 review process?

15 MS. HENNESSEY:

16 A. That's what I seem to recall, that there was a

17 question with respect to the process followed.

18 CHAYTOR, Q.C.:

19 Q. And was there a concern expressed as to the

20 physicians' point of view regarding the peer

21 review process and disclosure of such reports?

22 MS. HENNESSEY:

23 A. I don't recall, Ms. Chaytor. Like I say, I

24 was only there for a few minutes after that

25 call began and I left. And as I said, I was

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1 under considerable stress personally at that

2 time.

3 CHAYTOR, Q.C.:

4 Q. Okay. This might be a good place for a break.

5 COMMISSIONER:

6 Q. We'll take the morning break. We'll take 15

7 minutes.

8 (RECESS)

9 COMMISSIONER:

10 Q. Please be seated. Ms. Chaytor.

11 CHAYTOR, Q.C.:

12 Q. Thank you, Commissioner. Commissioner, we

13 have new exhibit.

14 COMMISSIONER:

15 Q. Okay.

16 CHAYTOR, Q.C.:

17 Q. P-1478. I would ask, please, if that could be

18 entered?

19 COMMISSIONER:

20 Q. Entered.

21 EXHIBIT P-1478 ENTERED INTO EVIDENCE.

22 CHAYTOR, Q.C.:

23 Q. And this exhibit is the minutes, Ms.

24 Hennessey, of the executive committee meeting

25 of October 7th, 2005. We had notes from Mr.

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1 Hynes on that I brought you to yesterday and

2 these are the actual minutes. And it appears

3 you were, your name is on the list, you did

4 attend the meeting that day?

5 MS. HENNESSEY:

6 A. Yes.

7 CHAYTOR, Q.C.:

8 Q. When we broke, I had been asking you about the

9 May 21st, 2007 meeting. And I take it there's

10 nothing else that you can tell the

11 Commissioner regarding that meeting or the

12 subject matter of that meeting?

13 MS. HENNESSEY:

14 A. I don't have any other information to give the

15 Commissioner.

16 CHAYTOR, Q.C.:

17 Q. Okay. If we could look at P-0868, please?

18 This is an e-mail exchange, the same date, May

19 21st, 2007. And if we start at the bottom,

20 it's an e-mail from Mr. Abbott to yourself at

21 10:16 in the morning on May 21st "Re:

22 Forwarding info on ER/PR." "Are you available

23 to meet the minister at 3 p.m. today (Monday)?

24 PS, Any luck contacting George Tilley?" do

25 you recall what information was forwarded, did

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1 you receive any information from Mr. Abbott on

2 May 21st regarding this issue?

3 MS. HENNESSEY:

4 A. I don't recall what information was forwarded.

5 CHAYTOR, Q.C.:

6 Q. Okay. And is this the meeting--he's inquiring

7 whether you'd be available to meet at 3 p.m.?

8 MS. HENNESSEY:

9 A. Right.

10 CHAYTOR, Q.C.:

11 Q. Is this the meeting that you've just spent

12 some time telling us about?

13 MS. HENNESSEY:

14 A. Yes, that would be that meeting.

15 CHAYTOR, Q.C.:

16 Q. Okay. And is that then, did the meeting take

17 place at 3, was that the time of the meeting?

18 MS. HENNESSEY:

19 A. I think it was around 3:00.

20 CHAYTOR, Q.C.:

21 Q. Around 3?

22 MS. HENNESSEY:

23 A. Yeah.

24 CHAYTOR, Q.C.:

25 Q. And you say "PS, Any luck" or he writes,

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1 sorry, "Any luck contacting George Tilley?"
 2 So what was the purpose in contacting George
 3 Tilley at that point in time?
 4 MS. HENNESSEY:
 5 A. I believe the intent was for Mr. Tilley to
 6 participate in that meeting.
 7 CHAYTOR, Q.C.:
 8 Q. The intent was that he would participate in
 9 the entire meeting?
 10 MS. HENNESSEY:
 11 A. I'm not sure, Ms. Chaytor, but I'm--that would
 12 be my recall of that.
 13 CHAYTOR, Q.C.:
 14 Q. And again, the purpose of this meeting was to
 15 discuss options for the government whether to
 16 proceed with a public inquiry or some other
 17 review?
 18 MS. HENNESSEY:
 19 A. Well, the purpose of the meeting was to
 20 discuss the four options, yes.
 21 CHAYTOR, Q.C.:
 22 Q. The four options?
 23 MS. HENNESSEY:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. And you believe the intent was to include Mr.
 2 Tilley in the entire meeting?
 3 MS. HENNESSEY:
 4 A. I don't recall specifically, but I think the
 5 intent, by looking at this e-mail, was for Mr.
 6 Tilley originally to participate in the
 7 meeting.
 8 CHAYTOR, Q.C.:
 9 Q. And then you respond to Mr. Abbott at 10:45
 10 a.m.
 11 MS. HENNESSEY:
 12 A. Yeah.
 13 CHAYTOR, Q.C.:
 14 Q. "John, I did not try to reach George as I
 15 thought you had planned to make the contact."
 16 And you can be available at 3. And you go on
 17 to talk about as long as you're dad's cousin's
 18 death isn't eminent. Right now you figure
 19 you'll be okay for 3. So I take it there had
 20 been some discussions before this about
 21 contacting Mr. Tilley and including him in a
 22 meeting?
 23 MS. HENNESSEY:
 24 A. I think there would have been a discussion
 25 before that, yes.

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1 CHAYTOR, Q.C.:
 2 Q. And do you recall that discussion?
 3 MS. HENNESSEY:
 4 A. No, I don't.
 5 CHAYTOR, Q.C.:
 6 Q. So when did this, the idea of this meeting
 7 first arise? As you point out, this is Monday
 8 of a long weekend.
 9 MS. HENNESSEY:
 10 A. Weekend, yes. I don't recall whether it would
 11 have been Friday or whether it was sometime on
 12 that weekend.
 13 CHAYTOR, Q.C.:
 14 Q. And there appears that there was some
 15 confusion between yourself and Mr. Abbott as
 16 to who was supposed to contact George Tilley?
 17 MS. HENNESSEY:
 18 A. Yes. I was of the understanding that Mr.
 19 Abbott was contacting Mr. Tilley.
 20 CHAYTOR, Q.C.:
 21 Q. Okay. And the contact just to invite him to
 22 the meeting, was that -
 23 MS. HENNESSEY:
 24 A. I seem to recall that was the intent, Ms.
 25 Chaytor.

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1 CHAYTOR, Q.C.:
 2 Q. And do you know if whether or not Mr. Tilley
 3 was reached prior to the meeting commencing?
 4 MS. HENNESSEY:
 5 A. I don't know whether he was reached or not.
 6 CHAYTOR, Q.C.:
 7 Q. Did you attempt to reach him?
 8 MS. HENNESSEY:
 9 A. No, I did not attempt to reach him.
 10 CHAYTOR, Q.C.:
 11 Q. Okay, now we jumped ahead a bit in terms of
 12 the chronology of this piece. So I'm going to
 13 take you back now to P-0431, please, page 13?
 14 My original line of questioning had been
 15 around the May 15th meeting and I asked you
 16 whether or not the external review reports
 17 were brought up in that meeting.
 18 MS. HENNESSEY:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. And then we got into the May 21st meeting.
 22 MS. HENNESSEY:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. Oh, before I leave, though, that, the subject

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1 matter of the May 21st meeting, the minister
 2 had asked you to obtain the legal opinion on
 3 the point that we saw referenced in the
 4 Exhibit 1417.
 5 MS. HENNESSEY:
 6 A. Right.
 7 CHAYTOR, Q.C.:
 8 Q. 1477, sorry. Did the minister ever seek an
 9 opinion, to your knowledge, as to whether the
 10 department was entitled to receive the
 11 reports?
 12 MS. HENNESSEY:
 13 A. I'm not aware of whether the minister sought
 14 an opinion of that nature.
 15 CHAYTOR, Q.C.:
 16 Q. Okay. And you certainly weren't asked to do
 17 that?
 18 MS. HENNESSEY:
 19 A. No. The only opinion that I was asked to seek
 20 was the one that we already discussed.
 21 CHAYTOR, Q.C.:
 22 Q. And do you recall any discussion once Mr.
 23 Tilley was on the line regarding any requests
 24 that had already been made of Mr. Tilley to
 25 give the department the reports?

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1 MS. HENNESSEY:
 2 A. I don't recall. All I can recall is very
 3 briefly about the process that was followed.
 4 CHAYTOR, Q.C.:
 5 Q. Yes, okay. Because we've heard from other
 6 evidence, and certainly Mr. Tilley had
 7 actually a letter drafted for Mr. Abbott and
 8 an envelope ready to go to Mr. Abbott
 9 enclosing the reports.
 10 MS. HENNESSEY:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. But that subject didn't come up on the phone,
 14 do you want me to still forward those reports
 15 or nothing got discussed around that?
 16 MS. HENNESSEY:
 17 A. It wasn't discussed during the time that I was
 18 on the call.
 19 CHAYTOR, Q.C.:
 20 Q. And do you know if it was discussed
 21 afterwards?
 22 MS. HENNESSEY:
 23 A. No, I don't.
 24 CHAYTOR, Q.C.:
 25 Q. After you left. And as you point out, that

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1 was a long weekend, May 21st.
 2 MS. HENNESSEY:
 3 A. Yeah.
 4 CHAYTOR, Q.C.:
 5 Q. You had no difficulty reaching a solicitor to
 6 get an opinion on short notice?
 7 MS. HENNESSEY:
 8 A. I reached the individual at home.
 9 MS. HENNESSEY:
 10 A. You phoned her at home?
 11 MS. HENNESSEY:
 12 A. Yes.
 13 CHAYTOR, Q.C.:
 14 Q. Okay. And she phoned you back shortly
 15 thereafter from home?
 16 MS. HENNESSEY:
 17 A. Yes, I spoke to the individual and then she
 18 called me back shortly thereafter.
 19 CHAYTOR, Q.C.:
 20 Q. Okay. If we look then at 0431, please, page
 21 13?
 22 MS. HENNESSEY:
 23 A. Right.
 24 CHAYTOR, Q.C.:
 25 Q. And these, we understand, are handwritten

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1 notes from Mr. Tilley.
 2 MS. HENNESSEY:
 3 A. Right.
 4 CHAYTOR, Q.C.:
 5 Q. And this is what has been referred to as his
 6 telephone log. And this entrance, this, I
 7 believe, is May 15th, I believe was the date.
 8 How far we have go back in the notes, but
 9 anyhow. But you can see around this time
 10 period that there is several entrances.
 11 "Moira/Minister." "Moira," and it's difficult
 12 to read. An then "John/Moira. Things went
 13 bad in the house." So it would have to have
 14 been, I would take it, May 15th or shortly
 15 thereafter. But my understanding was from Mr.
 16 Tilley's questioning that this was around May
 17 15th or May 15th. "Minister" do you remember
 18 that word?
 19 COFFEY, Q.C.:
 20 Q. "Insensitive."
 21 CHAYTOR, Q.C.:
 22 Q. "Insensitive." "Minister out of town.
 23 Premier in a presentation." So these are Mr.
 24 Tilley's notes and we understand that this was
 25 in relation to a telephone call with yourself

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1 and Mr. Abbott. Do you recall having a
 2 discussion with Mr. Tilley on or about May
 3 15th in which things having gone bad in the
 4 house would have been discussed or around the
 5 ER/PR issue in general?
 6 MS. HENNESSEY:
 7 A. I don't recall a telephone conversation with
 8 Mr. Tilley at that time.
 9 CHAYTOR, Q.C.:
 10 Q. You don't?
 11 MS. HENNESSEY:
 12 A. No, I don't.
 13 CHAYTOR, Q.C.:
 14 Q. And is that something that you think would
 15 stand out in your mind had you had such a
 16 discussion?
 17 MS. HENNESSEY:
 18 A. Ms. Chaytor, I don't know. All I can remember
 19 about the 15th is the meeting.
 20 COMMISSIONER:
 21 Q. Were you thinking that telephone call on the
 22 15th?
 23 MS. HENNESSEY:
 24 A. Yes, that's what I understood whether this was
 25 a telephone -

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1 CHAYTOR, Q.C.:
 2 Q. It's on or about May 15th.
 3 MS. HENNESSEY:
 4 A. That there was a telephone call on the 15th.
 5 I (unintelligible).
 6 COMMISSIONER:
 7 Q. Wasn't--I understood Ms. Chaytor's question to
 8 be that the phone call would not necessarily
 9 be on the 15th, around that time. Do you
 10 remember a conversation in that general time
 11 frame which would involve Mr. Tilley, yourself
 12 and I presume the John would be Mr. Abbott?
 13 MS. HENNESSEY:
 14 A. I don't recall a phone call.
 15 COMMISSIONER:
 16 Q. Okay.
 17 CHAYTOR, Q.C.:
 18 Q. Okay. So you recall no conversations with Mr.
 19 Tilley in that May 15th time period. Now, we
 20 know you attended the meeting which he also -
 21 MS. HENNESSEY:
 22 A. I attended the meeting on the 15th and -
 23 CHAYTOR, Q.C.:
 24 Q. - attended May 15th. But no discussions with
 25 him after that up until May 21st?

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1 MS. HENNESSEY:
 2 A. No, I would have been outside the cabinet room
 3 for the May 17th.
 4 CHAYTOR, Q.C.:
 5 Q. Okay. And we'll talk about that then.
 6 MS. HENNESSEY:
 7 A. Right.
 8 CHAYTOR, Q.C.:
 9 Q. So other than that on May 17th did you have
 10 any discussions with Mr. Tilley or anyone from
 11 Eastern Health around this issue between May
 12 15th and May 21st?
 13 MS. HENNESSEY:
 14 A. I can recall May 17th, you know, having a
 15 general discussion with Mr. Tilley and Mr.--
 16 Dr. Howell outside the cabinet room.
 17 CHAYTOR, Q.C.:
 18 Q. And that's while you were waiting outside the
 19 cabinet room?
 20 MS. HENNESSEY:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. Anything other than that?
 24 MS. HENNESSEY:
 25 A. I would have attended the briefing on the, the

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1 media briefing on the 18th.
 2 CHAYTOR, Q.C.:
 3 Q. Okay. And anything other than those two? And
 4 I'll take you through both of those.
 5 MS. HENNESSEY:
 6 A. Yeah. Ms. Chaytor, I don't remember
 7 specifically.
 8 CHAYTOR, Q.C.:
 9 Q. Okay. Then if we move along, P-0282, please?
 10 And this is an e-mail, Ms. Hennessey, to
 11 Connie Fry. And who is Connie Fry?
 12 MS. HENNESSEY:
 13 A. Who is Connie Fry?
 14 CHAYTOR, Q.C.:
 15 Q. Yes.
 16 MS. HENNESSEY:
 17 A. She's one of our administrative assistants.
 18 CHAYTOR, Q.C.:
 19 Q. Okay. And it's May 15th, 2007, House of
 20 Assembly note on ER/PR, "Connie, can you
 21 please e-mail the note to Elizabeth Matthews,
 22 the premier's communication director. Janet
 23 made a few edits at about 1:25." And I take
 24 it you're forwarding the department's House of
 25 Assembly briefing note?

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1 MS. HENNESSEY:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. Okay. And who is Janet, who would Janet be to
 5 make a few edits to the note?
 6 MS. HENNESSEY:
 7 A. I think Janet is, she's a staff person who
 8 works with me in my branch, right.
 9 CHAYTOR, Q.C.:
 10 Q. And why would you be forwarding the House of
 11 Assembly note on to Elizabeth Matthews?
 12 MS. HENNESSEY:
 13 A. I would have forwarded that note on to
 14 Elizabeth Matthews, it would have been at
 15 either the minister or the deputy's request.
 16 CHAYTOR, Q.C.:
 17 Q. Okay. If we could look, please, at 0126, page
 18 13? Now, Ms. Hennessey, this is the briefing
 19 note or one of two briefing notes, May 16th,
 20 2007. There are, in fact, two briefing notes
 21 -
 22 MS. HENNESSEY:
 23 A. Yes, there are.
 24 CHAYTOR, Q.C.:
 25 Q. For that date?

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1 MS. HENNESSEY:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. So have one at page 19. Both of those
 5 briefing notes, it appears, were drafted by
 6 Beverly Griffiths and approved by you?
 7 MS. HENNESSEY:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. Do you know why are there two notes of May
 11 16th?
 12 MS. HENNESSEY:
 13 A. Well, there would have been a draft note done
 14 and subsequent to the note being done, there
 15 would have been some changes and then the
 16 final note prepared.
 17 CHAYTOR, Q.C.:
 18 Q. So one of these two is a draft?
 19 MS. HENNESSEY:
 20 A. Yes.
 21 CHAYTOR, Q.C.:
 22 Q. And are you able to say which one ultimately
 23 ended up in the minister's briefing book?
 24 MS. HENNESSEY:
 25 A. This, if I recall correctly, this note is the

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1 draft.
 2 CHAYTOR, Q.C.:
 3 Q. This is the draft?
 4 MS. HENNESSEY:
 5 A. Yes.
 6 CHAYTOR, Q.C.:
 7 Q. This one here at page 13?
 8 MS. HENNESSEY:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. Okay. And so the final version is the one we
 12 saw at page 19?
 13 MS. HENNESSEY:
 14 A. If you could just -
 15 CHAYTOR, Q.C.:
 16 Q. Sure.
 17 MS. HENNESSEY:
 18 A. - flick back for one minute, please?
 19 CHAYTOR, Q.C.:
 20 Q. I'll take you--perhaps, Registrar, if you
 21 could bring up page 19, please?
 22 MS. HENNESSEY:
 23 A. Yes, this is the final note.
 24 CHAYTOR, Q.C.:
 25 Q. This is the final note?

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1 MS. HENNESSEY:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. And how is it that you're able to tell us
 5 that?
 6 MS. HENNESSEY:
 7 A. Because I seem to recall after the draft note
 8 was done, the information with respect to the
 9 NDP leader was added to the note.
 10 CHAYTOR, Q.C.:
 11 Q. And you recall that?
 12 MS. HENNESSEY:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. So the fourth bullet, NDP leader, Lorraine
 16 Michael, is referenced here?
 17 MS. HENNESSEY:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. Okay. And that sticks out in your mind?
 21 MS. HENNESSEY:
 22 A. I do recall that being added to the note.
 23 CHAYTOR, Q.C.:
 24 Q. Okay. So then if we--if this is the final
 25 version, then, we'll look down through this

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1 version. And of course, this is the day after
 2 the story had -
 3 MS. HENNESSEY:
 4 A. Broken.
 5 CHAYTOR, Q.C.:
 6 Q. - broken in the media?
 7 MS. HENNESSEY:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. And the second bullet under "Key messages" is
 11 "Eastern Health was advised by its legal
 12 counsel to withhold this information pending
 13 court action. Should this information have
 14 been provided as part of the technical
 15 briefing for media in December, 2006, when
 16 further information regarding those requiring
 17 treatment changes, 117, was released, in the
 18 spirit of openness and transparency, yes, I
 19 believe that it should have been released at
 20 that point in time." Ms. Hennessey, where did
 21 you get the information that Eastern Health
 22 was advised by its legal counsel to withhold
 23 the information?
 24 MS. HENNESSEY:
 25 A. I'm thinking maybe it was discussed in the May

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1 15th meeting.
 2 CHAYTOR, Q.C.:
 3 Q. Do you recall that having been discussed in
 4 the May 15th meeting?
 5 MS. HENNESSEY:
 6 A. Now that I see this, it may have been
 7 discussed in that meeting.
 8 CHAYTOR, Q.C.:
 9 Q. Okay. And who said that in the May 15th
 10 meeting?
 11 MS. HENNESSEY:
 12 A. Who made the statement?
 13 CHAYTOR, Q.C.:
 14 Q. Yes.
 15 MS. HENNESSEY:
 16 A. I don't know. I would think it was someone
 17 from Eastern Health, but I can't be sure.
 18 CHAYTOR, Q.C.:
 19 Q. Well, I would take it it would only be someone
 20 from Eastern Health who would know that?
 21 MS. HENNESSEY:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. So do you know, do you have a recollection
 25 around that now, did Mr. Tilley say this?

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1 MS. HENNESSEY:
 2 A. I can't say for certainty that it was Mr.
 3 Tilley said it.
 4 CHAYTOR, Q.C.:
 5 Q. But you now recall that having been discussed
 6 in the May 15th -
 7 MS. HENNESSEY:
 8 A. Now that I see this, I do believe there was
 9 some discussion around that.
 10 CHAYTOR, Q.C.:
 11 Q. And do you recall anything else about the
 12 discussion around that?
 13 MS. HENNESSEY:
 14 A. No, I don't.
 15 CHAYTOR, Q.C.:
 16 Q. And, Ms. Hennessey, in this note, of course,
 17 at page 21 of the exhibit, the full details on
 18 the test results is listed out here?
 19 MS. HENNESSEY:
 20 A. Yes.
 21 CHAYTOR, Q.C.:
 22 Q. Okay.
 23 MS. HENNESSEY:
 24 A. This is the information that would have been
 25 helpful to have in the March note when we had

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1 a new minister.
 2 CHAYTOR, Q.C.:
 3 Q. Yes. Okay, so that's the information that you
 4 feel now, in retrospect, would have been
 5 helpful?
 6 MS. HENNESSEY:
 7 A. It would have been helpful to have that in the
 8 March note.
 9 CHAYTOR, Q.C.:
 10 Q. So when you went to draft the note now in May,
 11 the middle of May, May 16th, 2007, it hadn't
 12 appeared in the April note?
 13 MS. HENNESSEY:
 14 A. No.
 15 CHAYTOR, Q.C.:
 16 Q. It hadn't appeared in the March note. Where
 17 did you go to find this information to include
 18 it?
 19 MS. HENNESSEY:
 20 A. Where did I go to find the information?
 21 CHAYTOR, Q.C.:
 22 Q. Yes.
 23 MS. HENNESSEY:
 24 A. I think it would have been from the data
 25 sheet. I can't say with certainty, but I

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1 would think that that's where the information
 2 came from.
 3 CHAYTOR, Q.C.:
 4 Q. The November 23rd -
 5 MS. HENNESSEY:
 6 A. Yeah, data -
 7 CHAYTOR, Q.C.:
 8 Q. - briefing note or data sheet from Eastern
 9 Health?
 10 MS. HENNESSEY:
 11 A. Yeah, I would think that's where it came from.
 12 CHAYTOR, Q.C.:
 13 Q. Okay. And where would that have been kept?
 14 MS. HENNESSEY:
 15 A. Where would the data sheet have been kept?
 16 CHAYTOR, Q.C.:
 17 Q. Yes, yes.
 18 MS. HENNESSEY:
 19 A. I would have had a copy of the data sheet.
 20 CHAYTOR, Q.C.:
 21 Q. So you would have had that in your possession?
 22 MS. HENNESSEY:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. In your file?

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1 MS. HENNESSEY:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. Now, after then May 16th or on May 16th,
 5 you've told us you had meetings on May 15th,
 6 did you have any meetings on May 16th
 7 regarding this issue?
 8 MS. HENNESSEY:
 9 A. I don't recall a meeting, per se. It was late
 10 in the afternoon on May 16th that we were
 11 asked to prepare a presentation for cabinet
 12 for the next day.
 13 CHAYTOR, Q.C.:
 14 Q. Okay. And who asked you to do that?
 15 MS. HENNESSEY:
 16 A. If I can recall correctly, the minister did
 17 after he returned from the House of Assembly.
 18 CHAYTOR, Q.C.:
 19 Q. So at the end of May 16th the minister came
 20 from the house and asked you and who else to
 21 prepare -
 22 MS. HENNESSEY:
 23 A. It was certainly late in the afternoon. I
 24 think it was after he came out of the house,
 25 right.

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1 CHAYTOR, Q.C.:
 2 Q. And you were asked to prepare a presentation?
 3 MS. HENNESSEY:
 4 A. Yes.
 5 CHAYTOR, Q.C.:
 6 Q. And who else, you and who else?
 7 MS. HENNESSEY:
 8 A. Myself and Mr. Abbott.
 9 CHAYTOR, Q.C.:
 10 Q. Okay. And so then tell us about the rest of
 11 your evening on May 16th? First of all, did
 12 the minister tell you why, why is it that
 13 you're going to now have to do a presentation
 14 to the cabinet?
 15 MS. HENNESSEY:
 16 A. All the minister said was that the cabinet
 17 wanted a briefing the following morning.
 18 CHAYTOR, Q.C.:
 19 Q. Okay. And what did he expect to see in the
 20 briefing?
 21 MS. HENNESSEY:
 22 A. He wanted some information on the history of
 23 the file, if I recall correctly. I don't
 24 recall specifically what he wanted information
 25 on. I mean, the cabinet presentation is

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1 structured to provide some history on it and
 2 provide some information on when the
 3 department was informed at various points
 4 throughout the process.
 5 CHAYTOR, Q.C.:
 6 Q. Okay. And why was he interested in that
 7 information about when the department was
 8 informed?
 9 MS. HENNESSEY:
 10 A. I don't recall him getting into a lot of
 11 detail with us at that point in time. Like I
 12 say, it was late in the afternoon and we were
 13 asked to prepare a cabinet presentation for
 14 the next morning.
 15 CHAYTOR, Q.C.:
 16 Q. If we could look at P-0799, please? This is
 17 difficult to see, but this is the cabinet
 18 presentation along with the speaking deck or
 19 notes from Mr. Abbott. And the outline on
 20 page 2, there are four bullets. "Background,
 21 what the department knew and when. Public
 22 communications issues and quality assurance."
 23 Did--were those the issues that Mr. Wiseman
 24 wanted to see addressed?
 25 MS. HENNESSEY:

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1 A. I would think that they were.
 2 CHAYTOR, Q.C.:
 3 Q. Okay. So then tell the Commissioner, please,
 4 of your involvement in preparing this
 5 briefing?
 6 MS. HENNESSEY:
 7 A. The presentation was prepared that evening.
 8 Myself and Ms. Mundon prepared the
 9 presentation. She was--I don't have
 10 PowerPoint skills. Ms. Mundon stayed and
 11 helped to prepare the presentation. Mr.
 12 Abbott left because he had a commitment that
 13 evening. He did return later in the evening
 14 and went through the presentation. But the
 15 presentation, the presentation was prepared by
 16 Ms. Mundon and myself.
 17 CHAYTOR, Q.C.:
 18 Q. Okay. And you say Mr. Abbott came back later
 19 in the evening?
 20 MS. HENNESSEY:
 21 A. Yes, he did.
 22 CHAYTOR, Q.C.:
 23 Q. Did he do--did he revise the presentation in
 24 any respect?
 25 MS. HENNESSEY:

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1 A. He certainly had input into the presentation
 2 at that point that evening. The minister was
 3 there during the evening. He was in and out
 4 of the office area while we were preparing the
 5 presentation.
 6 CHAYTOR, Q.C.:
 7 Q. So did he also have input into the drafting of
 8 the presentation?
 9 MS. HENNESSEY:
 10 A. I can't say, I don't recall the minister
 11 getting into the details of it. He was more
 12 or less just dropping on to see how we were
 13 progressing with it.
 14 CHAYTOR, Q.C.:
 15 Q. Did he give you any--did he review it at any
 16 point, review your work and make--at any
 17 point?
 18 MS. HENNESSEY:
 19 A. I don't know whether he reviewed it later that
 20 evening.
 21 CHAYTOR, Q.C.:
 22 Q. Okay.
 23 MS. HENNESSEY:
 24 A. He certainly wasn't reviewing it as we were
 25 preparing it.

