COMMISSION OF INQUIRY
ON HORMONE RECEPTOR TESTING

BEFORE THE HONOURABLE JUSTICE CAMERON - COMMISSIONER

October 30, 2008

Appearances:

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

Rolf Pritchard/Jackie Brazil, Q.C. . . Her Majesty in Right of NL

Peter Browne, Q.C./Jane Hennebury . . . Doctors Kara Laing et al

Daniel Simmons . . . . Eastern Regional Integrated
. . . . Health Authority

Mark Pike, Q.C. . . . . NL Medical Association

Jennifer Newbury . . . . . Canadian Cancer Society (NL Division)

Blair Pritchett. . . . . Central, Western and Labrador-Grenfell
Regional Integrated Health Authorities

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1 OCTOBER 30, 2008
2 MS. PAMELA ELLIOTT - RESUMES THE STAND - EXAMINATION BY
3 BERNARD COFFEY, Q.C.
4 COFFEY, Q.C.:
5 Q. Ms. Elliott, the Commissioner has heard
6 evidence concerning an ATIPP request that
7 occurred - an ATIPP request from, I believe,
8 Mark Quinn, of CBC, to Eastern Health. This
9 would be in March of 2006, about that time
10 frame.
11 MS. ELLIOTT:
12 A. Yes.
13 COFFEY, Q.C.:
14 Q. Were you involved in the response to that?
15 MS. ELLIOTT:
16 A. I don't recall having a lot of involvement,
17 but what I do remember about that, I think
18 Deanne Emberley, I believe, we assigned to
19 take care of that request because at the time
20 our information coordinator, who we now have
21 that handles all that, Marion Crowley, she
22 wasn't in place at the time so Deanne Emberley
23 took over that request.
24 COFFEY, Q.C.:
25 Q. And now Ms. Crowley does it?

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1 MS. ELLIOTT:
2 A. Yes.
3 COFFEY, Q.C.:
4 Q. Which division is she in?
5 MS. ELLIOTT:
6 A. She's in the Quality and Risk Management
7 Division. There was a new position we
8 created, and as I mentioned yesterday, we've
9 seen a significant increase in the number of
10 requests coming from the ATIPP, the Office of
11 Child and Youth Advocate, Office of Citizens
12 Rep, so that required someone to be dedicated
13 to those requests.
14 COFFEY, Q.C.:
15 Q. So I take it at the time Ms. Emberley reported
16 to you?
17 MS. ELLIOTT:
18 A. Yes.
19 COFFEY, Q.C.:
20 Q. And Ms. Crowley does now?
21 MS. ELLIOTT:
22 A. Yes. Oh, sorry, no, Ms. Crowley actually
23 reports to Heather now.
24 COFFEY, Q.C.:
25 Q. Heather.

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1 MS. ELLIOTT:
2 A. Yes. We did a restructuring after we got some
3 new people in place.
4 COFFEY, Q.C.:
5 Q. Reported to Ms. Crowley, reports to Heather
6 Predham, and Ms. Predham reports to you.
7 MS. ELLIOTT:
8 A. Yes.
9 COFFEY, Q.C.:
10 Q. And if we could just look at P-1960. This is
11 a series of e-mails of March 15th onward to
12 March 27th. You'll see that's the last of
13 them there at the top, but there's one here
14 March 15th, 2006, and it's from Heather
15 Predham to a number of individuals, and she
16 says, "I just received the ATIPP request from
17 Mark Quinn at CBC for", and it's spelled out
18 there, and then it says, "A couple of things.
19 One, I can't handle this request. Pam and I
20 have chatted about this already. Since I've
21 been so involved, we certainly don't want any
22 perception of bias in completing the request.
23 I'm not sure who will coordinate the request.
24 We'll have to determine that tomorrow and we
25 will let you know". What do you recall about

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1 that?
2 MS. ELLIOTT:
3 A. Well, I know generally with an ATIPP request
4 you have tight timelines, and when the request
5 came in, Heather did come to me and speak to
6 me and say that her name was on so many
7 documents, and when you send out the
8 information to whoever is making the request,
9 her signature would be on the letter that
10 would be going to the person saying, you know,
11 we've received your request and here's the
12 information, and she felt that there would be
13 some concern about perception of bias if it
14 was her name on the letter going to Mark
15 Quinn, and it was mostly her e-mails going.
16 So we did agree that in this case it would be
17 better for someone else to gather the
18 information.
19 COFFEY, Q.C.:
20 Q. I take it that someone eventually turned out
21 to be Ms. Emberley?
22 MS. ELLIOTT:
23 A. Yes.
24 COFFEY, Q.C.:
25 Q. Did you have any involvement further in