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1 CHAYTOR, Q.C.:
 2 Q. And do you recall at the end when it was
 3 finished, whether he reviewed it?
 4 MS. HENNESSEY:
 5 A. I don't know whether he did.
 6 CHAYTOR, Q.C.:
 7 Q. Did he offer any suggestions other than the
 8 topics that he wanted to see covered, did he
 9 offer any suggestions as to the content?
 10 MS. HENNESSEY:
 11 A. I don't recall him speaking to me directly
 12 about the content.
 13 CHAYTOR, Q.C.:
 14 Q. Well, do you recall him speaking to anyone
 15 about the content, or do you know?
 16 MS. HENNESSEY:
 17 A. No, I don't, no.
 18 CHAYTOR, Q.C.:
 19 Q. Okay. And so what did you discuss with Mr.
 20 Wiseman that evening?
 21 MS. HENNESSEY:
 22 A. What did we discuss with Mr. Wiseman?
 23 CHAYTOR, Q.C.:
 24 Q. Yes.
 25 MS. HENNESSEY:

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1 A. Mr. Wiseman was just dropping in and out of
 2 the office to see how the presentation was
 3 progressing.
 4 CHAYTOR, Q.C.:
 5 Q. And how long did it take you to put together
 6 this presentation?
 7 MS. HENNESSEY:
 8 A. It took a number of hours. I don't recall
 9 exactly.
 10 CHAYTOR, Q.C.:
 11 Q. So I take it it was a late evening?
 12 MS. HENNESSEY:
 13 A. It was a late evening.
 14 CHAYTOR, Q.C.:
 15 Q. Okay.
 16 MS. HENNESSEY:
 17 A. One of my concerns doing it was that I felt
 18 that we were under considerable pressure to
 19 prepare the presentation for the next morning
 20 and I was concerned that, you know, there
 21 could be errors in the presentation because
 22 the time line was so tight to get it done.
 23 CHAYTOR, Q.C.:
 24 Q. And did you understand why it had to be done
 25 for the next day as opposed to the day or two

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1 after that, what was the urgency?
 2 MS. HENNESSEY:
 3 A. All I understood was that the cabinet wanted a
 4 presentation the next morning.
 5 CHAYTOR, Q.C.:
 6 Q. Okay. And if we continue on then, this is the
 7 presentation. There is a better copy of the
 8 presentation itself at 0126, page 23, for
 9 others who may want to follow, but this is the
 10 copy that has the speaking notes. I
 11 understand that the speaking notes were
 12 drafted with the understanding that Mr. Abbott
 13 would do the presentation, is that correct?
 14 MS. HENNESSEY:
 15 A. Yes, that was my understanding.
 16 CHAYTOR, Q.C.:
 17 Q. And did you draft the speaking notes, as well,
 18 for him?
 19 MS. HENNESSEY:
 20 A. I think we certainly had input into the
 21 speaking notes, yes.
 22 CHAYTOR, Q.C.:
 23 Q. Okay. And under this section, "What is ER/PR
 24 testing?" I would take it there'd be many
 25 people in the cabinet briefing who would not

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1 have heard or really understood ER/PR testing?
 2 MS. HENNESSEY:
 3 A. Okay.
 4 CHAYTOR, Q.C.:
 5 Q. And the information that's given here, you
 6 have four bullets listed here. Where would
 7 you have received that information?
 8 MS. HENNESSEY:
 9 A. That information would have been based on our
 10 working knowledge of the file and also, I
 11 guess, we probably reviewed some of our
 12 background materials.
 13 CHAYTOR, Q.C.:
 14 Q. Okay. At any point during the preparation of
 15 this did you contact anyone at Eastern Health
 16 for input?
 17 MS. HENNESSEY:
 18 A. No, we didn't.
 19 CHAYTOR, Q.C.:
 20 Q. And under "How was the problem discovered?"
 21 you've indicated, "May, 2005 oncologists with
 22 Eastern Health discovered patient who tested
 23 negative on DAKO system converted to positive
 24 on new Ventana method system."
 25 MS. HENNESSEY:

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1 A. Right.
 2 CHAYTOR, Q.C.:
 3 Q. "DAKO testing used in labs from 1997 to 2004
 4 was replaced with Ventana method in April,
 5 2004." And where did you get the information
 6 that an oncologist, that the problem was
 7 discovered when an oncologist discovered the
 8 patient who had tested negative on DAKO
 9 converted to positive on the new Ventana?
 10 MS. HENNESSEY:
 11 A. I think that would have been from one of our
 12 original briefing notes on the topic.
 13 CHAYTOR, Q.C.:
 14 Q. And then the next slide, you're taking it
 15 through a chronology here, I take it. You
 16 then talk about July, 2005 the testing having
 17 ceased at Health Sciences. August, 2005,
 18 tests being sent to Mount Sinai. September,
 19 2005 you refer to the external reviews
 20 conducted.
 21 MS. HENNESSEY:
 22 A. Right.
 23 CHAYTOR, Q.C.:
 24 Q. And the speaking note provided to Mr. Abbott
 25 on that point is "External reviews conducted

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1 by chief pathologist of the B.C. Cancer
 2 Institute and the chief technologist, Mount
 3 Sinai Hospital, Toronto. Reviews protected
 4 from release under the Evidence Act and not in
 5 department's possession."
 6 MS. HENNESSEY:
 7 A. Yes.
 8 CHAYTOR, Q.C.:
 9 Q. So did you write that, Ms. Hennessey?
 10 MS. HENNESSEY:
 11 A. That would have been my understanding at that
 12 time.
 13 CHAYTOR, Q.C.:
 14 Q. So this is you writing this?
 15 MS. HENNESSEY:
 16 A. If I recall correctly, that's what was
 17 written.
 18 CHAYTOR, Q.C.:
 19 Q. Okay. And it would either be you or Ms.
 20 Mundon, so.
 21 MS. HENNESSEY:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. So this is your idea, not hers?
 25 MS. HENNESSEY:

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1 A. Pardon?

2 CHAYTOR, Q.C.:

3 Q. So this would be your idea or your thoughts

4 around the issue?

5 MS. HENNESSEY:

6 A. I mean, I don't know, Ms. Chaytor, whether I

7 recall the specifics at that time, but it was

8 certainly my understanding at that time that

9 the reviews were protected under the Evidence

10 Act.

11 CHAYTOR, Q.C.:

12 Q. Okay. And if Mr. Abbott had requested the

13 reports two days previous, on May 15th, had

14 requested the reports two days previous from

15 Mr. Tilley, you weren't aware of that at the

16 time?

17 MS. HENNESSEY:

18 A. I wasn't aware of that, no.

19 CHAYTOR, Q.C.:

20 Q. And Mr. Abbott, in reviewing this, didn't

21 offer any comment as to the reports aren't in

22 the department's possession but have been

23 requested?

24 MS. HENNESSEY:

25 A. I don't recall a discussion with Mr. Abbott on

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1 this particular point in the presentation.

2 CHAYTOR, Q.C.:

3 Q. And then five days later, on the 21st, you're

4 asked to speak to a solicitor?

5 MS. HENNESSEY:

6 A. Yes.

7 CHAYTOR, Q.C.:

8 Q. Regarding the external review reports and

9 their protection under the Evidence Act and

10 any implications flowing from the Public

11 Inquiries Act?

12 MS. HENNESSEY:

13 A. Yes, I was asked.

14 CHAYTOR, Q.C.:

15 Q. And that happens five days later?

16 MS. HENNESSEY:

17 A. Yes, this was the--yeah, this was the 16th,

18 the evening of the 16th and, yes, it was on

19 that Monday, the 21st of May.

20 CHAYTOR, Q.C.:

21 Q. Okay. And but anyone who attended the cabinet

22 meeting or the cabinet briefing on May 17th,

23 if Mr. Abbott, in fact, shared this point with

24 them, would have understood that the reviews

25 were supposed to be protected from release

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1 under Evidence Act?

2 MS. HENNESSEY:

3 A. That's certainly--if that point had been

4 shared, that certainly would be the case.

5 CHAYTOR, Q.C.:

6 Q. Okay. And when you're drafting this to say

7 this about the external reviews, did you think

8 about, think back to the fact that you had

9 sought certain general findings from the

10 reports, did you think to include that in your

11 PowerPoint presentation?

12 MS. HENNESSEY:

13 A. Ms. Chaytor, this was, we did this is a very

14 tight timeframe on the evening of May 16th.

15 I'm always concerned that when we're rushing

16 to do something, that some key points might

17 get missed, but I didn't think to include that

18 at that time. And this was being done really

19 quickly after a Cabinet presentation, the next

20 morning.

21 CHAYTOR, Q.C.:

22 Q. And then if we continue on then two sides

23 over, and this is under "Background".

24 MS. HENNESSEY:

25 A. Right.

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1 CHAYTOR, Q.C.:

2 Q. You've included the numbers here?

3 MS. HENNESSEY:

4 A. Yes.

5 CHAYTOR, Q.C.:

6 Q. And this is where you write "Of the 763 live

7 patients, test results changed for 317".

8 MS. HENNESSEY:

9 A. Yes.

10 CHAYTOR, Q.C.:

11 Q. And the 42 percent number that you've

12 calculated, so I take it this, you did the

13 math on that that evening and included that or

14 around this time period anyhow, and you do now

15 indicate that not all deceased test results

16 were retested.

17 MS. HENNESSEY:

18 A. Yes.

19 CHAYTOR, Q.C.:

20 Q. 103 of the 176 were retested. Where did you

21 get the information that 14 families have come

22 forward?

23 MS. HENNESSEY:

24 A. I don't recall. I mean, someone must have

25 provided that information to us.

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1 CHAYTOR, Q.C.:

2 Q. And then the next slide is what the department

3 knew and when. And it begins with July 20th,

4 2005.

5 MS. HENNESSEY:

6 A. Right.

7 CHAYTOR, Q.C.:

8 Q. And why does the chronology start with July

9 20th, 2005? How would you--what would you

10 have had at your disposal that evening

11 creating this, to know that the start date was

12 July 20th?

13 MS. HENNESSEY:

14 A. The briefing note from Eastern Health.

15 CHAYTOR, Q.C.:

16 Q. I'm sorry?

17 MS. HENNESSEY:

18 A. It would have been the briefing note, the

19 first briefing note from Eastern Health.

20 CHAYTOR, Q.C.:

21 Q. So that's what you start with, a briefing note

22 from Eastern Health?

23 MS. HENNESSEY:

24 A. Yeah. As I said to you, this presentation was

25 done quickly and that was, at that point that

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1 evening, the information that was included.

2 CHAYTOR, Q.C.:

3 Q. So you would have had that briefing note at

4 your disposal, the July 20th, 2005?

5 MS. HENNESSEY:

6 A. That briefing note--I mean, the briefing note

7 would have been in my file.

8 CHAYTOR, Q.C.:

9 Q. Yes, okay. And, Ms. Hennessey, the department

10 having been contacted on the issue prior to

11 July 20th -

12 MS. HENNESSEY:

13 A. Yes.

14 CHAYTOR, Q.C.:

15 Q. That doesn't show here.

16 MS. HENNESSEY:

17 A. No.

18 CHAYTOR, Q.C.:

19 Q. Any communications with the department prior

20 to that. And why is that?

21 MS. HENNESSEY:

22 A. It was probably oversight at that point, in a

23 rush.

24 CHAYTOR, Q.C.:

25 Q. Well were you aware that the department had

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1 been contacted either July 18th or July 19th?

2 MS. HENNESSEY:

3 A. I don't recall, Ms. Chaytor, I mean that

4 evening I was working from the papers in my

5 file. The information that was in the--that

6 was released during Mr. Thompson's testimony,

7 that was the first I had heard of that e-mail

8 exchange.

9 CHAYTOR, Q.C.:

10 Q. Because you do go on to reference some e-

11 mails, for example September 1st, 2005, you

12 refer to an e-mail from yourself to Mr. Tilley

13 seeking another update.

14 MS. HENNESSEY:

15 A. Right, yes.

16 CHAYTOR, Q.C.:

17 Q. So are you saying that what you had to use was

18 based on your own file?

19 MS. HENNESSEY:

20 A. We were working from a couple of files that

21 evening.

22 CHAYTOR, Q.C.:

23 Q. Who else had a file?

24 MS. HENNESSEY:

25 A. Well Ms. Mundon would have had a file.

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1 CHAYTOR, Q.C.:

2 Q. Did you have a file from Mr. Abbott?

3 MS. HENNESSEY:

4 A. Pardon?

5 CHAYTOR, Q.C.:

6 Q. Did Mr. Abbott have a file? Did you have

7 access to his file?

8 MS. HENNESSEY:

9 A. I didn't have a file from Mr. Abbott that

10 evening.

11 CHAYTOR, Q.C.:

12 Q. So you had your file and Ms. Mundon had her

13 file?

14 MS. HENNESSEY:

15 A. Yes, that's my recall.

16 CHAYTOR, Q.C.:

17 Q. Now if we come along to this then, you've--

18 what the department knew and when is continued

19 and then we have a listing of briefing notes.

20 MS. HENNESSEY:

21 A. Right.

22 CHAYTOR, Q.C.:

23 Q. And there's the briefing note of October 3rd,

24 2005, prepared for Minister Ottenheimer.

25 MS. HENNESSEY:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. So would you have then, for you to be able to
 4 put your hand on all of those dates, all of
 5 those briefing notes would still exist within
 6 the department or within your file?
 7 MS. HENNESSEY:
 8 A. I would think that I would have had them in my
 9 file, but I don't recall this level of detail
 10 for this briefing.
 11 CHAYTOR, Q.C.:
 12 Q. I'm just trying to get a sense of what was
 13 actually in the department at this point in
 14 time that you're sitting down and constructing
 15 this from.
 16 MS. HENNESSEY:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. So you know of the October 3rd, 2005 briefing
 20 note prepared for Minister Ottenheimer?
 21 MS. HENNESSEY:
 22 A. Right.
 23 CHAYTOR, Q.C.:
 24 Q. How about the October 5th, 2005 briefing note
 25 prepared for Cabinet Secretariat? Why isn't

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1 that referenced?
 2 MS. HENNESSEY:
 3 A. That may or may not have been in my file at
 4 the time. That was the note that Cabinet
 5 Secretariat prepared based on our briefing
 6 note.
 7 CHAYTOR, Q.C.:
 8 Q. Yes. And the September 30th, 2005 briefing
 9 note, I don't see that referenced there
 10 either. Do you remember a September 30th -
 11 MS. HENNESSEY:
 12 A. The briefing note from Eastern Health?
 13 CHAYTOR, Q.C.:
 14 Q. Yes, the briefing note -
 15 MS. HENNESSEY:
 16 A. No, that was missed.
 17 CHAYTOR, Q.C.:
 18 Q. That was missed?
 19 MS. HENNESSEY:
 20 A. Yeah.
 21 CHAYTOR, Q.C.:
 22 Q. And did you have a copy of that in your file?
 23 MS. HENNESSEY:
 24 A. Ms. Chaytor, I don't recall the details around
 25 that.

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1 CHAYTOR, Q.C.:
 2 Q. Okay.
 3 MS. HENNESSEY:
 4 A. I did the best that we could that evening
 5 under considerable pressure to pull together a
 6 presentation.
 7 CHAYTOR, Q.C.:
 8 Q. Okay, and I understand there's a March 15th,
 9 2006 briefing note and a May 2nd, 2006
 10 briefing note?
 11 MS. HENNESSEY:
 12 A. Right.
 13 CHAYTOR, Q.C.:
 14 Q. And I just recently took you to the November
 15 27th, 2006 briefing note, but the second one
 16 was in fact an error, it was just a draft
 17 briefing note, is that right?
 18 MS. HENNESSEY:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. And the May 16th, 2007 briefing note, there
 22 were in fact two briefing notes that day?
 23 MS. HENNESSEY:
 24 A. Yes, there was.
 25 CHAYTOR, Q.C.:

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1 Q. Under Public Communications Issues, October
 2 2nd, 2005, you've written, "Issue first
 3 reported in the media by The Independent. The
 4 Independent contacted Eastern Health after
 5 learning that patients had been contacted
 6 individually as test results became
 7 available." Where did that information come
 8 from?
 9 MS. HENNESSEY:
 10 A. I think that information, perhaps Ms. Mundon
 11 had that information. So did Ms. Mundon draft
 12 this portion, the public communications
 13 issues?
 14 MS. HENNESSEY:
 15 A. I mean, we both would have been involved in
 16 the whole presentation.
 17 CHAYTOR, Q.C.:
 18 Q. And was that consistent with your
 19 understanding that The Independent learned of
 20 this issue because patients had been contacted
 21 individually as test results became available,
 22 is that what was told to you as to how this
 23 story became known to The Independent?
 24 MS. HENNESSEY:
 25 A. I think there was a patient, if I recall the

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1 story in The Independent back in October,
 2 2005, I think it was with respect to a
 3 patient, but my recall is not good on the
 4 details of the media clipping back in October
 5 of 2005.
 6 CHAYTOR, Q.C.:
 7 Q. And one of the bullets here says, "Eastern
 8 Health has been inconsistent with its approach
 9 in dealing with the media, sometimes an
 10 interview is granted, other times no comment
 11 provided." Was that your opinion as well?
 12 MS. HENNESSEY:
 13 A. I think you'll have to ask Ms. Mundon about
 14 that. I do know that there were various
 15 spokespeople on the file during that time.
 16 CHAYTOR, Q.C.:
 17 Q. And the comment that "media have been
 18 frustrated by lack of information". What's
 19 the source of that knowledge?
 20 MS. HENNESSEY:
 21 A. That would have been, I think our director of
 22 communication's assessment at that time.
 23 CHAYTOR, Q.C.:
 24 Q. Now Ms. Hennessey, in the chronology that's
 25 presented here, while you had the July 20th,

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1 2005 briefing note -
 2 MS. HENNESSEY:
 3 A. Yes.
 4 CHAYTOR, Q.C.:
 5 Q. I don't see any reference to any issue having
 6 arisen in 2003.
 7 MS. HENNESSEY:
 8 A. No, it wasn't referenced in this presentation.
 9 CHAYTOR, Q.C.:
 10 Q. And can you tell us why not?
 11 MS. HENNESSEY:
 12 A. I don't have any other explanation other than
 13 the fact that this presentation was being
 14 pulled together quickly that evening.
 15 CHAYTOR, Q.C.:
 16 Q. Okay. So you got your presentation ready.
 17 Did you then attend the Cabinet briefing?
 18 MS. HENNESSEY:
 19 A. No, I did not. I sat outside the Cabinet
 20 room.
 21 CHAYTOR, Q.C.:
 22 Q. And who did you sit outside with?
 23 MS. HENNESSEY:
 24 A. I sat outside the room with Mr. Tilley, Dr.
 25 Howell and I believe Ms. Mundon was there.

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1 CHAYTOR, Q.C.:
 2 Q. And who invited--I'm sorry?
 3 MS. HENNESSEY:
 4 A. I was with Mr. Tilley, Dr. Howell and I
 5 believe Ms. Mundon was there and there was a
 6 number of other officials waiting to go into
 7 to speak to Cabinet on other issues.
 8 CHAYTOR, Q.C.:
 9 Q. Okay, and who invited Mr. Tilley and Dr.
 10 Howell? Did you have discussions with them to
 11 invite them there?
 12 MS. HENNESSEY:
 13 A. Did I invite them?
 14 CHAYTOR, Q.C.:
 15 Q. Yes.
 16 MS. HENNESSEY:
 17 A. I would think that the Deputy Minister invited
 18 them, but whether I made the call to invite
 19 them, I don't recall.
 20 CHAYTOR, Q.C.:
 21 Q. You have no recollection -
 22 MS. HENNESSEY:
 23 A. I mean, the department would have invited them
 24 to the presentation.
 25 CHAYTOR, Q.C.:

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1 Q. Yes, I'm just wondering if you had any
 2 discussions with them leading up to that?
 3 MS. HENNESSEY:
 4 A. I don't recall, Ms. Chaytor, in that period of
 5 time there was a lot of activity on this file.
 6 CHAYTOR, Q.C.:
 7 Q. And so you sat outside with them. Did you
 8 discuss the issue while you were sitting
 9 outside?
 10 MS. HENNESSEY:
 11 A. I don't think that we spent a lot of time
 12 discussing the issue. In particular, I think
 13 we were just having some general conversation.
 14 I mean, there were a number of people outside
 15 the Cabinet room besides us.
 16 CHAYTOR, Q.C.:
 17 Q. Okay, and when we look at the chronology that
 18 you've prepared, you did include the August
 19 18th, 2006 briefing note prepared by Cabinet
 20 Secretariat for information.
 21 MS. HENNESSEY:
 22 A. Right.
 23 CHAYTOR, Q.C.:
 24 Q. And the speaking note that was to--that was
 25 given to Mr. Abbott around that was briefing

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1 note prepared by Cabinet Secretariat for
 2 information, input from department and Eastern
 3 Health.
 4 MS. HENNESSEY:
 5 A. Yes.
 6 CHAYTOR, Q.C.:
 7 Q. Note included statistics regarding retesting.
 8 MS. HENNESSEY:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. "This is the first briefing note to include
 12 details around retesting results" and that's
 13 in bold.
 14 MS. HENNESSEY:
 15 A. Yes.
 16 CHAYTOR, Q.C.:
 17 Q. So you prepared that, did you, you wrote this?
 18 MS. HENNESSEY:
 19 A. This was the first briefing note that had the
 20 retesting results in it.
 21 CHAYTOR, Q.C.:
 22 Q. And when you're preparing this on the evening
 23 of May 16th -
 24 MS. HENNESSEY:
 25 A. Right.

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1 CHAYTOR, Q.C.:
 2 Q. Are you aware that Mr. Osborne had not seen
 3 the note up to this point in time?
 4 MS. HENNESSEY:
 5 A. On the 16th? No. I believe that issue was
 6 brought to our attention after the May 17th
 7 Cabinet briefing.
 8 CHAYTOR, Q.C.:
 9 Q. After Mr. Osborne attended the Cabinet
 10 briefing of May 17th?
 11 MS. HENNESSEY:
 12 A. Yes.
 13 CHAYTOR, Q.C.:
 14 Q. Okay.
 15 MS. HENNESSEY:
 16 A. I believe it was later that day that we met
 17 with the Premier.
 18 CHAYTOR, Q.C.:
 19 Q. Okay and overall, apart from the issue of Mr.
 20 Osborne and the August 18th, 2006 briefing
 21 note, overall how did the presentation go?
 22 Was that discussed -
 23 MS. HENNESSEY:
 24 A. With Cabinet?
 25 CHAYTOR, Q.C.:

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1 Q. Yes, was that discussed?
 2 MS. HENNESSEY:
 3 A. We sat outside the Cabinet room while the
 4 presentation was held and then we left--we
 5 weren't invited into the Cabinet room. We
 6 subsequently left and I'm not sure if the
 7 Minister came out, but the Deputy Minister
 8 certainly came out and we walked back to the
 9 department.
 10 CHAYTOR, Q.C.:
 11 Q. Okay, and did you discuss the issue as you're
 12 walking back with Mr. Abbott? Did he give you
 13 a sense of how it went? How did he feel about
 14 it?
 15 MS. HENNESSEY:
 16 A. I don't recall any discussion in the corridors
 17 of the Confederation Building with Mr. Abbott
 18 about the presentation.
 19 CHAYTOR, Q.C.:
 20 Q. Okay, well at any, you know, you get back to
 21 the office then, like what did Mr. Abbott tell
 22 you about how the presentation went? You'd
 23 worked hard that evening to put this together
 24 for him?
 25 MS. HENNESSEY:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. And what did he tell you? How did it go?
 4 MS. HENNESSEY:
 5 A. I don't know whether there was any, I don't
 6 remember being in a meeting with Mr. Abbott,
 7 you know, later that day, the only meeting I
 8 can remember being in is the meeting with the
 9 Premier where Mr. Abbott -
 10 CHAYTOR, Q.C.:
 11 Q. So you and Mr. Abbott, he came out of the
 12 briefing, you walked back to the department
 13 together and you never spoke about what
 14 happened in the Cabinet room?
 15 MS. HENNESSEY:
 16 A. Well there was a number of people walking
 17 through, you know, the corridor and the link
 18 between the two buildings, right.
 19 CHAYTOR, Q.C.:
 20 Q. So you and Mr. Abbott didn't discuss how it
 21 went afterwards?
 22 MS. HENNESSEY:
 23 A. I don't recall a detailed discussion. What I
 24 do recall that day is that Eastern Health was
 25 asked to do a press conference the next day.

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1 CHAYTOR, Q.C.:

2 Q. And did you understand that that arose from

3 the Cabinet briefing?

4 MS. HENNESSEY:

5 A. I may have thought that, I don't recall being

6 told that.

7 CHAYTOR, Q.C.:

8 Q. And who told you that they were doing a press

9 conference then the next day?

10 MS. HENNESSEY:

11 A. It was probably Mr. Abbott at some point.

12 CHAYTOR, Q.C.:

13 Q. And did you then attend the press conference

14 on May 18th?

15 MS. HENNESSEY:

16 A. Yes, I did.

17 CHAYTOR, Q.C.:

18 Q. And why did you attend that?

19 MS. HENNESSEY:

20 A. Ms. Mundon and I were asked to attend by the

21 Minister.

22 CHAYTOR, Q.C.:

23 Q. The Minister asked you?

24 MS. HENNESSEY:

25 A. Yes

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1 CHAYTOR, Q.C.:

2 Q. And why? What was the purpose of you being

3 there?

4 MS. HENNESSEY:

5 A. I think the purpose was for us to hear first

6 hand the information that Eastern Health was

7 sharing with the media and the public.

8 CHAYTOR, Q.C.:

9 Q. Why would that be necessary?

10 MS. HENNESSEY:

11 A. It is unusual for us to go out to these

12 briefings.

13 CHAYTOR, Q.C.:

14 Q. Do you know why, was it explained to you why

15 your presence would be necessary?

16 MS. HENNESSEY:

17 A. All I can recall is that the Minister asked us

18 to go so we could listen to the presentation

19 provided by Eastern Health.

20 CHAYTOR, Q.C.:

21 Q. And so you could hear it, in your words, first

22 hand?

23 MS. HENNESSEY:

24 A. Yes.

25 CHAYTOR, Q.C.:

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1 Q. Was there some concern of loss of trust or

2 confidence in Eastern Health at that point in

3 time?

4 MS. HENNESSEY:

5 A. The minister may have reached that point at

6 that time?

7 CHAYTOR, Q.C.:

8 Q. Did you sense that from your discussion with

9 the Minister?

10 MS. HENNESSEY:

11 A. Well I felt it was unusual for us to go out

12 and sit through a media briefing.

13 CHAYTOR, Q.C.:

14 Q. But you didn't ask, make any inquiries of the

15 Minister around that?

16 MS. HENNESSEY:

17 A. I don't recall a specific inquiry to the

18 Minister.

19 CHAYTOR, Q.C.:

20 Q. Well any discussion with the Minister. He's

21 asking to go attend this, you know, do you

22 recall any discussion around that with him?

23 MS. HENNESSEY:

24 A. All I can recall is being asked to go to it.

25 CHAYTOR, Q.C.:

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1 Q. And you didn't attend the December 11th, 2006?

2 MS. HENNESSEY:

3 A. No, I did not.

4 CHAYTOR, Q.C.:

5 Q. And you weren't asked and nobody from the

6 department was asked to attend that one?

7 MS. HENNESSEY:

8 A. I wasn't asked. I don't think anybody was

9 asked to attend in December.

10 THE COMMISSIONER:

11 Q. Were you asked to report back to the Minister?

12 MS. HENNESSEY:

13 A. That afternoon we may have had a discussion

14 with the Deputy Minister when we came back,

15 Commissioner.

16 CHAYTOR, Q.C.:

17 Q. Well do you recall that? You went to this on

18 the Minister's instruction directly to you.

19 MS. HENNESSEY:

20 A. Yes, right.

21 CHAYTOR, Q.C.:

22 Q. You come back from the briefing or the

23 technical or, sorry, press conference and you,

24 do you report to the Minister?

25 MS. HENNESSEY:

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1 A. I think that the--I don't recall whether I
 2 spoke directly to the Minister or the Deputy
 3 Minister that afternoon. I mean, our sense of
 4 the briefing was that the briefing with the
 5 public and the media had gone well at that
 6 time.
 7 CHAYTOR, Q.C.:
 8 Q. You thought it had gone well?
 9 MS. HENNESSEY:
 10 A. Yeah, I thought the information that had been
 11 presented was received well and there was a
 12 number of questions asked that I think Mr.
 13 Tilley responded to some of the questions.
 14 And I believe Dr. Denic responded to some of
 15 them.
 16 CHAYTOR, Q.C.:
 17 Q. If we could look, please at--so is there
 18 anything else then following, you attended at
 19 the press conference, you felt it went well.
 20 Anything else then following on that? Any
 21 other discussions within the department?
 22 MS. HENNESSEY:
 23 A. No, I think the following discussion in the
 24 department was on, that I can remember, was
 25 the one on May 21st.

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1 CHAYTOR, Q.C.:
 2 Q. Okay, so no other discussions then in the
 3 meantime over the course of the next couple of
 4 days?
 5 MS. HENNESSEY:
 6 A. I don't recall, Ms. Chaytor, but like I said
 7 to you, that was the weekend that I had a
 8 cousin who was dying. I was travelling back
 9 and forth to Holyrood at the same time, so
 10 this file perhaps didn't have my full
 11 attention that weekend.
 12 CHAYTOR, Q.C.:
 13 Q. If we could look at, please, P-0832? And this
 14 is an e-mail from Ms. Mundon to Susan Bonnell.
 15 MS. HENNESSEY:
 16 A. Right.
 17 CHAYTOR, Q.C.:
 18 Q. The same date, May 18th, and she's forwarding
 19 the briefing note of the department.
 20 MS. HENNESSEY:
 21 A. Right.
 22 CHAYTOR, Q.C.:
 23 Q. Did you know that was happening, that Eastern
 24 Health was receiving the department's briefing
 25 note?

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1 MS. HENNESSEY:
 2 A. Now that I see the e-mail in an exhibit,
 3 there's something familiar about it. Ms.
 4 Mundon sent the briefing note to Eastern
 5 Health, but I'm sure that that would have been
 6 on somebody's direction.
 7 CHAYTOR, Q.C.:
 8 Q. Was it on your direction?
 9 MS. HENNESSEY:
 10 A. No, it wasn't on my direction.
 11 CHAYTOR, Q.C.:
 12 Q. But you do seem to recall knowing that this
 13 was happening?
 14 MS. HENNESSEY:
 15 A. There's something vaguely familiar about it
 16 now that I see the exhibit.
 17 CHAYTOR, Q.C.:
 18 Q. And it take it this wouldn't be normal, that
 19 your briefing notes would be shared with
 20 Eastern Health?
 21 MS. HENNESSEY:
 22 A. This would not be a normal process.
 23 CHAYTOR, Q.C.:
 24 Q. Can you recall any discussion then around this
 25 or why this particular briefing note would be

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1 forwarded to Eastern Health?
 2 MS. HENNESSEY:
 3 A. I don't recall being at a discussion on this.
 4 CHAYTOR, Q.C.:
 5 Q. So the most you can say is that it's unusual,
 6 that you assume somebody directed it to
 7 happen.
 8 MS. HENNESSEY:
 9 A. Right.
 10 CHAYTOR, Q.C.:
 11 Q. And I take it that would have to be someone
 12 senior to you.
 13 MS. HENNESSEY:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. If it wasn't to you, it would have to be the
 17 Deputy Minister or the Minister.
 18 MS. HENNESSEY:
 19 A. I don't think, I'm pretty confident saying Ms.
 20 Mundon would not have sent this briefing note
 21 to Eastern Health without someone providing
 22 direction on it.
 23 CHAYTOR, Q.C.:
 24 Q. And you don't know why it would have been
 25 sent?

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1 MS. HENNESSEY:
 2 A. No.
 3 CHAYTOR, Q.C.:
 4 Q. If we could have P-0822 please? And this is
 5 an e-mail exchange between yourself and Mr.
 6 Thompson.
 7 MS. HENNESSEY:
 8 A. Right.
 9 CHAYTOR, Q.C.:
 10 Q. And I understand this is dated May 19th?
 11 MS. HENNESSEY:
 12 A. Yes.
 13 CHAYTOR, Q.C.:
 14 Q. And it seems to be about deciding what review-
 15 -what type of review would take place, is that
 16 correct?
 17 MS. HENNESSEY:
 18 A. This was some--this was an e-mail exchange on
 19 that topic, that was a Saturday morning, I
 20 believe of the long weekend.
 21 CHAYTOR, Q.C.:
 22 Q. As to whether or not, what type of process,
 23 whether it would be a public inquiry or not,
 24 is what's being discussed?
 25 MS. HENNESSEY:

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1 A. Right, yes.
 2 CHAYTOR, Q.C.:
 3 Q. And so your advice was solicited on that
 4 issue?
 5 MS. HENNESSEY:
 6 A. Yes, my advice was asked on that.
 7 CHAYTOR, Q.C.:
 8 Q. And you're writing to Mr. Thompson and saying
 9 "I think that government needs to take the
 10 time to assess the impacts of the type of
 11 review to be undertaken and the desired
 12 outcomes and not make a decision too quickly
 13 because the opposition is calling for a full
 14 judicial inquiry and some media are focused on
 15 who knew what and when. The care of patients
 16 and restoring confidence in the health system
 17 should be the primary focus of any review."
 18 So, Ms. Hennessey, were you concerned that
 19 there not be focus on what who knew what and
 20 when?
 21 MS. HENNESSEY:
 22 A. I wasn't--from my personal perspective, I
 23 wasn't concerned about that. I was more
 24 concerned ensuring that the focus of the
 25 review was to focus on the patients, on trying

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1 to instill confidence in the health system,
 2 because I had a sense, at that point in time,
 3 that confidence, certainly in this part of the
 4 province, you know, there were some public
 5 concerns about it then.
 6 CHAYTOR, Q.C.:
 7 Q. Yes, and would you agree that in order to be
 8 able to restore confidence in the system, the
 9 public would need to be able to ascertain what
 10 went wrong? Would you agree with that?
 11 MS. HENNESSEY:
 12 A. Yes, and I know that's not included there, and
 13 you did ask me about that in my original
 14 meetings with you, and it was--I put in this
 15 e-mail on a Saturday morning what came readily
 16 to my mind. I guess that point didn't come to
 17 mind. It wasn't the intent to have a review
 18 without, you know, trying to determine what
 19 went wrong.
 20 CHAYTOR, Q.C.:
 21 Q. Because really, how could you restore
 22 confidence -
 23 MS. HENNESSEY:
 24 A. Yeah.
 25 CHAYTOR, Q.C.:

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1 Q. - until you figure out the answer to that
 2 question?
 3 MS. HENNESSEY:
 4 A. Yeah.
 5 CHAYTOR, Q.C.:
 6 Q. If we could look at, please, P-1467? And Ms.
 7 Hennessey, this is an e-mail from Mr.--sorry,
 8 Dr. Hunt, Ed Hunt, to yourself.
 9 MS. HENNESSEY:
 10 A. Right.
 11 CHAYTOR, Q.C.:
 12 Q. And it's Sunday, May 20th, 2007, and he's
 13 prepared a short note highlighting some of the
 14 issues related to breast cancer and the ER/PR
 15 issue, and how did this come about? Why is
 16 Dr. Hunt, at this point in time, forwarding
 17 information to you on the ER/PR issue?
 18 MS. HENNESSEY:
 19 A. At this point in time, Mr. Thompson asked me
 20 to get some information from Dr. Hunt.
 21 CHAYTOR, Q.C.:
 22 Q. Mr. Thompson asked you to do this?
 23 MS. HENNESSEY:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. Okay, and Mr. Thompson in his role as what?

2 MS. HENNESSEY:

3 A. At that point in time, he was the Clerk of the

4 Executive Council.

5 CHAYTOR, Q.C.:

6 Q. And do you think, Ms. Hennessey, that this

7 information or consulting Dr. Hunt on this

8 would have been useful to you earlier in the

9 process?

10 MS. HENNESSEY:

11 A. Yes, Ms. Chaytor, I do agree and I think I've

12 referenced it a couple of times as we've met

13 in the last couple of days. I think it would

14 have been of benefit to me as I moved through

15 this file for the Department to have engaged

16 the physician to work with me on it.

17 CHAYTOR, Q.C.:

18 Q. And when we look down through this, included

19 in the facts and figures that Dr. Hunt has

20 come up with, he shows, and I think this

21 should be ER obviously, ER positive and PR

22 positive, and 71.4 percent being both. ER

23 positive and PR negative will be down to 17.1

24 percent. ER negative and PR positive being

25 the rarest combination -

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1 MS. HENNESSEY:

2 A. Yes.

3 CHAYTOR, Q.C.:

4 Q. - 2.8 percent. ER negative and PR negative at

5 8.7 percent.

6 MS. HENNESSEY:

7 A. Yes.

8 CHAYTOR, Q.C.:

9 Q. So it appears if we add together the first two

10 figures, certainly this would indicate that--

11 if I do the math, I think it's about--or I'm

12 sorry, the first three figures, if we include

13 the PR, would be about 91.3 percent -

14 MS. HENNESSEY:

15 A. Right.

16 CHAYTOR, Q.C.:

17 Q. - of patients would be either ER/PR, ER

18 positive PR positive or both?

19 MS. HENNESSEY:

20 A. Right.

21 CHAYTOR, Q.C.:

22 Q. What was the purpose in getting this

23 information at this point in time?

24 MS. HENNESSEY:

25 A. Mr. Thompson asked me to get some information

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1 from Dr. Hunt and it was during the time when

2 the questions were being prepared for the

3 review.

4 CHAYTOR, Q.C.:

5 Q. But you don't know what the purpose was, why

6 his--it was in trying to decide what kind of

7 review would take place? Is that the context?

8 MS. HENNESSEY:

9 A. I think it had to do with respect to a couple

10 of questions, whether they would be included

11 in the review, but I don't want to sound

12 repetitive, but I did not spend a lot of time.

13 I got this information from Dr. Hunt and I

14 sent it on to Mr. Thompson. At that point in

15 time, I was dealing with a difficult family

16 situation.

17 CHAYTOR, Q.C.:

18 Q. Okay, and then if we could look, please, at P-

19 0888? This is an e-mail exchange between

20 yourself and Ms. Griffiths, May 23rd, and she

21 writes that "the other three regions are still

22 sending their specimens to Mount Sinai until

23 Eastern is ready to accept them. They want to

24 make sure their quality pieces are all intact

25 before accepting out of region specimens."

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1 So this is when, I take it, that you

2 first learn that they weren't actually using

3 St. John's for their ER/PR testing?

4 MS. HENNESSEY:

5 A. Yes, that's correct.

6 CHAYTOR, Q.C.:

7 Q. And we understand there was a conference call

8 the next day involving the other regions, May

9 24th, 2007?

10 MS. HENNESSEY:

11 A. Yes, there was.

12 CHAYTOR, Q.C.:

13 Q. And did you participate in that call?

14 MS. HENNESSEY:

15 A. Yes, I did.

16 CHAYTOR, Q.C.:

17 Q. Okay. What do you recall being discussed?

18 MS. HENNESSEY:

19 A. What I recall about that was a focus on this

20 particular point with respect to whether the

21 ER/PR testing had resumed in St. John's for

22 the other regions. I believe there was

23 somebody--there was certainly somebody on the

24 call from Western and I think there was

25 somebody on the call from Labrador. The call

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1 involved the chief pathologists and the VPs of
 2 Medical Services, and to have a discussion
 3 around that point, and I do recall that there
 4 was some discussion about a provincial policy
 5 related to the specimens, but I don't recall a
 6 lot of details on that. That particular day,
 7 the 24th, I only worked a half day.
 8 CHAYTOR, Q.C.:
 9 Q. I'm sorry?
 10 MS. HENNESSEY:
 11 A. I only worked a half day that day.
 12 CHAYTOR, Q.C.:
 13 Q. Okay.
 14 MS. HENNESSEY:
 15 A. Because my cousin had died the night before.
 16 CHAYTOR, Q.C.:
 17 Q. Okay. So you do recall some discussion around
 18 a provincial, you call a policy or a protocol?
 19 MS. HENNESSEY:
 20 A. Yes.
 21 CHAYTOR, Q.C.:
 22 Q. Was that regarding the tissue specimen and how
 23 the specimen would be -
 24 MS. HENNESSEY:
 25 A. I think it had to do with respect to preparing

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1 the specimens.
 2 CHAYTOR, Q.C.:
 3 Q. Yes.
 4 MS. HENNESSEY:
 5 A. But I don't recall a lot of details around it.
 6 CHAYTOR, Q.C.:
 7 Q. And do you recall there being any concerns
 8 expressed by the people on the call from the
 9 other regions as to any lack of knowledge they
 10 may have had regarding that issue, around the
 11 fixation issue or around any other findings
 12 that came out of Eastern Health's review?
 13 MS. HENNESSEY:
 14 A. I do recall the chief pathologist in Corner
 15 Brook saying that they were--my recall of it
 16 is that they were happy with the service that
 17 was being provided by Mount Sinai and that he
 18 wanted an assurance that they would get a
 19 similar service from St. John's.
 20 CHAYTOR, Q.C.:
 21 Q. Okay, and did you hear anybody express any
 22 concern that this whole issue about needing a
 23 protocol around fixation of the tissue or
 24 preparation of the tissue that they were--this
 25 was new information to them or anything to

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1 that effect?
 2 MS. HENNESSEY:
 3 A. I do recall something about, you know,
 4 establishing a provincial protocol around it.
 5 CHAYTOR, Q.C.:
 6 Q. And did that appear to be new information to
 7 any one on the call, that this would be
 8 required or that there was any concern around
 9 the protocol already in place in those regions
 10 as to how they were fixing specimens?
 11 MS. HENNESSEY:
 12 A. Ms. Chaytor, I don't recall specifics around
 13 that point.
 14 CHAYTOR, Q.C.:
 15 Q. Ms. Hennessey, the Dr. Ejeckam June 2003 memo
 16 -
 17 MS. HENNESSEY:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. - is forwarded to the Department on May 24th
 21 or 25th 2007.
 22 MS. HENNESSEY:
 23 A. Right.
 24 CHAYTOR, Q.C.:
 25 Q. Were you aware that happened?

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1 MS. HENNESSEY:
 2 A. I received a copy of that information on the
 3 31st of May.
 4 CHAYTOR, Q.C.:
 5 Q. And who gave you a copy?
 6 MS. HENNESSEY:
 7 A. I believe it came down from Mr. Abbott's
 8 office.
 9 CHAYTOR, Q.C.:
 10 Q. And do you know the circumstances by which
 11 that information came to be forwarded to the
 12 Department?
 13 MS. HENNESSEY:
 14 A. No, I don't.
 15 CHAYTOR, Q.C.:
 16 Q. And why would you receive a copy of that?
 17 MS. HENNESSEY:
 18 A. I think it was just given to me for my files.
 19 CHAYTOR, Q.C.:
 20 Q. Was there any cover note or explanation
 21 attached to it?
 22 MS. HENNESSEY:
 23 A. No, I seem to recall that it had a fax sheet
 24 on it from Eastern Health, but other than
 25 that.

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1 CHAYTOR, Q.C.:

2 Q. Okay, and did you read the material?

3 MS. HENNESSEY:

4 A. I did read the material.

5 CHAYTOR, Q.C.:

6 Q. Okay.

7 MS. HENNESSEY:

8 A. Some of it I understood; some of it I didn't

9 understand.

10 CHAYTOR, Q.C.:

11 Q. And did you have any discussions with anyone

12 around it, about this?

13 MS. HENNESSEY:

14 A. I don't remember having a discussion on this.

15 CHAYTOR, Q.C.:

16 Q. Do you have any knowledge as to how that

17 information ended up then in the hands of the

18 Premier?

19 MS. HENNESSEY:

20 A. No, I don't.

21 CHAYTOR, Q.C.:

22 Q. Were you asked to disseminate the information

23 to anyone else?

24 MS. HENNESSEY:

25 A. No, I was not asked to disseminate it.

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1 CHAYTOR, Q.C.:

2 Q. Were you asked to make any inquiries of

3 Eastern Health about the information?

4 MS. HENNESSEY:

5 A. No, I wasn't.

6 CHAYTOR, Q.C.:

7 Q. So the Deputy Minister, you believe it was the

8 Deputy Minister who provided you with a copy?

9 MS. HENNESSEY:

10 A. Yeah, I think the fax sheet, you know,

11 indicated it had been received by his office.

12 CHAYTOR, Q.C.:

13 Q. And it ended up being forwarded to you?

14 MS. HENNESSEY:

15 A. And there was a copy sent down to me, yes.

16 CHAYTOR, Q.C.:

17 Q. Without any explanation or discussion around

18 it?

19 MS. HENNESSEY:

20 A. That's right.

21 CHAYTOR, Q.C.:

22 Q. And prior to reading that memo, had you ever

23 been aware that there was an issue with IHC

24 dating back to 2003?

25 MS. HENNESSEY:

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1 A. I was not aware of an issue.

2 CHAYTOR, Q.C.:

3 Q. Other than what you would have read in the

4 July 20th, 2005 briefing note?

5 MS. HENNESSEY:

6 A. That's right.

7 CHAYTOR, Q.C.:

8 Q. You would have been aware of it from that?

9 MS. HENNESSEY:

10 A. I would have been aware of that there was--

11 that Doctor--in that briefing note, there was

12 some information that Dr. Williams was

13 following up on.

14 CHAYTOR, Q.C.:

15 Q. Yes, and that briefing note was not given

16 directly to you by Eastern Health. That was

17 something that you weren't in the July 21st

18 2005 meeting?

19 MS. HENNESSEY:

20 A. No, I wasn't.

21 CHAYTOR, Q.C.:

22 Q. Okay, and in all your conversations with

23 personnel from Eastern Health in drafting the

24 briefing notes that we've looked through over

25 the past couple of days, in all your

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1 discussions, conversations and interactions

2 with personnel from Eastern Health on this

3 file, did anyone ever mention the 2003 issue

4 to you?

5 MS. HENNESSEY:

6 A. I do not remember being in any discussions on

7 it.

8 CHAYTOR, Q.C.:

9 Q. And do you think that's something you would

10 recall?

11 MS. HENNESSEY:

12 A. I would be inclined to think I would recall

13 it.

14 CHAYTOR, Q.C.:

15 Q. Ms. Hennessey, in terms of the communications

16 to patients and notification to patients -

17 MS. HENNESSEY:

18 A. Yes.

19 CHAYTOR, Q.C.:

20 Q. - throughout this whole piece, did you have

21 any concerns throughout the process as to

22 whether, in fact, Eastern Health had notified

23 all patients?

24 MS. HENNESSEY:

25 A. I did have some concerns. I think there was

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1 points in the filed where I wasn't clear
 2 whether all the patients had been notified,
 3 and I certainly would have been, I think,
 4 cognizant of the fact that there had been some
 5 media coverage on it.
 6 CHAYTOR, Q.C.:
 7 Q. And so you would have been hearing accounts in
 8 the media of patients coming forward saying
 9 they hadn't been contacted?
 10 MS. HENNESSEY:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. Okay, and were you aware, at the same time,
 14 that the Minister was repeatedly stating that
 15 all patients had been notified?
 16 MS. HENNESSEY:
 17 A. Ms. Chaytor, whether I was aware that the
 18 Minister was stating that, I may have been, I
 19 may not have been.
 20 CHAYTOR, Q.C.:
 21 Q. So I take it any concern or misgivings you had
 22 about whether or not all patients had been
 23 notified, you didn't have a discussion with
 24 the Minister around that point?
 25 MS. HENNESSEY:

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1 A. I don't recall being in any discussions with
 2 the Minister, you know, post late in May on
 3 this file.
 4 CHAYTOR, Q.C.:
 5 Q. And Mr. Abbott has also told us that he was
 6 under the strong impression, I believe were
 7 the words that he used, strong impression that
 8 all the patients had been notified.
 9 MS. HENNESSEY:
 10 A. Right.
 11 CHAYTOR, Q.C.:
 12 Q. That he too was of that impression, and -
 13 MS. HENNESSEY:
 14 A. I mean, that was certainly the information
 15 that was--I think continued to be shared with
 16 us by Eastern Health at the time.
 17 CHAYTOR, Q.C.:
 18 Q. And were you relaying that information to Mr.
 19 Abbott and the Minister that all patients had
 20 been contacted?
 21 MS. HENNESSEY:
 22 A. Was I relaying it to the Minister?
 23 CHAYTOR, Q.C.:
 24 Q. Yes, and to Mr. Abbott, is that the
 25 information that you were relaying?

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1 MS. HENNESSEY:
 2 A. I don't recall being in a discussion with the
 3 Minister on that particular point at that
 4 time.
 5 CHAYTOR, Q.C.:
 6 Q. So other than relaying it through the briefing
 7 notes?
 8 MS. HENNESSEY:
 9 A. That's right.
 10 CHAYTOR, Q.C.:
 11 Q. That's how that would have been communicated?
 12 MS. HENNESSEY:
 13 A. Yeah, I mean, we were--I think the briefing
 14 notes indicate that based on the--that either
 15 the patients or--in fact, I think our press
 16 release indicated that the patients or their
 17 family--that all the patients or their family
 18 physicians had been notified.
 19 CHAYTOR, Q.C.:
 20 Q. And who at Eastern Health was giving you those
 21 assurances, that all patients had been
 22 contacted?
 23 MS. HENNESSEY:
 24 A. At that point in time, it would have been--I
 25 would think it would have been one of the

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1 senior staff at Eastern Health.
 2 CHAYTOR, Q.C.:
 3 Q. And who would they be? Who were you
 4 discussing this issue with?
 5 MS. HENNESSEY:
 6 A. Well, I think the discussions around this time
 7 were with either Ms. Pilgrim or Dr. Howell.
 8 CHAYTOR, Q.C.:
 9 Q. And when you would hear in the media, reports
 10 to the contrary, those patients coming
 11 forward, did you phone Eastern Health? Did
 12 you contact them and ask them to explain how
 13 that could be?
 14 MS. HENNESSEY:
 15 A. I don't remember if I--myself phoning Eastern
 16 Health on that.
 17 CHAYTOR, Q.C.:
 18 Q. Do you remember anybody contacting Eastern
 19 Health to inquire why there would be patients
 20 saying that they hadn't been contacted when
 21 you had been assured that they had been?
 22 MS. HENNESSEY:
 23 A. I don't recall, Ms. Chaytor.
 24 CHAYTOR, Q.C.:
 25 Q. If we could look, please, at P-0033, sorry,

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1 0233?
 2 THE COMMISSIONER:
 3 Q. We'll take the luncheon break after -
 4 CHAYTOR, Q.C.:
 5 Q. Okay, I'm almost done, Commissioner.
 6 THE COMMISSIONER:
 7 Q. Okay.
 8 CHAYTOR, Q.C.:
 9 Q. Ms. Hennessey, you are one of the recipients
 10 of this e-mail from Mr. Thompson?
 11 MS. HENNESSEY:
 12 A. Right.
 13 CHAYTOR, Q.C.:
 14 Q. And it's dated, we understand this date is
 15 June 7th, 2007.
 16 MS. HENNESSEY:
 17 A. Yeah.
 18 CHAYTOR, Q.C.:
 19 Q. Subject ER/PR, and he has had discussions with
 20 George Tilley and Heather Predham at this
 21 point in time, the key question being whether
 22 Eastern Health's statements that all patients
 23 were contacted in October 2005 is accurate,
 24 and he says "the short answer is that every
 25 patient who they had identified for retesting

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1 by October 2005 was contacted by telephone at
 2 that time. The long answer is that Eastern
 3 Health was reasonably confident at that time
 4 that it had identified everyone in the
 5 province that needed retesting," and then the
 6 long answer goes on from there.
 7 So I take it you were aware, certainly by
 8 this point in time, that there were misgivings
 9 that all the patients hadn't been contacted?
 10 MS. HENNESSEY:
 11 A. Yes, I would have been aware then.
 12 CHAYTOR, Q.C.:
 13 Q. And those misgivings which you had perhaps
 14 formed earlier are being shared by others at
 15 this point in time?
 16 MS. HENNESSEY:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. Thank you, Commissioner.
 20 THE COMMISSIONER:
 21 Q. Do you want to give me an estimate as to how
 22 long we'll need?
 23 CHAYTOR, Q.C.:
 24 Q. I have -
 25 THE COMMISSIONER:

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1 Q. Just in terms of lining people up, if we need
 2 people this afternoon.
 3 CHAYTOR, Q.C.:
 4 Q. Yes. Apart from my overall asking the witness
 5 what she may want to share, I have five
 6 questions.
 7 THE COMMISSIONER:
 8 Q. Okay. Mr. Simmons, do you want to give me an
 9 estimate?
 10 MR. SIMMONS:
 11 Q. Probably 15 to 20 minutes, Commissioner.
 12 THE COMMISSIONER:
 13 Q. All right.
 14 MS. HENNEBURY:
 15 Q. Jane Hennebury, Commissioner. I don't believe
 16 I'll have any questions.
 17 THE COMMISSIONER:
 18 Q. All right. Yes, Ms. O'Dea. I'm sorry, I have
 19 this trouble skipping back and forth.
 20 MS. O'DEA:
 21 Q. We have no questions, Commissioner.
 22 THE COMMISSIONER:
 23 Q. Ms. Newbury?
 24 MS. NEWBURY:
 25 Q. I don't think I'll have any questions.

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1 THE COMMISSIONER:
 2 Q. Ms. Russell?
 3 MS. RUSSELL:
 4 Q. We don't have any questions either.
 5 THE COMMISSIONER:
 6 Q. All right.
 7 MR. PRITCHARD:
 8 Q. Perhaps half an hour, Commissioner.
 9 THE COMMISSIONER:
 10 Q. All right, we can judge ourselves accordingly,
 11 in terms of the next witness then. Thank you.
 12 We'll adjourn until 2:15.
 13 (LUNCH BREAK)
 14 THE COMMISSIONER:
 15 Q. Please be seated. Ms. Chaytor.
 16 CHAYTOR, Q.C.:
 17 Q. Thank you. Good afternoon, Ms. Hennessey.
 18 MS. HENNESSEY:
 19 A. Good afternoon.
 20 CHAYTOR, Q.C.:
 21 Q. When we broke, Ms. Hennessey, I was asking you
 22 about the contacting of all patients and your
 23 knowledge as to whether or not all patients
 24 had been contacted, and the source of that
 25 information. If we could look, please, at P-

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1 0235? This is an e-mail between Mr. Thompson-
 2 -from, sorry, Mr. Thompson to Mr. Wiseman,
 3 June 11th--actually, yes, June 11th or
 4 actually I think it might be November 6th,
 5 2007, this one, "regarding what the Department
 6 knew in the months after October 2005, I can
 7 confirm that we knew the following about the
 8 number of retests based on briefing notes, I
 9 have not yet seen the Eastern Health briefing
 10 material." And then he outlines certain dates
 11 with certain numbers. "From this information,
 12 we can conclude that we had corporate memory
 13 that the 763 living patients could not have
 14 all been called in October 2005." So at this
 15 point in time, Mr. Thompson has reviewed the
 16 briefing notes and is able to determine that
 17 all patients could not have been contacted in
 18 October 2005. Did Mr. Thompson bring this to
 19 your attention?
 20 MS. HENNESSEY:
 21 A. I have seen this e-mail before.
 22 CHAYTOR, Q.C.:
 23 Q. And how did you come to know about this e-
 24 mail?
 25 MS. HENNESSEY:

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1 A. Mr. Thompson, I believe, discussed this with
 2 me.
 3 CHAYTOR, Q.C.:
 4 Q. So he did discuss this with you?
 5 MS. HENNESSEY:
 6 A. Yes.
 7 CHAYTOR, Q.C.:
 8 Q. Okay, and what did you and Mr. Thompson
 9 discuss?
 10 MS. HENNESSEY:
 11 A. At that point in time, that there continued to
 12 be a concern within the Department that not
 13 all the patients had been contacted.
 14 CHAYTOR, Q.C.:
 15 Q. And you would have been either the drafter or
 16 approver of most, if not all, of the briefing
 17 notes in question in which this information
 18 would have been obtained. Is that correct?
 19 MS. HENNESSEY:
 20 A. Yes, I would have been involved in most of
 21 this.
 22 CHAYTOR, Q.C.:
 23 Q. So while you were of the understanding that
 24 all patients had been contacted and you were
 25 giving that assurance to the Minister, through

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1 the briefing notes, did you ever check the
 2 briefing notes to see what information was
 3 actually contained in the notes and in the
 4 previous notes?
 5 MS. HENNESSEY:
 6 A. I did not go back through all of the notes
 7 that had been prepared during the time.
 8 CHAYTOR, Q.C.:
 9 Q. So this analysis of the briefing notes that
 10 Mr. Thompson has completed here, you didn't do
 11 that?
 12 MS. HENNESSEY:
 13 A. I didn't do a similar analysis.
 14 CHAYTOR, Q.C.:
 15 Q. And you didn't do that even though you were
 16 hearing conflicting reports in the media from
 17 patients saying they hadn't been contacted?
 18 MS. HENNESSEY:
 19 A. I didn't pursue this like Mr. Thompson did at
 20 the time.
 21 CHAYTOR, Q.C.:
 22 Q. Why didn't you think to do that at the time?
 23 MS. HENNESSEY:
 24 A. Ms. Chaytor, I guess, as I've said before, I
 25 have a number of files that I'm trying to

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1 manage. For every file that I have, I don't
 2 have a lot of time to commit to every file. I
 3 mean, I can look back now and think, yes,
 4 there are times this file should have been
 5 handled differently and that there should have
 6 been more comprehensive analysis done by the
 7 Department to keep better track, yes, but as
 8 we moved through the file, the file is an
 9 operational matter for Eastern Health and we
 10 certainly relied on the information that was
 11 being provided to us.
 12 CHAYTOR, Q.C.:
 13 Q. If we could look at 0958, please? This is
 14 another e-mail exchange and this time it's
 15 between yourself and Mr. Thompson.
 16 MS. HENNESSEY:
 17 A. Right.
 18 CHAYTOR, Q.C.:
 19 Q. And you're advising Mr. Thompson that you've
 20 received a call from Ms. Pilgrim expressing
 21 concern that a number of people in the
 22 Department are contacting various people at
 23 Eastern Health on this issue.
 24 MS. HENNESSEY:
 25 A. Right.

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1 CHAYTOR, Q.C.:

2 Q. What was Ms. Pilgrim's concern?

3 MS. HENNESSEY:

4 A. I think the only concern that Ms. Pilgrim had

5 was that there was a number of people making

6 contacts at different points at Eastern Health

7 and that, you know, everyone may not have had

8 current information on the file and she wanted

9 to ensure that the Department was getting its

10 information from one of two sources.

11 CHAYTOR, Q.C.:

12 Q. Okay, and you indicated that the two key

13 people, two key contacts for the Department's

14 point of view, you were suggesting would be

15 Bev Griffiths and Cathi Bradbury?

16 MS. HENNESSEY:

17 A. Yes.

18 CHAYTOR, Q.C.:

19 Q. And why did you choose those two individuals?

20 MS. HENNESSEY:

21 A. Well, Bev Griffiths is the regional consultant

22 responsible for Eastern Health, and at this

23 point in time, Cathi Bradbury would--this

24 would have been based on a discussion--I'm

25 just trying to think now. Maybe I'm a little

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1 bit confused at this point. I think at this

2 point in time, I felt it was worthwhile for a

3 physician to be assisting us.

4 CHAYTOR, Q.C.:

5 Q. Okay, and of course, you say that wouldn't

6 preclude yourself or Mr. Thompson or -

7 MS. HENNESSEY:

8 A. Right.

9 CHAYTOR, Q.C.:

10 Q. - Tansy Mundon from calling as needed.

11 MS. HENNESSEY:

12 A. Yes, as needed.

13 CHAYTOR, Q.C.:

14 Q. Okay, and Ms. Pilgrim's suggestion to

15 streamline the number of contacts -

16 MS. HENNESSEY:

17 A. Yeah.

18 CHAYTOR, Q.C.:

19 Q. - and the avenues of contact, did you view

20 that as a good suggestion?

21 MS. HENNESSEY:

22 A. Yes, I did view that as a good suggestion

23 because, as I've said at different points

24 during my testimony, there were a number of

25 people from the Department and from Eastern

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1 Health engaged in it and when I look back now,

2 it perhaps would have been helpful if we had

3 put, I don't know if I'd call it a small

4 working group or whatever I would call it so

5 that we would have been able to have more

6 regular meetings with Eastern Health as we

7 moved through the file.

8 CHAYTOR, Q.C.:

9 Q. Okay, and so perhaps the suggestion of

10 streamlining the communication and appointing

11 a couple of key contact people, that would

12 have been a good thing to have been doing

13 throughout the issue?

14 MS. HENNESSEY:

15 A. Yes, that would be my view.

16 CHAYTOR, Q.C.:

17 Q. And if a working group, as you suggest, had

18 been set up, that working group could have

19 management of the issue and be in more regular

20 contact on the issue?

21 MS. HENNESSEY:

22 A. Yes, when I look back now, I mean, as far as I

23 can recall, this was the first situation that

24 I was involved in that involved adverse

25 patient outcomes and we probably--if we had

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1 worked more closely together, I think, you

2 know, in a more structured way, we would have,

3 I think, had a better understanding of where

4 each of us was coming from on the file, and be

5 able to perhaps do a better analysis as we

6 moved forward.

7 CHAYTOR, Q.C.:

8 Q. Okay, and on that point, this being your first

9 time you were involved in something with, I

10 think you said, adverse patient outcomes -

11 MS. HENNESSEY:

12 A. Yes.

13 CHAYTOR, Q.C.:

14 Q. - were you involved in the gynecological

15 sterilization issue that arose in Labrador?

16 Were you involved in that issue?

17 MS. HENNESSEY:

18 A. Yes, I was.

19 CHAYTOR, Q.C.:

20 Q. Okay, and at what stage of that issue was the

21 Department notified?

22 MS. HENNESSEY:

23 A. Ms. Chaytor, my memory doesn't serve me well

24 on that.

25 CHAYTOR, Q.C.:

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1 Q. Had the patients already been notified when
 2 the Department was first advised of the issue?
 3 MS. HENNESSEY:
 4 A. I don't remember.
 5 CHAYTOR, Q.C.:
 6 Q. You don't remember?
 7 MS. HENNESSEY:
 8 A. No, I don't remember on that file.
 9 CHAYTOR, Q.C.:
 10 Q. Do you know whether or not the Department then
 11 had any input into the notification of the
 12 patients on that issue?
 13 MS. HENNESSEY:
 14 A. I think the notification was done by the
 15 Labrador Board.
 16 CHAYTOR, Q.C.:
 17 Q. Yes, but do you know whether or not the
 18 Department was consulted as to when to notify
 19 and how to notify the patients?
 20 MS. HENNESSEY:
 21 A. Ms. Chaytor, I just don't remember the details
 22 on this file. It's a number of years ago.
 23 CHAYTOR, Q.C.:
 24 Q. Was that case, the Labrador case, referenced
 25 at all in any discussions regarding the ER/PR

Page 230

1 issue?
 2 MS. HENNESSEY:
 3 A. I don't recall it coming up during the ER/PR
 4 issue.
 5 CHAYTOR, Q.C.:
 6 Q. And was it--do you recall it ever being
 7 discussed with anyone in terms of how to
 8 handle the patient notification on the ER/PR
 9 issue, in terms of the lessons learned from
 10 that situation? Do you recall any discussion
 11 around that?
 12 MS. HENNESSEY:
 13 A. No, I don't recall any discussion on it.
 14 CHAYTOR, Q.C.:
 15 Q. So whatever the Department knew or didn't know
 16 on that issue and how that was handled -
 17 MS. HENNESSEY:
 18 A. Yeah.
 19 CHAYTOR, Q.C.:
 20 Q. - that wasn't used as a learning experience on
 21 the ER/PR issue?
 22 MS. HENNESSEY:
 23 A. No, when we moved into the ER/PR issue, I
 24 don't recall, you know, focusing back on the
 25 issue in Labrador City.

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1 CHAYTOR, Q.C.:
 2 Q. And so no discussion around, well, we had an
 3 issue which involved notification of numerous
 4 patients -
 5 MS. HENNESSEY:
 6 A. Yeah.
 7 CHAYTOR, Q.C.:
 8 Q. - only, you know--I appreciate now you're
 9 saying it's some years before, but as of July
 10 2005, it would have been a fairly current
 11 case.
 12 MS. HENNESSEY:
 13 A. Right.
 14 CHAYTOR, Q.C.:
 15 Q. And nobody discussed, well, here's how we
 16 handled it in that case and perhaps here's
 17 how--some lessons we can learn from that?
 18 That didn't get discussed?
 19 MS. HENNESSEY:
 20 A. There was no discussion, to the best of my
 21 recall.
 22 CHAYTOR, Q.C.:
 23 Q. And you were though involved in both issues?
 24 MS. HENNESSEY:
 25 A. I was involved, yes.

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1 CHAYTOR, Q.C.:
 2 Q. And you never raised that issue with anybody,
 3 the Labrador case?
 4 MS. HENNESSEY:
 5 A. I don't recall any discussion on the Labrador
 6 case as we moved through the ER/PR file.
 7 CHAYTOR, Q.C.:
 8 Q. And why not, Ms. Hennessey? Did you see any
 9 similarities in terms of it being numerous
 10 patients involved? Why wouldn't that case
 11 have come to mind?
 12 MS. HENNESSEY:
 13 A. It didn't--in the context of this one, I
 14 don't--I didn't recall that one.
 15 CHAYTOR, Q.C.:
 16 Q. And as of July 2005, was that case still
 17 ongoing, the Labrador case?
 18 MS. HENNESSEY:
 19 A. Ms. Chaytor, I don't recall.
 20 CHAYTOR, Q.C.:
 21 Q. If we could look at P-0240, please? Ms.
 22 Hennessey, this is an e-mail exchange
 23 involving yourself and Elizabeth Matthews, and
 24 perhaps you can tell us what this is about?
 25 It's July 19th, 2007. It appears, you write

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1 "Elizabeth, we have contacted the other
 2 jurisdictions and are having difficulty
 3 getting a comprehensive picture. Currently,
 4 we have information on the total population
 5 and number of health boards in six provinces.
 6 We have not been able to get budget
 7 information from any jurisdiction. Do you
 8 wish to receive what we have at this point in
 9 time?" What was being requested?
 10 MS. HENNESSEY:
 11 A. This was on the structure of the health boards
 12 in other jurisdictions in the country.
 13 CHAYTOR, Q.C.:
 14 Q. Okay. So what had you been asked to find out?
 15 MS. HENNESSEY:
 16 A. I had been asked to get some information on
 17 the--for some of the--well, I think we tried
 18 to get it from a number of jurisdictions on
 19 the number of health boards and the population
 20 served.
 21 CHAYTOR, Q.C.:
 22 Q. And what was the purpose of that information?
 23 MS. HENNESSEY:
 24 A. I had been--when I look at the e-mail, there
 25 must have been some discussion on an open-line

Page 234

1 show with respect to the restructuring of the
 2 health boards in the province.
 3 CHAYTOR, Q.C.:
 4 Q. Okay. There's reference here about the Open
 5 Line host, Randy Simms, commenting, and so you
 6 were contacted then by Elizabeth Matthews?
 7 MS. HENNESSEY:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. Director of Communications for the Premier's
 11 office, to gather information from other
 12 jurisdictions as to the size of boards, the
 13 population, number of population -
 14 MS. HENNESSEY:
 15 A. The number of people served, yes.
 16 CHAYTOR, Q.C.:
 17 Q. Okay, and the e-mail exchange that we have
 18 here ends with Ms. Matthews telling you "the
 19 total population and number of boards for six
 20 provinces will be helpful for sure. Really, I
 21 just want to get a sense of some other
 22 jurisdictions." So what were you ultimately
 23 able to tell Ms. Matthews?
 24 MS. HENNESSEY:
 25 A. We prepared some information for Ms. Matthews

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1 at the time, with respect to some of the
 2 jurisdictions on the number of health boards
 3 and the population, and it did vary across the
 4 country.
 5 CHAYTOR, Q.C.:
 6 Q. Okay, and you were able to get that
 7 information for six provinces?
 8 MS. HENNESSEY:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. And how did Eastern Health, the size of
 12 Eastern Health, compare to the information you
 13 obtained from other provinces?
 14 MS. HENNESSEY:
 15 A. With respect to the size of Eastern Health?
 16 CHAYTOR, Q.C.:
 17 Q. Yes, in terms of the total population served.
 18 MS. HENNESSEY:
 19 A. I don't think that the total population served
 20 by Eastern Health was--you know, in some of
 21 the other jurisdictions, the population was
 22 larger.
 23 CHAYTOR, Q.C.:
 24 Q. And so was there any conclusion that you were
 25 able to reach from the survey of information?

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1 MS. HENNESSEY:
 2 A. The information was just--it was general
 3 information that we gathered.
 4 CHAYTOR, Q.C.:
 5 Q. So you found some that had a larger population
 6 base?
 7 MS. HENNESSEY:
 8 A. Right.
 9 CHAYTOR, Q.C.:
 10 Q. And some that had a lower population base, I
 11 take it?
 12 MS. HENNESSEY:
 13 A. Yeah. I mean, I know in some of the larger
 14 jurisdictions, like out in British Columbia
 15 and Alberta, and I believe the Capital Health
 16 Region in Nova Scotia, they were a larger
 17 population served by the regional health
 18 authorities.
 19 CHAYTOR, Q.C.:
 20 Q. And did they also include long-term care and
 21 other types of care apart from acute care?
 22 MS. HENNESSEY:
 23 A. The board structure in the various
 24 jurisdictions does differ.
 25 CHAYTOR, Q.C.:

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1 Q. Okay, and did it also include rural and urban
 2 populations in the other jurisdictions?
 3 MS. HENNESSEY:
 4 A. The information that we got, I don't think it
 5 was specific with respect to rural and urban.
 6 CHAYTOR, Q.C.:
 7 Q. Okay, it was just -
 8 MS. HENNESSEY:
 9 A. I think there was -
 10 CHAYTOR, Q.C.:
 11 Q. - according to population?
 12 MS. HENNESSEY:
 13 A. Yeah, the ones that I can recall were part of
 14 it were, I think, urban areas, but I can't say
 15 that for sure. I would have to go back and
 16 look at the information.
 17 CHAYTOR, Q.C.:
 18 Q. And Ms. Hennessey, this information you say
 19 came about as a result of a question raised on
 20 Open Line.
 21 MS. HENNESSEY:
 22 A. Right.
 23 CHAYTOR, Q.C.:
 24 Q. In your experience, and you've been a
 25 government employee for quite some time now,

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1 do Open Line shows have any influence on
 2 government's operations or policy?
 3 MS. HENNESSEY:
 4 A. I think the Government uses a number of
 5 avenues to assist with making decisions around
 6 particular issues. I mean, we do do
 7 stakeholder consultations on various issues.
 8 The Government does meet with advocacy groups.
 9 The Government, you know, listens to the views
 10 of the regional health authorities. I mean,
 11 there is some monitoring of open-line shows by
 12 the government, but I do not recall being in
 13 any discussions with respect to ER/PR, any
 14 decisions made based on open-line shows.
 15 CHAYTOR, Q.C.:
 16 Q. Okay, and what's the purpose of monitoring the
 17 open-line shows?
 18 MS. HENNESSEY:
 19 A. I think it's just one avenue that the
 20 government uses to get some input from the
 21 general public.
 22 CHAYTOR, Q.C.:
 23 Q. Okay, and Ms. Hennessey, looking back on the
 24 ER/PR issue, and I appreciate that it's with
 25 the benefit of hindsight, and you've already

Page 239

1 indicated there's certain things that perhaps
 2 could have been handled differently, is there
 3 anything else, in your opinion, that could
 4 have perhaps been done differently and better?
 5 MS. HENNESSEY:
 6 A. I think we spoke about the need to have some
 7 staff assigned to the issue. As I said,
 8 there's been a number of staff in the
 9 Department and a number of staff at Eastern
 10 Health engaged in the file. I think if we
 11 had, you know, a couple of people in the
 12 Department handling what, you know, events
 13 that have adverse patient outcomes that we
 14 would be better positioned to advise the
 15 Deputy Minister and the Minister on these
 16 issues. As I've said during my testimony,
 17 this is one of many files that I managed
 18 during this two-year time period, and it's one
 19 that I was only able to give so much attention
 20 to.
 21 CHAYTOR, Q.C.:
 22 Q. Okay. So having a couple of staff assigned
 23 specifically to deal with an issue of this
 24 magnitude?
 25 MS. HENNESSEY:

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1 A. I mean, I think it would also be important,
 2 perhaps, to, you know, seek the views of the
 3 consumer advocacy groups with respect to
 4 providing some views on whether the needs of
 5 the patients or clients are being addressed as
 6 we move through.
 7 CHAYTOR, Q.C.:
 8 Q. So people like the Canadian Cancer Society,
 9 for example?
 10 MS. HENNESSEY:
 11 A. That certainly would have been an option on
 12 this. Now, I do believe that, or I understand
 13 that Eastern Health did provide some updates
 14 to the Canadian Cancer Society.
 15 CHAYTOR, Q.C.:
 16 Q. And who told you that?
 17 MS. HENNESSEY:
 18 A. I seem to recall being aware that Dr. Williams
 19 did provide some updates.
 20 CHAYTOR, Q.C.:
 21 Q. Okay. And did the department ever make
 22 contact with the Cancer Society on this issue?
 23 MS. HENNESSEY:
 24 A. I wasn't involved in any discussions with the
 25 Cancer Society.

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1 CHAYTOR, Q.C.:

2 Q. Yes. And to -

3 MS. HENNESSEY:

4 A. I believe there may have been a contact.

5 CHAYTOR, Q.C.:

6 Q. You believe there may have been?

7 MS. HENNESSEY:

8 A. Yes.

9 CHAYTOR, Q.C.:

10 Q. Okay. And who made that contact, to your

11 knowledge?

12 MS. HENNESSEY:

13 A. I think there may have been a contact back in

14 2005, so it would have been during Minister

15 Ottenheimer's time. I'm not sure whether

16 there was any further--I don't recall being

17 aware with Minister Osborne or Minister

18 Wiseman, but there may have been contact that

19 I wouldn't have been aware of.

20 CHAYTOR, Q.C.:

21 Q. Okay. But you do remember a contact back in

22 Minister Ottenheimer's day?

23 MS. HENNESSEY:

24 A. I seem to recall that there was a contact.

25 CHAYTOR, Q.C.:

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1 Q. Okay. And what do you recall about that

2 contact, who made it and what was the nature

3 of the contact?

4 MS. HENNESSEY:

5 A. Ms. Chaytor, I wasn't involved directly in it.

6 CHAYTOR, Q.C.:

7 Q. Yes, I'm just wondering what you know about

8 it, though.

9 MS. HENNESSEY:

10 A. Yeah. I don't know anything. I do seem to

11 recall that there was contact made with Mr.

12 Dawe.

13 CHAYTOR, Q.C.:

14 Q. Yes. And who made the contact?

15 MS. HENNESSEY:

16 A. I don't know whether it was the minister or

17 the deputy minister. I didn't make the

18 contact with Mr. Dawe.

19 CHAYTOR, Q.C.:

20 Q. Okay. And what did you understand was the

21 nature of the contact?

22 MS. HENNESSEY:

23 A. I wasn't involved in any discussion, but I

24 would think that the contact would be to just

25 have some discussion with Mr. Dawe on the

Page 243

1 topic and to perhaps hear the views of the

2 Cancer Society with respect to this issue.

3 CHAYTOR, Q.C.:

4 Q. Okay. Do you recall any discussion about

5 concern about anything Mr. Dawe may be saying

6 in the media around the issue?

7 MS. HENNESSEY:

8 A. I don't recall. I wouldn't have been involved

9 directly in it.

10 CHAYTOR, Q.C.:

11 Q. No, I understand you weren't involved directly

12 in it, but whether or not you remember

13 anything being discussed along those lines,

14 that there was concerns about what Mr. Dawe

15 may be saying to the news media?

16 MS. HENNESSEY:

17 A. Yeah.

18 CHAYTOR, Q.C.:

19 Q. Do you recall that being discussed in the

20 department?

21 MS. HENNESSEY:

22 A. I don't recall being in a discussion on it. I

23 seem to recall that Mr. Dawe was in for a

24 meeting on it.

25 CHAYTOR, Q.C.:

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1 Q. But you don't--my question being whether or

2 not there was concern in the department about

3 what Mr. Dawe may be saying about the issue.

4 Do you recall any discussion about that in the

5 media--I'm sorry, in the department.

6 MS. HENNESSEY:

7 A. I wasn't involved in any discussion with the

8 minister or the deputy minister.

9 CHAYTOR, Q.C.:

10 Q. No, and I understand -

11 MS. HENNESSEY:

12 A. But I do seem to remember that there was a

13 discussion with Mr. Dawe.

14 CHAYTOR, Q.C.:

15 Q. And was it about concerns as to what Mr. Dawe

16 was saying in the media around the ER/PR

17 issue?

18 MS. HENNESSEY:

19 A. I don't have a specific recall around that.

20 CHAYTOR, Q.C.:

21 Q. Okay. Do you have any recollection of that?

22 MS. HENNESSEY:

23 A. No. I seem to, you know, vaguely remember

24 that there was some interaction on it, but I

25 don't recall the context, sorry.

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1 CHAYTOR, Q.C.:

2 Q. And then my general question as to whether

3 there's anything else in your opinion that

4 perhaps would have been, you know, some

5 suggestions on a go-forward basis or advice to

6 the Commissioner, anything, you've had a long

7 career in government and I'm just wondering if

8 there's anything else on hindsight could have

9 been done differently with -

10 MS. HENNESSEY:

11 A. I think the other -

12 CHAYTOR, Q.C.:

13 Q. - respect to the issue?

14 MS. HENNESSEY:

15 A. - point that I did make through my testimony

16 is that it certainly would have been of great

17 assistance to me if there had been a physician

18 working with me on this file.

19 CHAYTOR, Q.C.:

20 Q. Okay. Now, Ms. Hennessey, I know we've been

21 at this for quite some time and I do

22 appreciate your assistance. And I just want

23 to ask you, though, if there's anything else

24 that I haven't asked of you but knowledge that

25 you have that you think would be important for

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1 the Commissioner to know with respect to this

2 issue as we move through this process, is

3 there anything else I haven't covered with you

4 or any other information that you have that

5 should be shared?

6 MS. HENNESSEY:

7 A. Ms. Chaytor, I can't think of anything right

8 now, but I'll certainly, you know, let Mr.

9 Pritchard know if there's some additional

10 information that would be of benefit to you or

11 the Commissioner as the Inquiry proceeds.

12 CHAYTOR, Q.C.:

13 Q. Okay. And is there anything else then now

14 before I conclude that you would like to say?

15 Is there anything else that -

16 MS. HENNESSEY:

17 A. I don't know--with respect to a comment?

18 CHAYTOR, Q.C.:

19 Q. With respect to anything, anything else that I

20 haven't covered with you, if there's anything

21 else, by all means, it's--you're welcome to

22 share anything else that you may wish to say.

23 MS. HENNESSEY:

24 A. Yeah. I guess the only other comment that I

25 would make that, I mean, regrettably this has

Page 247

1 been an unfortunate situation, that there

2 have, you know, patients and their families

3 impacted by this. I did lose my own mother to

4 cancer when I was 20, so I'm certainly aware

5 of the impact on families. And, you know, I

6 regret that that has happened.

7 CHAYTOR, Q.C.:

8 Q. Yes, I appreciate that, Ms. Hennessey.

9 MS. HENNESSEY:

10 A. Okay.

11 CHAYTOR, Q.C.:

12 Q. And thank you, thank you. Commissioner, those

13 are all my questions.

14 COMMISSIONER:

15 Q. Thank you.

16 MS. MOIRA HENNESSEY, CROSS-EXAMINATION BY MR. DANIEL

17 SIMMONS

18 MR. SIMMONS:

19 Q. Good afternoon, Ms. Hennessey. I'm Dan

20 Simmons, I'm the lawyer here for Eastern

21 Health.

22 MS. HENNESSEY:

23 A. Yes, good afternoon, Mr. Simmons.

24 MR. SIMMONS:

25 Q. I have a few things to ask you coming out of

Page 248

1 some of the comments that you've made over the

2 last couple of days.

3 MS. HENNESSEY:

4 A. Sure.

5 MR. SIMMONS:

6 Q. And first, unfortunately, I have some other

7 questions about briefing notes.

8 MS. HENNESSEY:

9 A. Okay.

10 MR. SIMMONS:

11 Q. But they're a little more general rather than

12 specific to the content of them. And maybe if

13 we could open Exhibit P-0124, please, and go

14 to page 8, just to pick an example. This is

15 the, one of many briefing notes you've been

16 referred to already.

17 MS. HENNESSEY:

18 A. Okay.

19 MR. SIMMONS:

20 Q. And if we go down, I've gone too far. This is

21 one from November 7th, 2005. And it's called

22 a question and answer briefing note.

23 MS. HENNESSEY:

24 A. Right.

25 MR. SIMMONS:

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1 Q. And it says, "Department of Health and
 2 Community Services." And do I understand that
 3 the primary purpose of preparing a briefing
 4 note like this is to inform the minister so
 5 that the minister can be prepared to answer
 6 questions in the House of Assembly?
 7 MS. HENNESSEY:
 8 A. The question--that is the main purpose of the
 9 question and answer briefing note.
 10 MR. SIMMONS:
 11 Q. Yeah. Does it serve any other purpose other
 12 than preparing the minister to be able to deal
 13 in the house or publicly with questions that
 14 might be posed to him or her?
 15 MS. HENNESSEY:
 16 A. It certainly should provide background
 17 information.
 18 MR. SIMMONS:
 19 Q. Right.
 20 MS. HENNESSEY:
 21 A. To the minister or to the deputy or to other
 22 staff with respect to issues around the file.
 23 MR. SIMMONS:
 24 Q. Right. Now, the department does a lot of
 25 different things.

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1 MS. HENNESSEY:
 2 A. Yes.
 3 MR. SIMMONS:
 4 Q. As I generally--would it be fair to say that
 5 the department has a role in establishing
 6 policy for the administration of health care
 7 and the delivery of health care services in
 8 the province?
 9 MS. HENNESSEY:
 10 A. Yes, it is. I mean, there are three lines of
 11 business.
 12 MR. SIMMONS:
 13 Q. Yes.
 14 MS. HENNESSEY:
 15 A. For the department. You know, they include
 16 setting policies.
 17 MR. SIMMONS:
 18 Q. Yes.
 19 MS. HENNESSEY:
 20 A. And setting operational standards, provincial
 21 operational standards.
 22 MR. SIMMONS:
 23 Q. Operational standards, yes.
 24 MS. HENNESSEY:
 25 A. Yes, in various program areas.

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1 MR. SIMMONS:
 2 Q. Um-hm.
 3 MS. HENNESSEY:
 4 A. The second line of business is certainly
 5 monitoring and reporting.
 6 MR. SIMMONS:
 7 Q. Um-hm.
 8 MS. HENNESSEY:
 9 A. As I said during my testimony, my view is that
 10 we do a reasonably good job on the financial
 11 side. We do, we have engaged external
 12 consultants to do operational reviews to
 13 assist regional health authorities in looking
 14 at their programs and services.
 15 MR. SIMMONS:
 16 Q. Um-hm.
 17 MS. HENNESSEY:
 18 A. But right now with--and one of the roles of my
 19 branch is, one of the key roles is to provide
 20 support to the regional health authorities,
 21 so--but it becomes a juggling act with respect
 22 to the amount of support that we can provide
 23 to our health authorities and the support that
 24 we provide to the minister's office and to the
 25 government at large.

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1 MR. SIMMONS:
 2 Q. Right. So the first line of business then is
 3 establishing policy and I guess operational
 4 guidelines for the provincial delivery of
 5 health care services?
 6 MS. HENNESSEY:
 7 A. Right.
 8 MR. SIMMONS:
 9 Q. And the second then is the monitoring and
 10 reporting role you describe. And the third
 11 then is support to the authorities that
 12 deliver the services. Have I got that right?
 13 MS. HENNESSEY:
 14 A. Well, I guess I would see the support perhaps
 15 more as part of the second line of business.
 16 MR. SIMMONS:
 17 Q. Yes.
 18 MS. HENNESSEY:
 19 A. And the third line of business for the
 20 department is the actual delivery of some
 21 programs, which is like our MCP program.
 22 MR. SIMMONS:
 23 Q. Yes, okay.
 24 MS. HENNESSEY:
 25 A. The prescription drug program, the dental

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1 health program.

2 MR. SIMMONS:

3 Q. Okay.

4 MS. HENNESSEY:

5 A. So the department is involved, albeit in a

6 more limited way, in the actual delivery of

7 programs. And really our prime

8 responsibilities are the policy setting and

9 the overall direction and that the actual

10 delivery of the services and programs rests

11 with the regional health authorities.

12 MR. SIMMONS:

13 Q. So in that first line of business, which is a

14 policy setting line, do these briefing notes,

15 are they a tool that are used in that or do

16 you do that part of your work differently?

17 MS. HENNESSEY:

18 A. That part of the work is done separately from

19 briefing notes.

20 MR. SIMMONS:

21 Q. Yes, okay. And the second line of business,

22 the monitoring and reporting, do you do that

23 through these briefing notes?

24 MS. HENNESSEY:

25 A. No, I wouldn't view these briefing notes as,

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1 you know, a key piece of information in

2 carrying out that. I mean, I would view our

3 relationships with the health authorities on

4 various operational matters or on their

5 request for to introduce new services more

6 that-0-what I would call the monitoring and

7 reporting.

8 MR. SIMMONS:

9 Q. Right, okay. So when we look at these

10 question and answer briefing notes and they

11 follow a fairly standard format, I think.

12 MS. HENNESSEY:

13 A. Yes.

14 MR. SIMMONS:

15 Q. Including a set of anticipated questions near

16 the beginning of each briefing note, that's

17 generally the way they're structured, is it?

18 MS. HENNESSEY:

19 A. Yes, it is.

20 MR. SIMMONS:

21 Q. Yes. And when we read those questions, I take

22 it then that we can't take those questions to

23 be issues that the department has identified

24 as being policy matters that need to be

25 developed or worked on, because we don't look

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1 at these briefing notes for that purpose, do

2 we?

3 MS. HENNESSEY:

4 A. No. When these briefing notes are developed,

5 the, I guess, staff are asked to draft

6 anticipated questions that may, you know,

7 based on their knowledge of the file or based

8 on the public environment at the time, that

9 individual staff members, you know, spend time

10 in drafting the anticipated questions. And

11 then the key messages are not answers to the

12 questions, are not necessarily answers, they

13 are key messages that the government wishes to

14 deliver.

15 MR. SIMMONS:

16 Q. Right. So the briefing notes are help for the

17 minister or the speaker, who is ever speaking

18 to the issue about how they're going to

19 respond if these particular questions come

20 forward?

21 MS. HENNESSEY:

22 A. That's correct, yeah. And I mean, the

23 ministers are briefed, you know, through

24 discussion, as well.

25 MR. SIMMONS:

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1 Q. Yes.

2 MS. HENNESSEY:

3 A. On files.

4 MR. SIMMONS:

5 Q. Yeah. Now, the ER/PR issue with Eastern

6 Health, actually being involved in monitoring

7 what Eastern Health was doing, that, would

8 that fall into the second line of business

9 that you've described of the department?

10 MS. HENNESSEY:

11 A. Yes, it would.

12 MR. SIMMONS:

13 Q. Okay. And so in order to do that, what kind

14 of documentation or processes do you have to

15 carry out the monitoring of an issue like this

16 that's an important and major one for a health

17 authority?

18 MS. HENNESSEY:

19 A. I don't know if I would be able to give you a

20 document per se. I mean, we would have a

21 number of discussions with the regional health

22 authority. I mean, when this issue began, I

23 mean, we met with--Eastern Health, in fact,

24 brought the issue to the department's

25 attention that--the Eastern Health took a

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1 number of actions with respect to the
 2 management of the file at that time, you know,
 3 including the, you know, the assessment of the
 4 Ventana equipment, the stopping of the testing
 5 in St. John's, the retesting at Mount Sinai
 6 and the new cases being sent to Mount Sinai.
 7 They made a conscious decision to go back to
 8 1997 because I think that was the time that
 9 the DAKO system was introduced.
 10 MR. SIMMONS:
 11 Q. Right. So but there's nothing as formally
 12 structured as these briefing notes that you
 13 use on your second line of business to monitor
 14 an issue like this with a regional health
 15 authority?
 16 MS. HENNESSEY:
 17 A. No. I mean, we would be making contacts with
 18 the health authorities getting updates.
 19 MR. SIMMONS:
 20 Q. Right.
 21 MS. HENNESSEY:
 22 A. The operational responsibility rests with the
 23 regional health authorities, albeit
 24 recognizing that, you know, the minister is
 25 accountable at the end of the day to--through

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1 the House of Assembly and through other means
 2 to the public of the province.
 3 MR. SIMMONS:
 4 Q. Sure. So when we look at these question and
 5 answer briefing notes, then, and we see that
 6 there are anticipated questions here, I take
 7 it then that we shouldn't take those questions
 8 as being the same things that the department
 9 is doing in its monitoring of the issue in
 10 carrying out its second line of business?
 11 MS. HENNESSEY:
 12 A. No. I mean, we would be having contact with,
 13 you know--I mean, as we moved through this
 14 file there was contact with Dr. Williams and
 15 then Dr. Howell, Ms. Predham, Ms. Pilgrim.
 16 MR. SIMMONS:
 17 Q. Um-hm.
 18 MS. HENNESSEY:
 19 A. You know, Bev Griffiths, who worked with me,
 20 and I, myself, had contact with the staff
 21 during this time period.
 22 MR. SIMMONS:
 23 Q. Okay. So to take this particular briefing
 24 note here, under "Anticipated questions" the
 25 first one is, "When did the HCS minister find

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1 out about the inaccurate cancer test results?"
 2 that's purely a question for the minister to
 3 be prepared to deal with if he's asked,
 4 correct?
 5 MS. HENNESSEY:
 6 A. That's correct. That would be -
 7 MR. SIMMONS:
 8 Q. That wasn't an issue that you had to monitor
 9 with Eastern Health's handling of this?
 10 MS. HENNESSEY:
 11 A. No. That was an issue, that was a question
 12 that we thought the minister could potentially
 13 get asked about the file.
 14 MR. SIMMONS:
 15 Q. And the second bullet says, it's two questions
 16 there, the first one is, "How did this
 17 happen?"
 18 MS. HENNESSEY:
 19 A. Right.
 20 MR. SIMMONS:
 21 Q. So again, that's something that's anticipated
 22 that the minister might be called upon to
 23 respond to?
 24 MS. HENNESSEY:
 25 A. In the context of this briefing note that

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1 would be -
 2 MR. SIMMONS:
 3 Q. Was that question put that way something that
 4 the department took to Eastern Health early in
 5 this piece and said, one of the things we want
 6 you to do and that we want to monitor is how
 7 this happened, in that sense. Was that taken
 8 to Eastern Health in that sense as something
 9 the department wanted reports on?
 10 MS. HENNESSEY:
 11 A. I think that the department was interested as
 12 Eastern Health did its review and engaged the
 13 external reviewers, the department would be
 14 interested in obtaining some information about
 15 how this happened.
 16 MR. SIMMONS:
 17 Q. Okay, so in carrying out the monitoring role,
 18 did the department ever give any direction to
 19 Eastern Health to say here are issues we want
 20 you to address, here are things we want you to
 21 do, or here are specific things we want you to
 22 report back on? Or did the department leave
 23 it to Eastern Health to manage the issue and
 24 report on what they were doing, without the
 25 department setting up a set of criteria about

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1 what their expectations were?
 2 MS. HENNESSEY:
 3 A. This issue would be no different than other
 4 issues, that the, because it's an operational
 5 matter, the department wouldn't establish
 6 strict criteria around how the issue should be
 7 managed, that we would leave it to the, you
 8 know, the executive staff in our regional
 9 health authorities to determine the approach.
 10 MR. SIMMONS:
 11 Q. Right, okay, so from Eastern Health's point of
 12 view then, would it be fair to say that they
 13 had not been given any criteria or set of
 14 expectations about specific things they had to
 15 bring up to the Department of Health, other
 16 than that there was a general responsibility
 17 to recognize important issues and matters and
 18 bring those to the department.
 19 MS. HENNESSEY:
 20 A. It certainly would have been an expectation
 21 that key issues would have been brought to the
 22 department's attention.
 23 MR. SIMMONS:
 24 Q. Key issues. But those would not have been
 25 identified by the department, those would be

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1 left to Eastern Health to identify and bring
 2 forward?
 3 MS. HENNESSEY:
 4 A. Because this is an operational matter for the
 5 Board that the, and during our telephone
 6 contacts with Eastern Health, I mean, we would
 7 have talked about some of the key issues as
 8 this unfolded.
 9 MR. SIMMONS:
 10 Q. Right, okay. Now from your monitoring role
 11 here, when you were involved in this issue and
 12 I know you weren't involved in all aspects of
 13 it and there's times you were involved and
 14 times that you weren't. Did you ever have any
 15 particular concern about whether Eastern
 16 Health was, you know, fulfilling its function
 17 of identifying what were the key issues and
 18 bringing them forward to the department?
 19 MS. HENNESSEY:
 20 A. I mean, I think the actions that Eastern
 21 Health took with respect to stopping the
 22 testing in St. John's, sending--having the
 23 retesting done at Mount Sinai, to have the new
 24 test done in Mount Sinai, to bringing in
 25 external reviewers to assist them in

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1 determining what happened, I think that--my
 2 sense anyway, was that the department was
 3 comfortable with how Eastern Health was
 4 managing the file.
 5 MR. SIMMONS:
 6 Q. Right, okay. I have some questions for you
 7 about a series of e-mails concerning an
 8 inquiry you made to Dr. Williams in early
 9 November, 2005, regarding the external review
 10 reports. And the first of those e-mails is at
 11 P-0096 please? I'll just show you the three
 12 e-mails again so you can put it in context.
 13 MS. HENNESSEY:
 14 A. Okay.
 15 MR. SIMMONS:
 16 Q. This is from November 3rd, 2005 and it starts
 17 on the bottom here with a message from you to
 18 Mr. Tilley.
 19 MS. HENNESSEY:
 20 A. Yes.
 21 MR. SIMMONS:
 22 Q. Looking for the update on contacting of
 23 patients and also asking if the reports have
 24 been received from the chief pathologist at
 25 the B.C. Cancer Institute and the chief

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1 technologist at Mount Sinai and if you could
 2 have a quick update to reflect on the
 3 Minister's House of Assembly note.
 4 MS. HENNESSEY:
 5 A. Yes.
 6 MR. SIMMONS:
 7 Q. And I believe, do I understand correctly that
 8 you told us that this was really your own
 9 initiative to make this request at this time?
 10 MS. HENNESSEY:
 11 A. I did indicate that, that, I mean, the Deputy
 12 Minister may have been engaged in it, but I
 13 don't recall specifically. I seem to recall
 14 that I made the contact because we wanted to
 15 get an update from Eastern Health at that time
 16 and at the same time the Minister happened--
 17 was going into the House of Assembly.
 18 MR. SIMMONS:
 19 Q. Right, so you made the contact but you, I
 20 gather then you can't tell us now whether
 21 asking about the external reviewer's reports
 22 was your initiative or whether you'd been
 23 directed to make the specific request by the
 24 Deputy?
 25 MS. HENNESSEY:

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1 A. I don't recall specifically.
 2 MR. SIMMONS:
 3 Q. Okay. And Mr. Tilley's reply at the top of
 4 that exhibit is to contact Dr. Williams. The
 5 next one is P-0097 please? And this is a
 6 message from you to Dr. Williams on the same
 7 day asking for the information about the
 8 contacting of patients.
 9 MS. HENNESSEY:
 10 A. Yes.
 11 MR. SIMMONS:
 12 Q. And also asking for the general findings of
 13 the reports from the pathologist and the
 14 technologist. And then the third one is
 15 exhibit P-0098 please? And P-0098 is a
 16 message from Ms. Predham to you and to Dr.
 17 Williams.
 18 MS. HENNESSEY:
 19 A. Yes.
 20 MR. SIMMONS:
 21 Q. And in it she gives you the update on the
 22 contacting of patients.
 23 MS. HENNESSEY:
 24 A. Yes.
 25 MR. SIMMONS:

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1 Q. And at the bottom says, "I understand that Dr.
 2 Williams has attempted to reach you to discuss
 3 the quality review. He will be following up
 4 with you on Monday. If you need any further
 5 information, I'll be happy to get it for you."
 6 Now you've been asked a lot of questions about
 7 these already.
 8 MS. HENNESSEY:
 9 A. Yes.
 10 MR. SIMMONS:
 11 Q. And about what you could tell us about any
 12 conversations with Dr. Williams or what he
 13 might have told you about it. But let me ask
 14 you first, do you actually recall ever
 15 speaking to Dr. Williams about this issue? Do
 16 you have a memory of it?
 17 MS. HENNESSEY:
 18 A. I recall speaking to Dr. Williams in the fall
 19 of 2005 on this issue, yes.
 20 MR. SIMMONS:
 21 Q. Do you recall, do you remember what it was he
 22 told you in response to your request for
 23 general information about the findings from
 24 the external reviews?
 25 MS. HENNESSEY:

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1 A. I don't recall all the specifics on it at this
 2 point in time.
 3 MR. SIMMONS:
 4 Q. And even any generalities, I know you've been
 5 asked before, but just to confirm, do you even
 6 recall any generalities, aside from having to
 7 go to your later notes and reconstruct it, do
 8 you have a memory of any of it?
 9 MS. HENNESSEY:
 10 A. I would have to go to my notes to reconstruct.
 11 MR. SIMMONS:
 12 Q. Right, and the only note that you have to help
 13 refresh your memory is the later briefing note
 14 in early November in which there's some
 15 comments made and you've made some inferences
 16 from that, is that fair to say?
 17 MS. HENNESSEY:
 18 A. Yes.
 19 MR. SIMMONS:
 20 Q. And aside from that, you cannot tell us what
 21 it was that Dr. Williams told you.
 22 MS. HENNESSEY:
 23 A. I don't recall the specific details that Dr.
 24 Williams shared with me that day.
 25 MR. SIMMONS:

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1 Q. Right, okay. Now, by the 4th of November, do
 2 you know whether both the pathologist and the
 3 technologist's reports had even been received?
 4 MS. HENNESSEY:
 5 A. Well I seem to recall that I understood that
 6 the reports were, that the two individuals
 7 were here in late September and they were
 8 expecting the report within a month or so.
 9 MR. SIMMONS:
 10 Q. Okay. P-0047 please? This particular one is
 11 the external review report from the
 12 technologist at Mount Sinai.
 13 MS. HENNESSEY:
 14 A. Yes.
 15 MR. SIMMONS:
 16 Q. And if you look at the bottom there, you can
 17 see that the date on it is November 9th, 2005.
 18 MS. HENNESSEY:
 19 A. Yes.
 20 MR. SIMMONS:
 21 Q. So that doesn't help refresh your recollection
 22 of whether that report had been received by
 23 the time you spoke to Dr. Williams?
 24 MS. HENNESSEY:
 25 A. No, but I would tend to think that if Dr.

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1 Williams had the report on the 9th of November
 2 that in the briefing with the Minister on the
 3 17th of November, if he had of been asked any
 4 specific questions by the Minister or the
 5 Deputy Minister that he certainly would have,
 6 you know, shared information with them then.
 7 I haven't been--I wasn't briefed following
 8 that briefing.
 9 MR. SIMMONS:
 10 Q. Right, this doesn't help your recollection
 11 regarding your conversation with Dr. Williams
 12 following your e-mail inquiries on the 3rd and
 13 4th of November, though, does it?
 14 MS. HENNESSEY:
 15 A. No, it doesn't, I mean there are -
 16 MR. SIMMONS:
 17 Q. Okay, now at that time, did you have--you've
 18 told us that you had an understanding that
 19 these types of reports had a level of
 20 protection that applied to them as being, what
 21 we've generally referred to as peer review
 22 reports, correct?
 23 MS. HENNESSEY:
 24 A. Yes.
 25 MR. SIMMONS:

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1 Q. And was that an understanding that you held at
 2 the time that you made this inquiry of Dr.
 3 Williams?
 4 MS. HENNESSEY:
 5 A. I would have understood that, I would have
 6 expected Dr. Williams to share some of the
 7 general findings.
 8 MR. SIMMONS:
 9 Q. Yes, but you did not have an expectation, did
 10 you, that specifics from the report would be
 11 shared with you, did you?
 12 MS. HENNESSEY:
 13 A. I didn't have an expectation that he would,
 14 you know, go through the report in detail with
 15 me. It would have been at a higher level than
 16 that.
 17 MR. SIMMONS:
 18 Q. So if what you got from Dr. Williams was a
 19 higher level report than, you wouldn't have
 20 taken issue with that? You wouldn't have
 21 considered that to be inappropriate at the
 22 time, would you?
 23 MS. HENNESSEY:
 24 A. That--I mean, when we speak to senior staff at
 25 the health authorities, we would expect them

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1 to give us a high level summary and if there
 2 were any particular points that they feel that
 3 the department should be aware of, that they
 4 would highlight them.
 5 MR. SIMMONS:
 6 Q. Right. Now at that time you knew that testing
 7 was not being carried out for ER and PR
 8 receptors at the lab in St. John's, correct?
 9 MS. HENNESSEY:
 10 A. Yes, I certainly knew that.
 11 MR. SIMMONS:
 12 Q. You knew it had been suspended.
 13 MS. HENNESSEY:
 14 A. Yes.
 15 MR. SIMMONS:
 16 Q. You also knew that all the old tests were
 17 being retested at another laboratory at Mount
 18 Sinai Hospital in Toronto.
 19 MS. HENNESSEY:
 20 A. Yes, I did know that.
 21 MR. SIMMONS:
 22 Q. So what then were the real issues of concern
 23 that existed at this time in the fall of 2005?
 24 What was it you wanted to monitor that was
 25 happening with Eastern Health that you wanted

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1 to be informed about?
 2 MS. HENNESSEY:
 3 A. I think at that point in time we, you know,
 4 wanted some assurance that Dr. Williams and
 5 his team were looking at potential, you know,
 6 issues that may have caused this problem.
 7 MR. SIMMONS:
 8 Q. Uh-hm.
 9 MS. HENNESSEY:
 10 A. That they were identifying -
 11 MR. SIMMONS:
 12 Q. For what purpose?
 13 MS. HENNESSEY:
 14 A. The purpose would have been to try to identify
 15 the issues and then take the necessary actions
 16 that they deem appropriate to correct the
 17 problem.
 18 MR. SIMMONS:
 19 Q. Right. So would the focus have been on
 20 identifying what needed to be done in order to
 21 reinstate the testing, since testing was at
 22 that time suspended?
 23 MS. HENNESSEY:
 24 A. Sorry, Mr. Simmons, could you -
 25 MR. SIMMONS:

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1 Q. Would the focus then have been on identifying
 2 what it was that needed to be done in order to
 3 be able to resume testing in St. John's?
 4 MS. HENNESSEY:
 5 A. I'm inclined to think it would have been a
 6 high level then, you know, what actions that
 7 the health authority felt -
 8 MR. SIMMONS:
 9 Q. Needed to be taken.
 10 MS. HENNESSEY:
 11 A. Yes.
 12 MR. SIMMONS:
 13 Q. Now you're aware that testing was eventually
 14 reinstated in February of 2007, I believe?
 15 MS. HENNESSEY:
 16 A. Yes.
 17 MR. SIMMONS:
 18 Q. And you were aware that Dr. Banerjee, the
 19 pathologist who had done the first external
 20 review in mid 2005, that he had returned in
 21 the spring of 2006, correct?
 22 MS. HENNESSEY:
 23 A. I was certainly aware that the reviewers were
 24 coming back in May, I think it was of 2006.
 25 MR. SIMMONS:

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1 Q. Were you made aware that following Dr.
 2 Banerjee's second visit that he expressly
 3 recommended and stated that testing couldn't
 4 resume at that time?
 5 MS. HENNESSEY:
 6 A. I don't remember being aware of that at that
 7 time, but I do recall being aware of that
 8 since.
 9 MR. SIMMONS:
 10 Q. Okay, by the time testing actually resumed,
 11 which was a considerable time after that,
 12 February of 2007, what, if anything, did the
 13 department do in its monitoring role then to
 14 satisfy itself that it was appropriate to
 15 resume testing at that time?
 16 MS. HENNESSEY:
 17 A. I mean, the department didn't do an on-site
 18 visit at the laboratory.
 19 MR. SIMMONS:
 20 Q. Right.
 21 MS. HENNESSEY:
 22 A. And the department would have relied on the
 23 senior staff within the organization to ensure
 24 measures were put in place and that they, you
 25 know, would make a judgment decision on when

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1 it was appropriate to resume testing.
 2 MR. SIMMONS:
 3 Q. So from the department's point of view, the
 4 department had confidence in the people at
 5 Eastern Health to make that assessment and
 6 make that call as to when it was appropriate
 7 to resume testing?
 8 MS. HENNESSEY:
 9 A. That certainly would have been my view.
 10 MR. SIMMONS:
 11 Q. Right. And when testing was resumed, the
 12 department didn't question it or take any
 13 issue with that?
 14 MS. HENNESSEY:
 15 A. No, we were provided with the information that
 16 testing had resumed in St. John's. I would
 17 have--I took that to mean that testing had
 18 resumed for the whole province, I did learn
 19 later that that wasn't the case.
 20 MR. SIMMONS:
 21 Q. Right, now a lot of things have happened since
 22 then, not the least of which is this inquiry.
 23 MS. HENNESSEY:
 24 A. Yes.
 25 MR. SIMMONS:

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1 Q. You still hold the same position at the
 2 Department of Health that you held at that
 3 time. Does the department now have any
 4 concern whatsoever concerning the reliability
 5 and accuracy of the testing being carried out
 6 by Eastern Health for ER and PR test results?
 7 MS. HENNESSEY:
 8 A. I'm not aware of any issues that the
 9 department has right now with respect to the
 10 testing being done in St. John's.
 11 MR. SIMMONS:
 12 Q. Thank you, very much, Ms. Hennessey, that's
 13 all I have for you.
 14 THE COMMISSIONER:
 15 Q. Ms. Hennebury?
 16 MS. HENNEBURY:
 17 Q. I have no questions for this witness.
 18 THE COMMISSIONER:
 19 Q. Thank you. Ms. O'Dea?
 20 MS. O'DEA:
 21 Q. No questions, Commissioner.
 22 MS. NEWBURY:
 23 Q. No questions, Commissioner.
 24 THE COMMISSIONER:
 25 Q. Ms. Russell?

1 MS. RUSSELL:
 2 Q. No questions.
 3 THE COMMISSIONER:
 4 Q. Mr. Pritchard?
 5 MS. MOIRA HENNESSEY, EXAMINATION BY MR. ROLF PRITCHARD
 6 MR. PRITCHARD:
 7 Q. Thank you, Commissioner. Good afternoon, Ms.
 8 Hennessey.
 9 MS. HENNESSEY:
 10 A. Good afternoon, Mr. Pritchard.
 11 MR. PRITCHARD:
 12 Q. Perhaps I'll start where you left off with
 13 Commission counsel with some of the earlier
 14 questioning. One of the questions you were
 15 asked about was the open line shows which you
 16 were asked about, and you mentioned that there
 17 is some monitoring of the open line shows.
 18 MS. HENNESSEY:
 19 A. Yes.
 20 MR. PRITCHARD:
 21 Q. And my understanding is that government
 22 monitors various forms of media in addition to
 23 the open line shows, is that correct?
 24 MS. HENNESSEY:
 25 A. Sorry? That there was other--yeah, there are

1 MR. PRITCHARD:
 2 Q. And I wondered if you could explain, just give
 3 us an example, perhaps, of what you meant by,
 4 what types of support that your branch would
 5 be providing to the health authorities.
 6 MS. HENNESSEY:
 7 A. Okay. We would work with the health
 8 authorities with respect to their request to
 9 introduce new services or add programs to the
 10 people of the province. We would certainly
 11 work closely with the health authorities with
 12 respect to the, I guess, the capital
 13 infrastructure needs. We certainly work
 14 closely with them on the--if there are issues
 15 with respect to equipment, in our health
 16 facilities. And while we provide an annual
 17 allocation for that, we do maintain a reserve
 18 to assist health authorities when emergency
 19 situations occur. We do work with the health
 20 authorities, I guess, with respect to
 21 inquiries from the general public with respect
 22 to, you know, the individual services that
 23 they would have received on an individual
 24 basis from the health authorities. If they
 25 have some concerns that come to the minister's

1 other means that the government certainly
 2 takes into consideration in making decisions
 3 on files. And they, as I have mentioned, they
 4 involve, you know, meetings with consumer
 5 advocacy groups that we do do targeted
 6 stakeholder consultations. We meet with the
 7 regional health authorities and as I said,
 8 there is some monitoring of open line because
 9 the government would be interested in what the
 10 public views on various matters.
 11 MR. PRITCHARD:
 12 Q. Sure, and in addition to that there's also
 13 monitoring of the newspapers and TV media as
 14 well.
 15 MS. HENNESSEY:
 16 A. Yes, there is.
 17 MR. PRITCHARD:
 18 Q. Okay. Ms. Hennessey, you mentioned when you
 19 were describing your position within the
 20 department as an assistant deputy minister
 21 that within board services, one of your
 22 responsibilities is to provide support to the
 23 health authorities.
 24 MS. HENNESSEY:
 25 A. Yes.

1 attention that staff that worked with me would
 2 certainly, you know, make a contact with staff
 3 within the health authorities with the hope of
 4 ensure that someone at the health authority
 5 would follow up with the individual.
 6 MR. PRITCHARD:
 7 Q. Okay. Ms. Hennessey, one of the issues that
 8 came up during Commission counsel's
 9 questioning was whether there had been any
 10 contact from the department with the other
 11 regions after you became aware of what was
 12 developing at Eastern Health. And why is it
 13 then that the department would not have been
 14 more proactive in contacting the various other
 15 regions on a matter like this?
 16 MS. HENNESSEY:
 17 A. In that context the issue related to the
 18 laboratory at Eastern Health and with respect
 19 to the ER/PR testing, it is the provincial
 20 service. So, the Eastern Health, I think,
 21 would have taken a leadership role in
 22 contacting the other health authorities on
 23 this matter. It is an operational matter and
 24 I think it would be important for, in this
 25 case, a physician to position contact and it's

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1 not one that the--we would have viewed as an
 2 operational matter and that the Eastern Health
 3 was positioned to carry out leadership role in
 4 making the contact with the other health
 5 authorities on this issue.
 6 MR. PRITCHARD:
 7 Q. Sure. So, the normal functioning of the lab
 8 at Eastern Health and its interactions with
 9 the other regions, the department doesn't play
 10 any role in that, is the correct?
 11 MS. HENNESSEY:
 12 A. No, and I mean in this particular case it is a
 13 provincial--this was a provincial service,
 14 Eastern Health offers a number of provincial
 15 services to residents of the province and the,
 16 you know, the leadership on those files is
 17 through the regional health authority.
 18 MR. PRITCHARD:
 19 Q. Okay. And during those early days back in
 20 July 2005, August 2005 as you started to
 21 become aware of what was developing at Eastern
 22 Health, you were asked if you had contacted
 23 Cabinet Secretariat, if you had taken it upon
 24 yourself to contact Cabinet Secretariat or
 25 indeed, the premier's office. Is that

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1 something that you would normally do?
 2 MS. HENNESSEY:
 3 A. That would not be my normal responsibility
 4 that if there was some issue or it would--the
 5 deputy minister is the head of the department,
 6 so the contact would have been, would be made
 7 through him. In the case of the deputy
 8 minister being absent from the department, the
 9 respective assistant deputy ministers would
 10 take the leadership at that time, but the
 11 initial contact on files rest with the deputy
 12 minister.
 13 MR. PRITCHARD:
 14 Q. Okay. And with the briefing notes that are
 15 developed in the department and we've seen a
 16 number of different briefing notes in the
 17 course of the evidence that we've heard. We
 18 know that there was the briefing note, in fact
 19 it was the first briefing note from Health and
 20 community Services on this issue that ended up
 21 going up to Cabinet Secretariat, October 5.
 22 MS. HENNESSEY:
 23 A. Yes.
 24 MR. PRITCHARD:
 25 Q. But normally, briefing notes that are

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1 developed by the department, do they go the
 2 Cabinet Secretariat?
 3 MS. HENNESSEY:
 4 A. Not all of our briefing notes go to Cabinet
 5 Secretariat. Many of our briefing notes are
 6 developed down in health issues that they are
 7 done for, to update the deputy minister or the
 8 minister. And then the minister will make a
 9 decision with respect to, you know, future
 10 sharing of that briefing note, the one
 11 briefing note.
 12 MR. PRITCHARD:
 13 Q. Okay. And one of the things that you were
 14 questioned about on this issue who was
 15 responsible for, who was in charge of the
 16 issue within the department? Was it your or
 17 was it Mr. Abbott, the deputy minister? And I
 18 suppose in the sense that you're the ADM
 19 responsible for board services, at least
 20 nominally, this issue falls under your
 21 umbrella, is that correct?
 22 MS. HENNESSEY:
 23 A. Yes, the issue would fall within my portfolio.
 24 MR. PRITCHARD:
 25 Q. Now, as a practical matter on this issue,

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1 however, it appears that Mr. Abbott took a
 2 great interest in this. Is that fair to say?
 3 MS. HENNESSEY:
 4 A. Yes, Mr. Abbott was actively involved in this
 5 file and I would have to say that it was
 6 certainly a shared responsibility as we moved
 7 through.
 8 MR. PRITCHARD:
 9 Q. And we heard evidence during the last few days
 10 that there were a number of, I call them key
 11 meetings on this matter. For example, the 20
 12 of July, 2005 when Eastern Health briefed the
 13 minister, November 23, 2006; you did not
 14 attend those meetings, but were you available
 15 for those meetings?
 16 MS. HENNESSEY:
 17 A. With respect to the November 17, 2005 meeting
 18 and the November 23, 2006 meeting, I was there
 19 as I think I told Commission counsel, I was in
 20 my office on July 21 because I was--I did have
 21 another meeting with another external agency.
 22 MR. PRITCHARD:
 23 Q. And so Mr. Abbott choose to go to those
 24 particular meetings?
 25 MS. HENNESSEY:

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1 A. Yes.

2 MR. PRITCHARD:

3 Q. Okay. Now I wonder if we could see Exhibit P-

4 0096, please? Okay, this is an e-mail that

5 we've seen a few times now. This is that note

6 from November 3 where--or this is part of it

7 anyway, where you're inquiring about finding

8 about the contacting of the patients and also

9 inquiring about the external reviews. Now, I

10 wasn't clear on your answer on this the other

11 day. So, I wanted to ask again now, when you

12 raised these issues with Mr. Tilley, you were

13 not directing him to do anything, were you or

14 were you?

15 MS. HENNESSEY:

16 A. I was not directing Mr. Tilley. I'm not in a

17 position in our organization to direct the CEO

18 of a health authority. I -

19 MR. PRITCHARD:

20 Q. So, this should be read--sorry.

21 MS. HENNESSEY:

22 A. Go ahead.

23 MR. PRITCHARD:

24 Q. This should be read quite literally. This is

25 a request to find out where it's at and it's

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1 nothing more than that.

2 MS. HENNESSEY:

3 A. Certainly from my position that that's what

4 this was about.

5 MR. PRITCHARD:

6 Q. Now, you started to talk about this a little

7 bit when Mr. Simmons was questioning you, some

8 of the things that--you had a degree of

9 confidence, you were confident in the way that

10 Eastern Health was managing the file. And

11 perhaps you could take a moment and just

12 explain why you were confident that Eastern

13 Health from your point of view was managing

14 the file in a reasonable manner.

15 MS. HENNESSEY:

16 A. Well, when Eastern Health became aware of this

17 problem in July 2005, when the CEO became

18 aware, he did bring it to the department's

19 attention. Eastern Health initiated a number

20 of actions at that time or they stopped

21 testing in St. John's and sent the retests and

22 the new cases to Mount Sinai. They brought in

23 someone from the manufacturing company with

24 respect to the Ventana system to do an

25 assessment. They made arrangements for

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1 external reviewers to come in to do a review

2 of the laboratory service and Eastern Health

3 made the decision to go back to 1997 to do an

4 assessment on this file.

5 MR. PRITCHARD:

6 Q. And is there anything in your relationship

7 with Eastern Health prior to this event in

8 2005 that gave you any reason not to trust

9 them or be confident in what they were telling

10 you?

11 MS. HENNESSEY:

12 A. I've worked with the senior staff at Eastern

13 Health for many years, you know, many of them

14 in their former organizations and I didn't

15 have any reason to think that Eastern Health

16 wouldn't handle the file appropriately.

17 MR. PRITCHARD:

18 Q. The things that was put to you during your

19 examination by Commission counsel was that if

20 you were to look at the numbers and the data

21 that are included in the August 18, 2006

22 briefing note -

23 MS. HENNESSEY:

24 A. Yes.

25 MR. PRITCHARD:

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1 Q. - and as well the Eastern Health briefing note

2 from the 23rd of November 2006, that a person

3 could look at that and take those numbers and

4 make various calculations with them and you

5 agreed with that. Now, when you made that

6 comment, Ms. Hennessey, were you speaking in

7 hindsight or was that something was apparent

8 to you at the time?

9 MS. HENNESSEY:

10 A. I didn't do calculations in August of 2006,

11 you know, or I'm certainly aware that you can

12 certainly do calculations on the numbers. It

13 was later that I did do a couple of

14 calculations.

15 MR. PRITCHARD:

16 Q. When you were being questioned about the

17 events that unfolded between November 23 and

18 December 11 of 2006 you made reference often

19 to the term context, that you didn't have a

20 context to evaluate what was happening. Now,

21 I take it that part of that was because you

22 didn't attend the meeting on November 23,

23 2006. Is that correct?

24 MS. HENNESSEY:

25 A. That's correct.

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1 MR. PRITCHARD:
 2 Q. Okay. And we heard that obviously Mr. Abbott
 3 attended that meeting.
 4 MS. HENNESSEY:
 5 A. Yes.
 6 MR. PRITCHARD:
 7 Q. Okay. Now, Mr. Abbott, I gather from your
 8 evidence, at some point shortly thereafter
 9 gave you that page that we've seen which has
 10 the information from Eastern Health on it.
 11 MS. HENNESSEY:
 12 A. That's correct.
 13 MR. PRITCHARD:
 14 Q. All right. And when he gave you that did he
 15 give you any explanation or direction? Did he
 16 say anything like, well this is what's going
 17 to happen or this is what we expect to happen?
 18 Was there any kind of instruction or
 19 description like that?
 20 MS. HENNESSEY:
 21 A. Mr. Abbott gave me the piece of paper with the
 22 date on it and asked me to ensure that it was
 23 attached to the minister's November 27, 2006
 24 briefing note. We did not have a discussion
 25 around the context.

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1 MR. PRITCHARD:
 2 Q. Okay. So, on December 11 we saw that you
 3 received a set of the briefing materials from
 4 Eastern Health.
 5 MS. HENNESSEY:
 6 A. Yes.
 7 MR. PRITCHARD:
 8 Q. And is it fair to say that you had not
 9 expectation about what would or would not be
 10 disclosed on that day?
 11 MS. HENNESSEY:
 12 A. I didn't have any expectation. I had the data
 13 sheet, but I hadn't been in any discussion.
 14 So, when I saw the press release from Eastern
 15 Health, I didn't have any expectation what was
 16 going to be in it or not. I accepted the
 17 press release as it was prepared.
 18 MR. PRITCHARD:
 19 Q. Okay. So, you wouldn't have thought, well,
 20 there's more or less here than there should.
 21 You wouldn't have gone through that process?
 22 MS. HENNESSEY:
 23 A. I didn't go through that process and I
 24 certainly would have been aware that there was
 25 more information in the data sheet than that

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1 was in a press release, but I didn't have any
 2 context as to whether to expect more in the
 3 press release at that time.
 4 MR. PRITCHARD:
 5 Q. Okay. And you mentioned in your evidence that
 6 you didn't actually discuss the--have a
 7 discussion with anyone on the 11th either
 8 within the department or at Eastern Health.
 9 What about on the subsequent days, December
 10 12th, 13th, did you have occasion to talk to
 11 anyone about what was going on around this?
 12 MS. HENNESSEY:
 13 A. On December 12, the only discussion I can
 14 recall being in would have been in the noon
 15 time briefing with the minister.
 16 THE COMMISSIONER:
 17 Q. I'm sorry, in the what?
 18 MS. HENNESSEY:
 19 A. Sorry Commissioner, the only discussion that I
 20 can recall being in would have been in the
 21 noon time briefing with the minister.
 22 THE COMMISSIONER:
 23 Q. Thank you.
 24 MR. PRITCHARD:
 25 Q. Okay. And just to be clear, when you say the

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1 noon time briefing, what's the purpose
 2 generally -
 3 MS. HENNESSEY:
 4 A. The purpose of that particular briefing is a
 5 briefing for the House of Assembly and that
 6 continues to this day.
 7 MR. PRITCHARD:
 8 Q. Okay. And was there any talk during that
 9 meeting about there's a discrepancy here
 10 between what was or wasn't disclosed?
 11 MS. HENNESSEY:
 12 A. I don't recall any discussion in that meeting.
 13 MR. PRITCHARD:
 14 Q. Okay. And Ms. Hennessey, you were also asked
 15 about the re-opening of the ER/PR service in
 16 the lab in February of 2007 and just to
 17 revisit that for a moment, who directed that
 18 that lab service should close?
 19 MS. HENNESSEY:
 20 A. Eastern Health made the decision to close the
 21 lab service and Eastern Health also made the
 22 decision to re-open it.
 23 MR. PRITCHARD:
 24 Q. Okay. An issue such as quality control and
 25 labs -

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1 MS. HENNESSEY:
 2 A. Yes.
 3 MR. PRITCHARD:
 4 Q. - who's responsible for that? Is that the
 5 department or is it the region? Who takes
 6 responsibility for that?
 7 MS. HENNESSEY:
 8 A. Each of the regional health authorities have
 9 quality management programs in place
 10 throughout the regions. I think it's perhaps
 11 developed better in some areas than it is in
 12 others. But it certainly would see any
 13 quality managements issues related to this
 14 service to be within the purview of the
 15 regional health authority.
 16 MR. PRITCHARD:
 17 Q. Okay. And would you consider that to be an
 18 operational issue?
 19 MS. HENNESSEY:
 20 A. I would consider that to be an operational
 21 issue.
 22 MR. PRITCHARD:
 23 Q. Ms. Hennessey, those are my questions. Thank
 24 you very much.
 25 THE COMMISSIONER:

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1 Q. Ms. Chaytor, anything arising?
 2 CHAYTOR, Q.C.:
 3 Q. I do have one question.
 4 THE COMMISSIONER:
 5 Q. All right then.
 6 MS. MOIRA HENNESSEY, RE-EXAMINATION BY SANDRA CHAYTOR,
 7 Q.C.
 8 CHAYTOR, Q.C.:
 9 Q. Ms. Hennessey, in answering Mr. Simmon's
 10 questions you indicated that the purpose of Q
 11 and A briefing notes are not how the
 12 department monitors an issue.
 13 MS. HENNESSEY:
 14 A. Well, the Q and A--the main purpose of the Q
 15 and A briefing notes is for the House of
 16 Assembly, but as I said to him, my response to
 17 Mr. Simmons, there is information, background
 18 information in these briefing notes that, you
 19 know, would assist with us having current--
 20 certainly would provide current knowledge on
 21 the file to us.
 22 CHAYTOR, Q.C.:
 23 Q. So what documentation would we expect to see
 24 of how the department monitored the issue?
 25 MS. HENNESSEY:

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1 A. The monitoring that was done other than the
 2 preparation of these briefing notes would have
 3 been in any discussions with the ministers.
 4 CHAYTOR, Q.C.:
 5 Q. Thank you, that's all my questions.
 6 THE COMMISSIONER:
 7 Q. Just for clarity sake, as I understand your
 8 response on the monitoring point, you were
 9 saying that other than what we see in the
 10 briefing note, the only other method by which
 11 monitoring was done was in conversations
 12 between officials of Eastern Health and then
 13 Minister and Deputy Minister, is that right?
 14 MS. HENNESSEY:
 15 A. Yes, Commissioner, it would have been based on
 16 discussions that we had with Eastern Health
 17 officials and any subsequent discussions that
 18 we had with the Deputy and the Minister.
 19 THE COMMISSIONER:
 20 Q. All right, and just for clarity, do I
 21 understand it that anything that Eastern
 22 Health provided to the department by way of
 23 information in respect of that, in respect of
 24 the issue of ER/PR, which would have been in
 25 writing has been forwarded on to the

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1 Commission?
 2 MS. HENNESSEY:
 3 A. As far as the information that I have in my
 4 files is -
 5 THE COMMISSIONER:
 6 Q. Well that's the only information that you can
 7 be assured about, so that's really what I'm
 8 looking for, since you were a major player in
 9 this and a lot of the information directed to
 10 you.
 11 MS. HENNESSEY:
 12 A. Yes.
 13 THE COMMISSIONER:
 14 Q. But anything that came to you or that you have
 15 control over in respect of the ER/PR issue
 16 that came from Eastern Health, would have been
 17 sent on to us, would it?
 18 MS. HENNESSEY:
 19 A. Yes, I provided the information that was in my
 20 files.
 21 THE COMMISSIONER:
 22 Q. All right, thank you. And we do appreciate
 23 that.
 24 CHAYTOR, Q.C.:
 25 Q. And I just wanted to clarify, sorry,

1 Commissioner -
 2 THE COMMISSIONER:
 3 Q. No, go right ahead.
 4 CHAYTOR, Q.C.:
 5 Q. Because we received approximately 20
 6 departmental briefing notes on this issue.
 7 MS. HENNESSEY:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. All but two of them are Q and A briefing
 11 notes.
 12 MS. HENNESSEY:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. There are two that I am able to see here, one
 16 in October 3rd, 2005 and then again, October
 17 24th, 2006.
 18 MS. HENNESSEY:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. So a year apart, those are the only two which
 22 are not, in fact, Q and A briefing notes,
 23 according to my review.
 24 MS. HENNESSEY:
 25 A. Yes.

1 MS. HENNESSEY:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. Thank you.
 5 THE COMMISSIONER:
 6 Q. Thank you for clarifying that, that was
 7 something that was bothering me. I know it's
 8 been a long couple of days for you and I very
 9 much appreciate your coming along to add to
 10 the information that we need as we go through
 11 this process. Thank you very much.
 12 CHAYTOR, Q.C.:
 13 Q. Thank you, Ms. Hennessey.
 14 THE COMMISSIONER:
 15 Q. We'll take the afternoon break and then
 16 continue with the next witness.
 17 (RECESS)
 18 THE COMMISSIONER:
 19 Q. Please be seated. Mr. Coffey.
 20 COFFEY, Q.C.:
 21 Q. Madam Registrar and Commissioner, the next
 22 witness is Susan Bonnell.
 23 THE COMMISSIONER:
 24 Q. All right then.
 25 MS. SUSAN BONNELL (SWORN) EXAMINATION BY BERNARD COFFEY,

1 CHAYTOR, Q.C.:
 2 Q. And then in May of 2007, for the first time,
 3 May 25th, I believe it is, 2007, we have an
 4 issue monitoring report regarding the issue
 5 and that goes on over the summer of 2007 with
 6 Ms. Griffiths being the author of those
 7 reports.
 8 MS. HENNESSEY:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. Prior to May 25th, 2007, are you aware of any
 12 issue monitoring reports done by the
 13 department on this issue?
 14 MS. HENNESSEY:
 15 A. I'm not aware of any, Ms. Chaytor, but I'll
 16 certainly go back to reconfirm that for you.
 17 CHAYTOR, Q.C.:
 18 Q. And so the only documentation in terms of the
 19 department monitoring this issue would be
 20 found in the briefing notes that we have been
 21 provided.
 22 MS. HENNESSEY:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. Throughout 2005 and 2006.

1 Q.C.
 2 COFFEY, Q.C.:
 3 Q. Now, Commissioner, the first order of business
 4 would be to enter some more exhibits please.
 5 If you're ready, I'm prepared to list them
 6 off.
 7 THE COMMISSIONER:
 8 Q. All right then.
 9 COFFEY, Q.C.:
 10 Q. It's P-1480 through P-1497 inclusive; P- 1500
 11 through P-1506 inclusive; P-1508; P- 1510
 12 through P-1519 inclusive; P-1535 through P-
 13 1564 inclusive.
 14 THE COMMISSIONER:
 15 Q. Entered.
 16 EXHIBITS P-1480 THROUGH P-1497 INCLUSIVE ENTERED
 17 EXHIBITS P-1500 THROUGH P-1506 INCLUSIVE ENTERED
 18 EXHIBIT P-1508 ENTERED
 19 EXHIBITS P-1510 THROUGH P-1519 INCLUSIVE ENTERED
 20 EXHIBITS P-1535 THROUGH P-1564 INCLUSIVE ENTERED
 21 COFFEY, Q.C.:
 22 Q. Thank you. And if I could, please Registrar,
 23 exhibit P-1564 and Ms. Bonnell, I take it this
 24 is your C.V.?
 25 MS. BONNELL:

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1 A. Yes.

2 COFFEY, Q.C.:

3 Q. Okay. Now I just bring that up because it may

4 assist you in answering the first question,

5 but if you don't need to, that's fine too.

6 You should know as well that that mouse there

7 in front of you, underneath the screen, you

8 can control actually as well, if you want to,

9 you can scroll up and down.

10 MS. BONNELL:

11 A. Okay.

12 COFFEY, Q.C.:

13 Q. Could you tell us please about your

14 educational and professional background,

15 please?

16 MS. BONNELL:

17 A. I have a Bachelors of Arts and a Bachelors of

18 Education from Memorial University and I

19 taught for a brief period of time with my

20 Bachelor of Education. The majority of my

21 career, though, has been in contractual

22 positions, this would be prior to working for

23 Health Care Corporation, with a variety of

24 different community sort of groups. I worked

25 in community programming for a couple of years

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1 and in 2000 I joined the Health Care

2 Corporation of St. John's as a communication

3 specialist.

4 COFFEY, Q.C.:

5 Q. Before joining the Health Care Corporation of

6 St. John's in that capacity, what was the

7 nature of your involvement in communications?

8 MS. BONNELL:

9 A. Directly none, it certainly in some of the

10 other roles that I had, I did have, for

11 example when I worked with the Newfoundland

12 Council on Smoking in Health, I did some media

13 relations for them. I've always been a

14 writer, pretty much all of my professional

15 experiences include writing of some sort or

16 another. The position I had with the

17 government in the late 80's was a writing

18 position, wrote brochures and that sort of

19 thing.

20 COFFEY, Q.C.:

21 Q. I notice that your education, as you've

22 pointed out, is you graduated in 1992 from

23 Memorial University.

24 MS. BONNELL:

25 A. Uh-hm.

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1 COFFEY, Q.C.:

2 Q. And your major is what?

3 MS. BONNELL:

4 A. English.

5 COFFEY, Q.C.:

6 Q. English, because when you look then through

7 your career, as is apparent here in 1564, page

8 1, for three years you taught English?

9 MS. BONNELL:

10 A. Yes.

11 COFFEY, Q.C.:

12 Q. And you, as well, have for a five-year period,

13 between 1991 and 1996 were a writer, head

14 writer with a particular program on a local

15 cable station.

16 MS. BONNELL:

17 A. Yes, that's right.

18 COFFEY, Q.C.:

19 Q. And just so the Commissioner has some sense of

20 this, your background in communications began

21 with, at least in the early years, primarily

22 focused on the writing end of things.

23 MS. BONNELL:

24 A. Yes, I would agree with that, certainly. And

25 when I was hired by the Health Care

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1 Corporation of St. John's in 2000, I was hired

2 because of those skills, certainly.

3 COFFEY, Q.C.:

4 Q. And what was it then you were initially tasked

5 with doing in the early years?

6 MS. BONNELL:

7 A. I did a limited amount of media relations that

8 increased over the years. I did some

9 strategic communications, but my strategic

10 communication skills have developed over the

11 eight years that I've been with either the

12 Health Care Corporation or Eastern Health.

13 When I was hired initially, I did a lot of

14 patient information booklets and website

15 materials and writing for speeches, messages

16 for the CEO, that sort of thing.

17 COFFEY, Q.C.:

18 Q. And you held the position of communications

19 specialist with the Health Care Corporation of

20 St. John's from 2000 to 2003?

21 MS. BONNELL:

22 A. Yes.

23 COFFEY, Q.C.:

24 Q. Who did you report to at the time?

25 MS. BONNELL:

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1 A. Initially, I don't remember when the change
 2 actually occurred, but initially the
 3 communications office reported directly to the
 4 CEO and at some point in that time period, the
 5 reporting relationship was shifted to the
 6 Vice-President who was responsible for human
 7 resources, which actually happened to be
 8 Stephen Dodge who then went on to become the
 9 Vice-President of People and Information
 10 Services for Eastern Health. And
 11 communications was structured under that
 12 portfolio.
 13 COFFEY, Q.C.:
 14 Q. So do you recall when it was that
 15 communications ended up reporting to Mr.--the
 16 position Mr. Dodge had -
 17 MS. BONNELL:
 18 A. It was when--it was prior to my becoming a
 19 director.
 20 COFFEY, Q.C.:
 21 Q. Okay, so this would have been before -
 22 MS. BONNELL:
 23 A. Yeah.
 24 COFFEY, Q.C.:
 25 Q. - 2003?

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1 MS. BONNELL:
 2 A. Um-hm.
 3 COFFEY, Q.C.:
 4 Q. As a communication specialist, I appreciate
 5 you, at least in the early years your
 6 department reported to the president?
 7 MS. BONNELL:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. And then eventually to the vice president.
 11 Who did you report to within your department?
 12 MS. BONNELL:
 13 A. When I was a communication specialist, I
 14 reported to a director.
 15 COFFEY, Q.C.:
 16 Q. And who was that?
 17 MS. BONNELL:
 18 A. There were two during that time period. Beth
 19 Ryan was one and Karen Strowbridge (phonetic)
 20 was the other.
 21 COFFEY, Q.C.:
 22 Q. And at that time who had primary, the primary
 23 role in dealing with the electronic media?
 24 MS. BONNELL:
 25 A. It would be the director.

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1 COFFEY, Q.C.:
 2 Q. Eventually, I take it, you did become the
 3 director of strategic communications?
 4 MS. BONNELL:
 5 A. I did.
 6 COFFEY, Q.C.:
 7 Q. What significance, if any, does the usage of
 8 the word "strategic" have?
 9 MS. BONNELL:
 10 A. I'm not sure in what sense you -
 11 COFFEY, Q.C.:
 12 Q. Well, you've pointed out in the beginning you
 13 were primarily a write?
 14 MS. BONNELL:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. And over time you became more and more exposed
 18 to strategic communications?
 19 MS. BONNELL:
 20 A. Yes.
 21 COFFEY, Q.C.:
 22 Q. And eventually, as your resume points out, by
 23 2003 you become the director of strategic
 24 communications. So what was it you were more
 25 and more exposed to, what aspect of the

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1 business?
 2 MS. BONNELL:
 3 A. Okay. Communications, if I could sort of just
 4 indulge a little tiny bit.
 5 COFFEY, Q.C.:
 6 Q. Sure. And in fact, I'm going to invite you to
 7 on this point, yes.
 8 MS. BONNELL:
 9 A. Communications is, I guess many people
 10 consider it to be an emerging profession.
 11 Unlike professions that have, well, unlike
 12 lawyers who are regulated by law and have a
 13 licensure, in the communications profession I
 14 suspect that at some point we'll get there,
 15 but we are not at this point. And over the
 16 years that the profession has existed there's
 17 been a move more and more and more towards
 18 involving communications professionals or
 19 public relations professionals or public
 20 relations professionals in strategic planning
 21 for organizations. And I guess, you know, the
 22 organization itself was maturing, as well, and
 23 there was a recognition that there is a need
 24 to be more strategic in communications. I
 25 don't know if that answers your question or

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1 not.
 2 COFFEY, Q.C.:
 3 Q. Strategy in this context refers to what sorts
 4 of things?
 5 MS. BONNELL:
 6 A. Communications can be very tactical, put out a
 7 press release because this is the information
 8 that I tell you to put in it and you put it
 9 out and there's no involvement in the decision
 10 making process, write this brochure, put this
 11 information on the web. I mean, communications
 12 in some organizations can be like that and
 13 there's certainly an element of tactical work
 14 in the profession. But the development of
 15 strategies and involvement in trying to
 16 maximize effective communications is
 17 reflected, I think, in our decision to call
 18 the department strategic communications and to
 19 start move--start to move towards aligning
 20 communications objectives with planning that
 21 an organization does.
 22 COFFEY, Q.C.:
 23 Q. All with a view to doing what, to
 24 accomplishing what?
 25 MS. BONNELL:

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1 A. Being more effective as an organization in
 2 communicating with stakeholders in general.
 3 COFFEY, Q.C.:
 4 Q. Ma'am, just so the Commissioner has some sense
 5 of how things were when you first arrived and
 6 then how things, you know -
 7 MS. BONNELL:
 8 A. Progressed?
 9 COFFEY, Q.C.:
 10 Q. - became or progressed or evolved, I'll use
 11 the word, neutral word, evolved. You first
 12 went to work with the Health Care Corporation
 13 in 2000. Where were you stationed physically?
 14 MS. BONNELL:
 15 A. In the administrative building.
 16 COFFEY, Q.C.:
 17 Q. And it was on -
 18 MS. BONNELL:
 19 A. Where the CEO was located.
 20 COFFEY, Q.C.:
 21 Q. That was on Waterford Bridge Road?
 22 MS. BONNELL:
 23 A. That's correct.
 24 COFFEY, Q.C.:
 25 Q. And when you first arrived in the

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1 communications department, it was comprised of
 2 what positions?
 3 MS. BONNELL:
 4 A. In 2000 there were just three positions.
 5 There was a director, there was communications
 6 specialist, which would be me, and an
 7 administrative assistant.
 8 COFFEY, Q.C.:
 9 Q. And as time went on?
 10 MS. BONNELL:
 11 A. At the end of the days of the Health Care
 12 Corporation, when I was the director, we had -
 13 COFFEY, Q.C.:
 14 Q. So when you showed up, there was a director of
 15 strategic communications?
 16 MS. BONNELL:
 17 A. There was a director of corporate
 18 communications.
 19 COFFEY, Q.C.:
 20 Q. Corporate, I was going to -
 21 MS. BONNELL:
 22 A. It was a different name in the department at
 23 that time.
 24 COFFEY, Q.C.:
 25 Q. Exactly, I was going to--so it was director of

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1 corporation communications when you arrived?
 2 MS. BONNELL:
 3 A. Yeah.
 4 COFFEY, Q.C.:
 5 Q. And you were called a communication
 6 specialist?
 7 MS. BONNELL:
 8 A. Yes. And during the time period of 2003, 2005
 9 we moved to a strategic communications model,
 10 so I was the director of corporate
 11 communications at the Health Care Corporation,
 12 as well.
 13 COFFEY, Q.C.:
 14 Q. So when you first became the director at the
 15 Health Care Corporation of St. John's, you
 16 were the director, technically, of corporate
 17 communications?
 18 MS. BONNELL:
 19 A. Yes.
 20 COFFEY, Q.C.:
 21 Q. Okay, that was the name of it. Okay, go
 22 ahead.
 23 MS. BONNELL:
 24 A. Um-hm. I've forgotten where we were.
 25 COFFEY, Q.C.:

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1 Q. At this time, that was in '03 you took over.
 2 MS. BONNELL:
 3 A. Yeah, in--at the end of the days of the Health
 4 Care Corporation we had an administrator, we
 5 had a media relations person, a communication
 6 specialist whose role was specifically media
 7 relations and we had another half-time
 8 individual who--well, she was a full-time
 9 individual, but we shared her half time with
 10 the Health Care Foundation, so she did half
 11 her work for them and half for us.
 12 COFFEY, Q.C.:
 13 Q. Okay, so, Commissioner, at least I'm clear,
 14 when you took over as the director in 2003,
 15 who worked in your department in the sense of
 16 what positions? You were the director?
 17 MS. BONNELL:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. And who else at that point, how many positions
 21 were there at that point?
 22 MS. BONNELL:
 23 A. Still only three.
 24 COFFEY, Q.C.:
 25 Q. Three?

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1 MS. BONNELL:
 2 A. Right.
 3 COFFEY, Q.C.:
 4 Q. There was -
 5 MS. BONNELL:
 6 A. But I was the person -
 7 COFFEY, Q.C.:
 8 Q. - a communication specialist who replaced you?
 9 MS. BONNELL:
 10 A. Yes, that's right.
 11 COFFEY, Q.C.:
 12 Q. And an administrative assistant?
 13 MS. BONNELL:
 14 A. Yes. And then by the time the Health Care
 15 Corporation ended, we had added another half-
 16 time position.
 17 COFFEY, Q.C.:
 18 Q. Now, this corporate communications--I'm sorry.
 19 The communications specialist that replaced
 20 you.
 21 MS. BONNELL:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. Who was that initially, do you recall?
 25 MS. BONNELL:

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1 A. Deborah Thomas.
 2 COFFEY, Q.C.:
 3 Q. Deborah Thomas. And what was Deborah Thomas'
 4 role?
 5 MS. BONNELL:
 6 A. She was a communication specialist and that
 7 changed to a more specific media relations
 8 role when we added another half-time position,
 9 although she still did other work, as well. I
 10 mean, there's--at that time we couldn't
 11 specifically have someone who did nothing but
 12 media relations. If you look at Eastern
 13 Health now and the strategic communications
 14 department today, there is an individual who
 15 does nothing but media relations.
 16 COFFEY, Q.C.:
 17 Q. So -
 18 MS. BONNELL:
 19 A. When Eastern Health was formed and I worked
 20 with my new VP when he was put in place -
 21 COFFEY, Q.C.:
 22 Q. That's Mr. Dodge?
 23 MS. BONNELL:
 24 A. Mr. Dodge.
 25 COFFEY, Q.C.:

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1 Q. Yes.
 2 MS. BONNELL:
 3 A. To develop a structure that included a full-
 4 time media relations person, which actually
 5 happened to be Deborah Thomas, she continued
 6 on in the role that she played at Health Care
 7 Corp.
 8 COFFEY, Q.C.:
 9 Q. So after Deborah replaced you in the position
 10 you had had, over time, gradually she evolved
 11 into a media relations person?
 12 MS. BONNELL:
 13 A. Specifically, yes.
 14 COFFEY, Q.C.:
 15 Q. Specifically?
 16 MS. BONNELL:
 17 A. Yeah.
 18 COFFEY, Q.C.:
 19 Q. At first not fulltime, but eventually
 20 fulltime?
 21 MS. BONNELL:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. Just -
 25 MS. BONNELL:

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1 A. Well, when she applied for the position at
 2 Eastern Health, because all the staff had to
 3 reapply for their positions and some, you
 4 know, some individuals did not get positions
 5 in the new Eastern Health and some did from
 6 across all of the four boards.
 7 COFFEY, Q.C.:
 8 Q. Um-hm.
 9 MS. BONNELL:
 10 A. The position was called media--she was
 11 applying for and was selected to be a media
 12 relations specialist.
 13 COFFEY, Q.C.:
 14 Q. Okay. Now, in that role, I take it that that
 15 would have been really in the spring of--into
 16 the summer of '06--of '05, I'm sorry, because
 17 Eastern Health began April 1, '05?
 18 MS. BONNELL:
 19 A. It was in the summer of 2005.
 20 COFFEY, Q.C.:
 21 Q. Five, okay. Her job function was what?
 22 MS. BONNELL:
 23 A. Before or after?
 24 COFFEY, Q.C.:
 25 Q. After.

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1 MS. BONNELL:
 2 A. Okay. After she was accepted in the position,
 3 her role was to be the primary contact for the
 4 media for Eastern Health.
 5 COFFEY, Q.C.:
 6 Q. And in a practical sense what does that mean?
 7 MS. BONNELL:
 8 A. Media relations at Eastern Health and in many
 9 organizations is a centralized function, so
 10 when the media want to speak to anybody who
 11 works for Eastern Health, the structure is set
 12 up so that the calls come to Deborah and--or
 13 come to that media relations person, whoever
 14 that is. Then she's the facilitator for the
 15 media within the organization and then gets
 16 back to the media to let them know the results
 17 of their inquiries. She doesn't act as a
 18 spokesperson for the organization, although
 19 occasionally you will see a communications
 20 professional quoted in a new story. Our
 21 belief is that in, you know, in health care
 22 it's very difficult for someone who has skills
 23 in communications to act as a spokesperson on
 24 medical issues unless you have that unique
 25 combination which we have never had. So our

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1 spokes people, the people who talk for the
 2 organization are either the administrative
 3 leaders of the organization or medical experts
 4 within the organization, depending on the
 5 issue.
 6 COFFEY, Q.C.:
 7 Q. So in the media relations officer, and Ms.
 8 Thomas' case, in the summer of '05 any media
 9 inquiry to Eastern Health, at least in theory,
 10 was to be funnelled to her if it didn't -
 11 MS. BONNELL:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. And people, if they got a phone call, would
 15 understand they were to redirect them to the
 16 communications media specialist?
 17 MS. BONNELL:
 18 A. Yes, certainly. I mean, you know, it doesn't
 19 always happen in practice -
 20 COFFEY, Q.C.:
 21 Q. And I -
 22 MS. BONNELL:
 23 A. - because, you know, for example, I can give
 24 you a good example, in Eastern Health Dr.
 25 David Allison, who's our medical officer of

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1 health, has established a relationship with
 2 the media himself. Now, Dr. Allison will talk
 3 to us and tell us, you know, VOCM called me
 4 today or whomever called me today. But you
 5 know, there are individuals who work for the
 6 organization who do have that kind of
 7 prearranged licence to deal directly with the
 8 media. But you wouldn't really want your
 9 nurse or your doctor to be distracted by
 10 getting a phone call from the media, and so
 11 that's why that centralized structure exists,
 12 so that we can handle that and that the people
 13 who are there to provide care are able to
 14 focus on that which they're supposed to be
 15 doing.
 16 COFFEY, Q.C.:
 17 Q. Now, having received an inquiry from, you
 18 know, for example, the media, Ms. Thomas was
 19 supposed to do what if, for example, the media
 20 wanted to talk to, I don't know, a vice
 21 president medicine or a surgeon or whomever,
 22 what was she supposed to do?
 23 MS. BONNELL:
 24 A. That's a very general question. It's a little
 25 bit difficult for me to answer. But I guess

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1 in general she would go to the person who the
 2 request is being made to speak to.
 3 COFFEY, Q.C.:
 4 Q. Yes.
 5 MS. BONNELL:
 6 A. Indicate to them that there was a request to
 7 speak to them and then facilitate the process
 8 of the interview.
 9 COFFEY, Q.C.:
 10 Q. And were there any criteria as to whether or
 11 not interviews would or would not be granted
 12 and, if so, who made those decisions?
 13 MS. BONNELL:
 14 A. It depends on the issue, Mr. Coffey. You
 15 know, there isn't any existing criteria that
 16 says, you know, an interview will be granted
 17 in the case of A, B, C or D, that--you know,
 18 it's much more fluid than that. And you know
 19 -
 20 COFFEY, Q.C.:
 21 Q. Was she -
 22 MS. BONNELL:
 23 A. - it depends on the issue. I mean, we--you
 24 know, part of being involved in the
 25 organization at a strategic level, I guess, if

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1 we want to bring it back to that, is an
 2 awareness of issues, of monitoring the media
 3 and watching what may be coming down the road
 4 for us, being prepared in that sense, so
 5 there's a little bit more to it than, you
 6 know, a sort of a formalized plan of -
 7 COFFEY, Q.C.:
 8 Q. Well, when Ms. Thomas was there, you would, as
 9 her director, have had the expectation she
 10 would consult you in this regard in what sort
 11 of circumstances? When did she kind of go off
 12 and do it on her own versus you would expect
 13 her to come to you?
 14 MS. BONNELL:
 15 A. It's a big organization, it's a huge
 16 organization. And there would be media
 17 inquiries that would come in which are very,
 18 very straightforward and would require no
 19 consultation and there would be no expectation
 20 that on every media inquiry Deborah would
 21 consult.
 22 COFFEY, Q.C.:
 23 Q. Um-hm.
 24 MS. BONNELL:
 25 A. You know, in terms of issues management, when

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1 you're dealing with any particular issue,
 2 Deborah or anybody in that position would be
 3 aware that an issue is--has developed or is
 4 developing within an organization and then
 5 sometimes you would involve--she would come to
 6 me or--you know, it's a very team--it's a very
 7 team oriented environment in which we work.
 8 One of the things that I'm proud of is that
 9 we've built a team of individuals who work
 10 very well together and very collectively and
 11 support one another. So our offices are next
 12 door to one another. If she had a difficult
 13 issue that she wasn't sure exactly how to deal
 14 with or if she had a situation where she felt
 15 that this would be a good interview to do for
 16 whatever reason and the specialist was not
 17 available to respond to it, she may come to me
 18 and say, you know, I can't get Dr. So and So,
 19 but should we pursue this with another, take
 20 another line of--you know, it's a very fluid
 21 environment.
 22 COFFEY, Q.C.:
 23 Q. And I take it correspondingly from the
 24 perspective of you being the director was it
 25 somewhat fluid in terms of your decisions as

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1 to what sorts of matters you might reach out
 2 to Deborah and have her become involved in?
 3 Whomever came to you initially and then -
 4 MS. BONNELL:
 5 A. Well, I don't think so. The calls would come
 6 to Deborah, so Deborah was our--it wasn't me
 7 always. I mean, you will see media inquiry
 8 forms in--that have me as being the primary
 9 contact probably because Deborah was involved
 10 in another issue at that point in time. You
 11 know, when the media called, we also had an
 12 assistant who sometimes answered those calls.
 13 So you'll see in our media inquiry logs that
 14 our administrative assistant would take the
 15 initial call from a reporter, it may get
 16 passed to me, it may get passed to the media
 17 relations specialist if she's not available to
 18 deal with it. Because, of course, you know,
 19 Health Care Corporation got on average 400
 20 media inquiries, 350 to 400 media inquiries a
 21 year, Eastern Health is averaging somewhere
 22 between five and six hundred. So you know,
 23 sometimes you were off dealing with something
 24 else entirely different when another issue
 25 would arise and would have to be addressed.

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1 COFFEY, Q.C.:

2 Q. Now, with respect to Eastern Health, because

3 we understand at least as an entity known in

4 law, a legal entity, it began operation April

5 1, 2005. Do you recall, do you know what or

6 how early in the process you were hired?

7 MS. BONNELL:

8 A. I was hired before April.

9 COFFEY, Q.C.:

10 Q. Okay. And -

11 MS. BONNELL:

12 A. I was looking for my offer letter before this

13 transpired and I can't find it, but I think it

14 was the end of February that I was actually

15 hired by Mr. Tilley.

16 COFFEY, Q.C.:

17 Q. Okay. So you were--by the time you were hired

18 the, at least one employee that existed of

19 Eastern Health was Mr. Tilley, who was the

20 CEO?

21 MS. BONNELL:

22 A. Yes, and his administrative assistant, there

23 were three of us.

24 COFFEY, Q.C.:

25 Q. Okay. So it was Mr. Tilley, his

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1 administrative assistant and then you?

2 MS. BONNELL:

3 A. Yes.

4 COFFEY, Q.C.:

5 Q. You were number three?

6 MS. BONNELL:

7 A. Yes.

8 COFFEY, Q.C.:

9 Q. Before the VPs and so on and so forth?

10 MS. BONNELL:

11 A. Yes.

12 COFFEY, Q.C.:

13 Q. When was it that you came then to report to

14 Mr. Dodge?

15 MS. BONNELL:

16 A. As soon as Mr. Dodge was in place.

17 COFFEY, Q.C.:

18 Q. Now, was that -

19 MS. BONNELL:

20 A. I think it was -

21 COFFEY, Q.C.:

22 Q. I appreciate that's in a theoretical sense in

23 a chart.

24 MS. BONNELL:

25 A. Yes.

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1 COFFEY, Q.C.:

2 Q. In practice did you actually report to Mr.

3 Dodge for some things and to Mr. Tilley for

4 others or -

5 MS. BONNELL:

6 A. No, I reported to Mr. Dodge.

7 COFFEY, Q.C.:

8 Q. Mr. Dodge?

9 MS. BONNELL:

10 A. Um-hm.

11 COFFEY, Q.C.:

12 Q. Would you have direct dealings with Mr.

13 Tilley?

14 MS. BONNELL:

15 A. Absolutely, and other members of the executive

16 team.

17 COFFEY, Q.C.:

18 Q. Okay.

19 MS. BONNELL:

20 A. Because of the nature of the job.

21 COFFEY, Q.C.:

22 Q. Okay. I'm going to ask you, and you explain

23 that to the Commissioner.

24 MS. BONNELL:

25 A. Um-hm.

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1 COFFEY, Q.C.:

2 Q. Okay, your reporting on a chart to Mr. Dodge?

3 MS. BONNELL:

4 A. Yes.

5 COFFEY, Q.C.:

6 Q. And I don't doubt that you would have to fill

7 out your time sheets and so on for Mr. Dodge,

8 that sort of thing, tell him you're going to

9 be away, you know, or whatever. But reporting

10 to versus having dealings with, as you pointed

11 out, you had dealings with a lot of the

12 executive?

13 MS. BONNELL:

14 A. Yes.

15 COFFEY, Q.C.:

16 Q. Could you tell the Commissioner about how that

17 worked, that end of it first?

18 MS. BONNELL:

19 A. Well, because of the nature of the job that I

20 perform I'm involved with all the members of

21 the executive team and all the members of the

22 senior management team in helping them develop

23 communication strategies and plans and

24 advising them on issues that they have to deal

25 with from a communications perspective, either

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1 externally or internally, not always just
 2 media.
 3 COFFEY, Q.C.:
 4 Q. What sorts of meeting would that cause you
 5 then to attend?
 6 MS. BONNELL:
 7 A. Many.
 8 COFFEY, Q.C.:
 9 Q. Again, tell the Commissioner about that?
 10 MS. BONNELL:
 11 A. Many, many, many meetings. Many meetings
 12 across the entire region. A significant
 13 amount of travel in the first year that the
 14 organization was in existence. I spent as much
 15 time, I think, on the road establishing a
 16 relationship with members of our new executive
 17 as I spent in my office talking to members of
 18 the executive about what their requirements
 19 were, what their expectations were of the
 20 communications function, how we could assist
 21 them in the communications function. You
 22 know, all the various members of executive,
 23 with their new portfolios, were trying to
 24 determine many different things and
 25 communications expectation was one of those

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1 things that would have been on their plate to
 2 address, and in terms of Mr. Tilley, we
 3 maintained, all through this period of time, a
 4 close working relationship because of the very
 5 nature of what we would be dealing with from a
 6 public or an internal perspective.
 7 In terms of my relationship with Mr.
 8 Dodge, plans of the department, structure of
 9 my own department, issues of how to respond
 10 to, you know, corporate issues, strategies for
 11 the organization, working closely with the
 12 other elements of his portfolio, the human
 13 resources pieces of his portfolio and the
 14 information management pieces of his
 15 portfolio. It was a reporting relationship to
 16 Mr. Dodge. I wouldn't send a departmental
 17 plan or budget to Mr. Tilley.
 18 COFFEY, Q.C.:
 19 Q. Now, ma'am, what sorts of meetings would you
 20 attend, for example, the executive management
 21 committee?
 22 MS. BONNELL:
 23 A. I did attend. I wasn't a member of executive
 24 management, but I did attend meetings. I
 25 believe that was Mr. Tilley's decision early

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1 on that things were happening so quickly that--
 2 -I didn't attend executive meetings in the
 3 Health Care Corporation, so that was a change.
 4 It was such rapid fire progress and movement
 5 and things being talked about that it was in
 6 the best interest of the organization if I sat
 7 and listened to those issues as they were
 8 raised.
 9 COFFEY, Q.C.:
 10 Q. So you would attend the regular executive
 11 management meetings of Eastern Health?
 12 MS. BONNELL:
 13 A. Yes.
 14 COFFEY, Q.C.:
 15 Q. And that had not occurred when you had the
 16 same position with the Health Care
 17 Corporation?
 18 MS. BONNELL:
 19 A. No.
 20 COFFEY, Q.C.:
 21 Q. What other sorts of management, any other--did
 22 you attend Board of Trustee meetings?
 23 MS. BONNELL:
 24 A. No, I did not.
 25 COFFEY, Q.C.:

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1 Q. Okay.
 2 MS. BONNELL:
 3 A. I did not attend Board meetings. I
 4 occasionally was in the presence of Board
 5 meetings when we had public functions, but
 6 never would attend a meeting.
 7 COFFEY, Q.C.:
 8 Q. How would you be informed as to what had gone
 9 on at board meetings?
 10 MS. BONNELL:
 11 A. Through executive, certainly, and we actually
 12 had a tactic that we used, a tool at one
 13 point, a communication tactic or tool, just a
 14 product that you produce, and we did at one
 15 point have a board update that we were posting
 16 on our internal communications vehicles for
 17 staff. So we were reporting things that would
 18 come up at the Board level back to our own
 19 employees to try and keep them informed. In
 20 the development of those, I would have been
 21 shared key points from Board meetings, so that
 22 we could develop those. I also--I was a
 23 member of--or am a member, I guess, of many
 24 administrative--I was a member of the
 25 Administrative Transition Committee meeting.

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1 Whenever senior management met, I met with
 2 them. I was a member of committees related to
 3 structural change within the organization,
 4 which was a major preoccupation, certainly in
 5 year one, if not into year two.
 6 COFFEY, Q.C.:
 7 Q. The Medical Advisory Committee?
 8 MS. BONNELL:
 9 A. No.
 10 COFFEY, Q.C.:
 11 Q. You would not have--you wouldn't attend their
 12 meetings?
 13 MS. BONNELL:
 14 A. No.
 15 COFFEY, Q.C.:
 16 Q. Would the--how, if at all, would you become
 17 aware of what went on at their meetings?
 18 MS. BONNELL:
 19 A. I would not really, unless it was raised at
 20 executive.
 21 COFFEY, Q.C.:
 22 Q. Okay. What about the interaction between the
 23 Health Care Corporation, ask you about that at
 24 this point in time, and the Department of
 25 Health and Community Services? In the Health

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1 Care Corporation days, how did that work, in a
 2 communications sense?
 3 MS. BONNELL:
 4 A. Do you mean in terms of my own functioning
 5 because -
 6 COFFEY, Q.C.:
 7 Q. Yes, and your department's.
 8 MS. BONNELL:
 9 A. There would certainly be a lot of
 10 communication going on that wasn't related to
 11 me.
 12 COFFEY, Q.C.:
 13 Q. Yes.
 14 MS. BONNELL:
 15 A. We had a--what is the word I'm struggling for
 16 now? We had a cooperative relationship,
 17 collegial relationship, I guess, between the
 18 two communications directors. That existed
 19 prior to my becoming a director and then
 20 continued on.
 21 COFFEY, Q.C.:
 22 Q. Okay, who was that?
 23 MS. BONNELL:
 24 A. When I first had dealings with the Department,
 25 it would have been Carolyn Chaplin.

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1 COFFEY, Q.C.:
 2 Q. Yes, she was the what in the Department then?
 3 MS. BONNELL:
 4 A. Actually, I think there was another director
 5 before her, Mr. Coffey, and I don't remember
 6 who.
 7 COFFEY, Q.C.:
 8 Q. Okay.
 9 MS. BONNELL:
 10 A. She was the Director of Communications for the
 11 Department of Health.
 12 COFFEY, Q.C.:
 13 Q. And so even before you became the director of
 14 communications with the Health Care
 15 Corporation, you had had dealings with--knew
 16 Carolyn Chaplin and would have had dealings
 17 with her, in a communications sense?
 18 MS. BONNELL:
 19 A. No, I don't think she was there actually
 20 before that point.
 21 COFFEY, Q.C.:
 22 Q. So -
 23 MS. BONNELL:
 24 A. I don't remember who the director was prior to
 25 that, but the dealings would have been very

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1 much around events, that kind of thing, you
 2 know. "We're having an event. We would like
 3 the Premier or the Minister to attend. Can
 4 you help us arrange that?" When we opened the
 5 Janeway, for example, or if we were--if
 6 Government was making an announcement that
 7 related to funding for the Health Care
 8 Corporation or Eastern Health, we would likely
 9 be given an advance copy of whatever was going
 10 to be announced. We sometimes gave advance
 11 copies of press releases to the Department,
 12 but only sometimes.
 13 COFFEY, Q.C.:
 14 Q. Okay, well, what sort of criteria were used to
 15 determine which times?
 16 MS. BONNELL:
 17 A. Usually when the Minister would be involved.
 18 You know, if there was--funding comes to my
 19 mind. If there was an announcement of a new
 20 piece of equipment or, you know, when we
 21 opened the MRI, there would have been an
 22 opportunity there for the Minister to have a
 23 quote in a press release, that kind of thing.
 24 So it was that sort of relationship.
 25 COFFEY, Q.C.:

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1 Q. How about when there were things that might be
 2 seen to be of a problematic nature?
 3 MS. BONNELL:
 4 A. Yes, we would have had a phone conversation
 5 likely. I'm finding difficult to stretch back
 6 in time and remember exactly what it was like
 7 in Health Care Corporation days.
 8 COFFEY, Q.C.:
 9 Q. Okay. Well, as an example, I believe we've
 10 had some witnesses talk about--well, go ahead
 11 then to Eastern Health.
 12 MS. BONNELL:
 13 A. Um-hm.
 14 COFFEY, Q.C.:
 15 Q. Okay. How did it work when you were with
 16 Eastern Health?
 17 MS. BONNELL:
 18 A. It seemed like we had a few more issues.
 19 COFFEY, Q.C.:
 20 Q. Yes.
 21 MS. BONNELL:
 22 A. You know, at the -
 23 COFFEY, Q.C.:
 24 Q. The basic nature of the relationship changed?
 25 MS. BONNELL:

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1 A. It certainly did, absolutely did.
 2 COFFEY, Q.C.:
 3 Q. Okay, tell the Commissioner about that.
 4 MS. BONNELL:
 5 A. In the early days, as I said, it was more of a
 6 sharing of information on a courtesy basis.
 7 That's the word I was looking for earlier. As
 8 time progressed, there became more direct
 9 involvement from the Department in things that
 10 Eastern Health was announcing, and I think
 11 too, I think -
 12 COFFEY, Q.C.:
 13 Q. What sorts of things? Things of a positive
 14 nature, I take it, or negative?
 15 MS. BONNELL:
 16 A. Both, certainly.
 17 COFFEY, Q.C.:
 18 Q. Both, okay.
 19 MS. BONNELL:
 20 A. And you know, I think it probably doesn't hurt
 21 to say that when I joined the Health Care
 22 Corporation of St. John's, I joined after they
 23 had experienced their first three years as an
 24 organization, and things were much--from what
 25 I've been told, much more stable within the

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1 organization. That the early years were a
 2 little bit more tumultuous, both from an
 3 internal and an external perspective, and part
 4 of that was just the transitioning of moving
 5 to this--you know, these hospitals being
 6 brought together into one organization. But
 7 the days when I was with the Health Care
 8 Corporation, although we had some very serious
 9 issues that we dealt with in those periods of
 10 time, it wasn't the kind of ongoing crisis all
 11 the time that I've been told was experienced a
 12 little bit more in the earlier days.
 13 Certainly when Eastern Health was formed,
 14 this new organization, new structures coming
 15 into place, new team coming into place, and by
 16 the very virtue of the size of the
 17 organization and the scope of all of the
 18 things that were covered, you know, Health
 19 Care Corporation would have a day or two where
 20 you were dealing with a big issue, or a week.
 21 Then issues would move on to other boards and
 22 other concerns. At Eastern Health, it's all
 23 those concerns. So whether it's, you know, a
 24 crisis with daycares or it's Child Youth and
 25 Family Services issue or it's an issue with

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1 availability of radiology equipment or it's an
 2 issue of beds or nursing or--all these things
 3 now fall in under the Eastern Health umbrella,
 4 and I'm lost track of what we were talking
 5 about, but -
 6 COFFEY, Q.C.:
 7 Q. No, you're still on point.
 8 MS. BONNELL:
 9 A. - the point is that in those days, there were
 10 more issues that had to be dealt with, and I
 11 think that the changing nature of the
 12 relationship between my communications office
 13 and the Department's communications office is
 14 inevitable.
 15 COFFEY, Q.C.:
 16 Q. So you found that there was--the Department
 17 what, wanted to know more?
 18 MS. BONNELL:
 19 A. They certainly needed to be informed more, and
 20 I would say both ways. That that would be
 21 mutual. You know, there was a need for more
 22 mutual sharing because the issues are big and
 23 involve the politicians, you know, in speaking
 24 to them as well, right.
 25 COFFEY, Q.C.:

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1 Q. What, if any, formal education do you have in
 2 relation to public relations?
 3 MS. BONNELL:
 4 A. I have no formal education. I don't have a
 5 BPR. There's really only one way to get
 6 formal education in public relations in Canada
 7 and that's a BPR. There are more and more
 8 BPR's coming into the workforce in
 9 Newfoundland, but the majority of
 10 communications directors in Newfoundland do
 11 not have a BPR.
 12 COFFEY, Q.C.:
 13 Q. That would be a Bachelor of Public Relations?
 14 MS. BONNELL:
 15 A. That's right.
 16 COFFEY, Q.C.:
 17 Q. And, okay -
 18 MS. BONNELL:
 19 A. Decisions are made on hiring communications
 20 directors, I said it was an emerging
 21 profession, and I guess, you know, you see
 22 it's a situation where equivalencies are
 23 connected. You put out an application for--or
 24 put out a job posting for a communications
 25 director and you'll always see, you know, a

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1 degree required. Some companies will ask for
 2 professional certification. There are two
 3 certifications that I'm aware of that you can
 4 get, and you know, equivalencies are taken
 5 into consideration, years of experience, types
 6 of job skills, types of personalities.
 7 COFFEY, Q.C.:
 8 Q. Ma'am, the matter of ER/PR, estrogen receptor
 9 and progesterone receptor status of patients
 10 or patients' tumors, of course is the subject
 11 matter we're here about. When did you first
 12 become aware?
 13 MS. BONNELL:
 14 A. In late May of 2005.
 15 COFFEY, Q.C.:
 16 Q. And from whom?
 17 MS. BONNELL:
 18 A. I'm having difficulty recalling who made the
 19 first call, but I know that I spoke to both
 20 Heather Predham and Dr. Williams about the
 21 issue, so I'm not sure who called me first,
 22 but one of them would have called me.
 23 COFFEY, Q.C.:
 24 Q. And we have received some handwritten notes
 25 from yourself through the solicitor for

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1 Eastern Health, Mr. Simmons, but in relation
 2 to a matter such as ER/PR would, for example,
 3 your office have a file in relation to that?
 4 MS. BONNELL:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. So what form would that file take?
 8 MS. BONNELL:
 9 A. It would include--actually everything that was
 10 in the file would have been presented to you.
 11 So it would include any strategies that are
 12 developed, memos, briefing notes, everything.
 13 We eventually ended up keeping several files
 14 on ER/PR, a media file itself. Ended up
 15 dividing the files according to time periods.
 16 COFFEY, Q.C.:
 17 Q. So a media file, I take it, would be -
 18 MS. BONNELL:
 19 A. Coverage.
 20 COFFEY, Q.C.:
 21 Q. - a file containing all media clips?
 22 MS. BONNELL:
 23 A. That's right.
 24 COFFEY, Q.C.:
 25 Q. Clippings, transcripts?

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1 MS. BONNELL:
 2 A. Yes.
 3 COFFEY, Q.C.:
 4 Q. Things like that.
 5 MS. BONNELL:
 6 A. Um-hm.
 7 COFFEY, Q.C.:
 8 Q. Was there anyone within your organization
 9 tasked with media monitoring?
 10 MS. BONNELL:
 11 A. The media relations person has that
 12 responsibility, although I guess the work is
 13 really completed by the administrative
 14 assistant, to a large degree.
 15 COFFEY, Q.C.:
 16 Q. And so the media file, I'll call it that, or
 17 the media portion of the file, there'd be what
 18 else? E-mails?
 19 MS. BONNELL:
 20 A. No, we would have kept those electronically,
 21 of course, but not within a paper file. There
 22 would be an electronic file.
 23 COFFEY, Q.C.:
 24 Q. So in the paper file, there'd be the media
 25 clippings, as it were?

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1 MS. BONNELL:
 2 A. Um-hm.
 3 COFFEY, Q.C.:
 4 Q. And what else? I'm sorry.
 5 MS. BONNELL:
 6 A. Any materials that were produced on ER/PR.
 7 COFFEY, Q.C.:
 8 Q. Briefing notes?
 9 MS. BONNELL:
 10 A. Briefing notes, press releases, PowerPoint
 11 presentations, speaking notes, key messages,
 12 the whole thing that would be prepared.
 13 There'd be paper copies of things and then
 14 there'd also be electronic copies of those.
 15 At Eastern Health, we use a shared directory
 16 and the shared directory, there's a folder
 17 there called issues, and under issues you
 18 would find ER/PR, and then you would find sub-
 19 folders under that with essentially the exact
 20 same information that you would find in a
 21 paper copy. The only other thing that would
 22 exist beyond that would be personal notes that
 23 would be kept in, you know, black book type
 24 things, but I did not always keep notes of
 25 every meeting that I attended. Sometimes

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1 notes would be minuted, so I wouldn't have to
 2 keep a note.
 3 COFFEY, Q.C.:
 4 Q. Now this shared drive, shared electronic
 5 drive, who would have access to that?
 6 MS. BONNELL:
 7 A. The individuals who work in the communications
 8 department.
 9 COFFEY, Q.C.:
 10 Q. Okay. That would be yourself.
 11 MS. BONNELL:
 12 A. Everybody, all staff.
 13 COFFEY, Q.C.:
 14 Q. Okay, that'd be four or five?
 15 MS. BONNELL:
 16 A. Well, there's six in strategic communications
 17 at this point in time.
 18 COFFEY, Q.C.:
 19 Q. And would they be able to delete things or
 20 change things?
 21 MS. BONNELL:
 22 A. Absolutely.
 23 COFFEY, Q.C.:
 24 Q. Within the shared drive?
 25 MS. BONNELL:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. Now what about the e-mails connected with this
 4 matter of ER/PR, would they end up in the
 5 shared drive?
 6 MS. BONNELL:
 7 A. They didn't end up in the shared drive
 8 actually until the Commission was called, at
 9 which point we pulled them there so that they
 10 could be forwarded to you. I think you would
 11 find them there now today, but up until the
 12 point where the request came forward to gather
 13 materials, everybody's e-mails would have been
 14 stored in their own personal folders in their
 15 PCs.
 16 COFFEY, Q.C.:
 17 Q. Ma'am, in terms of your own preparation, you
 18 know, in relation to the Commission of
 19 Inquiry, how were you asked to prepare to
 20 gather information for the Commission?
 21 MS. BONNELL:
 22 A. I don't remember, Mr. Coffey. We were--I
 23 believe Ms. Pilgrim sent an e-mail out to
 24 everybody asking us to start to pull all
 25 materials together, and we would have pulled

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1 those materials together into a file and then
 2 burned the file on a CD and made copies, paper
 3 copies, and provided them to Ms. Pilgrim.
 4 COFFEY, Q.C.:
 5 Q. And I take it that that involved what,
 6 searching your e-mails?
 7 MS. BONNELL:
 8 A. Absolutely, yes.
 9 COFFEY, Q.C.:
 10 Q. All your electronic file folders of any sort?
 11 MS. BONNELL:
 12 A. Yes, yeah.
 13 COFFEY, Q.C.:
 14 Q. Paper copies?
 15 MS. BONNELL:
 16 A. Yes, sometime around that time, as well, I
 17 know the organization made electronic
 18 fingerprint of things as they existed at that
 19 point in time. So that if something was to be
 20 inadvertently deleted after that, you know,
 21 you would have a copy that exists.
 22 COFFEY, Q.C.:
 23 Q. Were you given any search criteria?
 24 MS. BONNELL:
 25 A. Anything that you have related to ER/PR.

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1 COFFEY, Q.C.:

2 Q. Okay. And the, of course, I suppose you can

3 put in ER or PR and see what came out.

4 MS. BONNELL:

5 A. No, the files were far more organized than

6 that, it was easier to find, sometimes e-mails

7 get lost when they get put in a different

8 folder, which happened in our case, but the

9 files themselves, if I were to show you today,

10 it's very clear where everything is located.

11 There is not--there's only one folder.

12 COFFEY, Q.C.:

13 Q. Now if we could look at, please, exhibit P-

14 1560? Now this, Ms. Bonnell, is an e-mail

15 from yourself, Wednesday, August 2nd, 2006 at

16 3:53 p.m.

17 MS. BONNELL:

18 A. Uh-hm.

19 COFFEY, Q.C.:

20 Q. To jpolak@hillandknowlton.ca. Subject is

21 Help! and there's an attachment. File is

22 MM4073459111854.doc. And I just want to

23 confirm something here, I was going to go to

24 the second page of this exhibit, it's a copy

25 of a transcript of CBC radio story of Tuesday,

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1 August 1st, 2006 at 7:50 a.m. Item No. 9

2 "Lawsuit against Eastern Health".

3 MS. BONNELL:

4 A. Uh-hm.

5 COFFEY, Q.C.:

6 Q. And it's about an interview or it is an

7 interview of Myrtle Lewis by Jeff Gilhooly.

8 MS. BONNELL:

9 A. Uh-hm.

10 COFFEY, Q.C.:

11 Q. Do you recall, is that transcript actually the

12 MM?

13 MS. BONNELL:

14 A. Yes.

15 COFFEY, Q.C.:

16 Q. Okay. Now ma'am, we only just received this

17 recently, can you tell the Commissioner why

18 that would be?

19 MS. BONNELL:

20 A. In preparation for my testimony today, Mr.

21 Simmons prepared two rather thick binders that

22 he asked me to go through with e-mails, and in

23 going through those binders, I noted that this

24 wasn't there. I didn't actually raise it

25 because there's lots of stuff that's not in

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1 those binders, as well as things that are in

2 the binder, so it didn't come to my attention

3 until the weekend when I said you do have this

4 e-mail, and he said, no, we don't have that e-

5 mail.

6 COFFEY, Q.C.:

7 Q. This particular one.

8 MS. BONNELL:

9 A. That's right.

10 COFFEY, Q.C.:

11 Q. And I take it you said to Mr. Simmons--I

12 appreciate the exchange about you do or don't

13 have, but without getting into what was said,

14 Mr. Simmons presented you with two thick

15 binders.

16 MS. BONNELL:

17 A. Uh-hm.

18 COFFEY, Q.C.:

19 Q. And you went through them and, of course, you

20 also know what you otherwise prepared and gave

21 to Mr. Simmons a long time ago--I'm sorry, to

22 Ms. Pilgrim a long time ago.

23 MS. BONNELL:

24 A. Well I'll be honest with you and say I didn't

25 go back and look through everything that I

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1 gave Ms. Pilgrim back at that time, but in

2 preparation for this, last month I did print

3 off everything that was in that folder, so

4 that I could sit and go through it myself and

5 I've spent some time on my own going back

6 through things prior to meeting with Mr.

7 Simmons, but this just--it wasn't there and it

8 was surprising to me that it wasn't there

9 because it was a critical point and I know

10 that when I spoke to you in--when I spoke to

11 you in February or November, whenever that was

12 originally, we had talked about this point in

13 time and so I went back to my binder then and

14 noted that in the binder, I'd been asked did

15 any e-mail communications exist and I said no.

16 So when I found this, I said, well there's an

17 e-mail communication that exists.

18 COFFEY, Q.C.:

19 Q. Is there anything and I appreciate you've

20 identified this and brought it to our

21 attention in the past several days in fact, is

22 there anything that you are aware of, any

23 document, electronic paper or otherwise

24 related to the ER/PR matter that you were

25 aware of that you have reason to believe has

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1 not yet been passed on to the Commission?
 2 MS. BONNELL:
 3 A. There is nothing that I am aware of.
 4 Certainly when documents came forward recently
 5 from government, I guess or from Dr. Howell,
 6 there was another request put through, have
 7 another look, make sure we have everything.
 8 And I can say to you that I have done my
 9 utmost to ensure that you have everything that
 10 you would need.
 11 COFFEY, Q.C.:
 12 Q. Can you just tell the Commissioner why this
 13 one, because it is important from your
 14 perspective, document, how this got missed the
 15 first time round?
 16 MS. BONNELL:
 17 A. Sir, this is a document that I am quite happy
 18 for you to look at and for you to talk to me
 19 about.
 20 COFFEY, Q.C.:
 21 Q. No, no, and I appreciate that because you have
 22 brought it forward and it is something related
 23 to the interview.
 24 MS. BONNELL:
 25 A. Uh-hm.

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1 COFFEY, Q.C.:
 2 Q. And you did focus on this particular point in
 3 time.
 4 MS. BONNELL:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. I'll be asking about it. But is there any
 8 explanation you can think of, like a
 9 mechanical explanation as to why it got missed
 10 the first time round?
 11 MS. BONNELL:
 12 A. No, the only thing I think that may
 13 potentially have caused this particular issue
 14 is that I have another file folder in my e-
 15 mails called crisis communications. In the
 16 fall of 2006, we were looking at bringing in
 17 an external consultant to help us write a
 18 crisis communications strategy and I created a
 19 file folder related to that. And this e-mail
 20 was in there. So I don't know why it was in
 21 there, it's an ER/PR e-mail. So I've gone
 22 back through every single file folder that I
 23 have in my e-mail to see if other e-mails have
 24 been moved over and we have found none.
 25 COFFEY, Q.C.:

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1 Q. So I take it that this e-mail was not in the
 2 material that you originally gave to Ms.
 3 Pilgrim?
 4 MS. BONNELL:
 5 A. No.
 6 COFFEY, Q.C.:
 7 Q. Ma'am, this--I'm going to refer you to some
 8 parts of this, perhaps what, Commissioner,
 9 what I'm going to ask is this, because
 10 otherwise, I do want to explore this in some
 11 detail with the witness, so I know it's five
 12 minutes before we normally break or so, but -
 13 THE COMMISSIONER:
 14 Q. You want to break for the day, rather than get
 15 into -
 16 COFFEY, Q.C.:
 17 Q. If we could, please.
 18 THE COMMISSIONER:
 19 Q. And then have to pause in the middle.
 20 COFFEY, Q.C.:
 21 Q. Yes, if you would please, Commissioner.
 22 THE COMMISSIONER:
 23 Q. All right. I trust nobody minds having an
 24 extra five minutes today. We'll meet at 9:30
 25 in the morning.

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1 COFFEY, Q.C.:
 2 Q. Smiles all around, Commissioner.
 3 Upon concluding at 4:42 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 28th 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 28th day of May, A.D., 2008
13 Judy Moss

Inquiry on Hormone Receptor Testing

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