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1 relation then to what was actually sent out to
2 Mr. Quinn at the time? I appreciate Ms.
3 Emberley is tasked with gathering up the raw
4 paper -
5 MS. ELLIOTT:
6 A. Yes.
7 COFFEY, Q.C.:
8 Q. But after that.
9 MS. ELLIOTT:
10 A. I don't recall this particular request, but
11 what I seem to remember is that--I think a
12 later request because I believe Marion Crowley
13 was on staff with us then, about he was
14 wanting more information and all the ER/PR
15 results with the names -
16 COFFEY, Q.C.:
17 Q. I'll come to that in '07.
18 MS. ELLIOTT:
19 A. Okay.
20 COFFEY, Q.C.:
21 Q. That's another request, but -
22 MS. ELLIOTT:
23 A. All right. So that's what I remember, but
24 this particular one, I don't recall seeing the
25 information that went out to him, but I

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1 probably did.
2 COFFEY, Q.C.:
3 Q. Would you know then who did the editing? Any
4 editing that occurred of that ATIPP response
5 to Mr. Quinn in 2006, who would have done the
6 redaction and approved of the redaction?
7 MS. ELLIOTT:
8 A. I don't know.
9 COFFEY, Q.C.:
10 Q. So -
11 MS. ELLIOTT:
12 A. I think there was a group of them because I
13 believe Deanne had been speaking to Susan
14 Bonnell as well, and she would have had
15 conversations with Heather as well. I don't
16 know who else they would have consulted with.
17 I don't know who was the final editor on it,
18 though.
19 COFFEY, Q.C.:
20 Q. Well, see--do you know who signed the letter
21 going out to Mr. Quinn?
22 MS. ELLIOTT:
23 A. I can't recall.
24 COFFEY, Q.C.:
25 Q. So at that time, he's looking for apparently

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1 according to this all reports, memos, letters,
2 briefing notes, and e-mails at the Eastern
3 Regional Health Authority between May 1, 2005,
4 and the present regarding hormone receptor
5 tests for people with breast cancer, and Ms.
6 Predham has noted, "I just received it", so
7 she had received it presumably just before the
8 middle of March, 2006. So everything related
9 to hormone receptor tests from Eastern Health
10 between May 1 '05 and March, 2006. You
11 discussed this with Ms. Predham, agreed with
12 her that Ms. Predham should not do the
13 coordination?
14 MS. ELLIOTT:
15 A. Yes.
16 COFFEY, Q.C.:
17 Q. Who chose Ms. Emberley?
18 MS. ELLIOTT:
19 A. I think that was sort of a joint decision
20 between myself and Heather because we only had
21 a handful of people in our department. There
22 was actually only four staff, so kind of
23 narrowed down who could do it, but where she
24 probably had more experience, we talked about
25 her, but I also recall I think too Susan

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1 Bonnell, I think being in a meeting, where
2 they had some of the sheets there, and I don't
3 know if it was that time or another time, and
4 looking at what are things that we would
5 release under the ATIPP Act.
6 COFFEY, Q.C.:
7 Q. And then, as Ms. Emberley was reporting to
8 you, and she was assigned the position of
9 coordinator at that point, coordinator to deal
10 with that particular request -
11 MS. ELLIOTT:
12 A. Yeah.
13 COFFEY, Q.C.:
14 Q. Because of the circumstances, she was, I
15 gather, perhaps the best choice of a small
16 group who could do it.
17 MS. ELLIOTT:
18 A. Uh-hm.
19 COFFEY, Q.C.:
20 Q. And the response did go out. She was
21 reporting to you, Ms. Emberley was, and you
22 don't know who finally did the editing--like,
23 who in authority decided what the final edit
24 would be?
25 MS. ELLIOTT:

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1 A. I can't recall who, but I know there also
2 would have been executive level involvement in
3 those types of ATIPP requests.
4 COFFEY, Q.C.:
5 Q. So executive level involvement in this context
6 is what level?
7 MS. ELLIOTT:
8 A. Vice President level.
9 COFFEY, Q.C.:
10 Q. And who would that be?
11 MS. ELLIOTT:
12 A. I'm thinking in 2006 -
13 COFFEY, Q.C.:
14 Q. This is March and April, 2006.
15 MS. ELLIOTT:
16 A. Yeah, Dr. Williams still would have been
17 involved with us in 2006, and sometimes with
18 ATIPP requests, it goes right to the CEO
19 level.
20 COFFEY, Q.C.:
21 Q. If we could -
22 MS. ELLIOTT:
23 A. I guess what would be a good way to say it,
24 I'm sure that Deanne wouldn't make the
25 determination of what went out. The approval

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1 would have come a higher authority.
2 COFFEY, Q.C.:
3 Q. So Ms. Predham notes here, "The two biggest
4 issues will, of course, be the personal
5 information".
6 MS. ELLIOTT:
7 A. Yes.
8 COFFEY, Q.C.:
9 Q. "And information pertaining to a quality
10 review, and, therefore, protected under the
11 Evidence Act". Do you know if at that time in
12 that response you recall any reference to
13 excluding any reference to Dr. Ejeckam's
14 intervention in 2003?
15 MS. ELLIOTT:
16 A. I don't recall that because, like I said
17 yesterday, May, 2007, it wasn't familiar to me
18 at all then, so I don't recall that particular
19 discussion.
20 COFFEY, Q.C.:
21 Q. And I take it then, Ms. Elliott, that although
22 the person actually doing it, coordinating it,
23 was Ms. Emberley and she reported to you, and
24 you're telling the Commissioner, look,
25 whatever edits occurred, the final approval

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1 for them at that point was by my superiors,
2 someone higher up?
3 MS. ELLIOTT:
4 A. Oh, for sure. Whether it was a Vice President
5 or a CEO, but particularly with--well, not
6 only with ER/PR, but there have been other
7 requests that have come in, and the CEO was
8 certainly aware of what goes out and involved
9 in the discussions throughout.
10 COFFEY, Q.C.:
11 Q. And while we're on the topic of ATIPP
12 responses, you indicated that you do recall
13 more clearly the one that Mr. Quinn made in
14 2007 when Ms. Crowley was there involving the
15 identified data.
16 MS. ELLIOTT:
17 A. Yes.
18 COFFEY, Q.C.:
19 Q. You recall that.
20 MS. ELLIOTT:
21 A. Yeah.
22 COFFEY, Q.C.:
23 Q. What do you recall about that? Can you tell
24 the Commissioner?
25 MS. ELLIOTT:

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1 A. Yes, I remember that there was some discussion
2 our department level. We were saying what
3 would he be able to determine from that, it
4 wouldn't tell anybody anything because there
5 was a lot of context that would be missing
6 from it. Like, just results alone don't tell
7 the whole story. So I think in the end, if I
8 recall correctly, we were back and forth with
9 the provincial ATIPP office on that one, and
10 in the end he did get the information, but
11 there were some qualifiers or explanations put
12 in the covering letter so that this data
13 wouldn't be just standalone data without some
14 kind of context around it.
15 COFFEY, Q.C.:
16 Q. And did you have any involvement in the
17 drafting of that letter going out to him and
18 putting together the context for Mr. Quinn?
19 MS. ELLIOTT:
20 A. I can't recall. I remember having some
21 discussion, but when it came to the whole
22 ER/PR issue, I certainly didn't feel that I
23 had the clinical understanding of what this
24 all meant, and if I remember correctly, you
25 know, the specialists were involved in what

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1 are some of the points that we have to make
2 here because it is very much a specialty
3 issue, looking at interpretation of results,
4 so I would hardly feel confident in being able
5 to comment on that, but one thing we could
6 comment on for sure is that we wanted to make
7 sure that privacy was protected.
8 COFFEY, Q.C.:
9 Q. So again I take it in respect of whatever was
10 given to Mr. Quinn in 2007, including the
11 covering letter or letters and accompanying
12 materials, you're telling the Commissioner,
13 look, Ms. Crowley, yes, she coordinated it,
14 she would have--she reported to me, but final
15 decisions in that regard were at the executive
16 level?
17 MS. ELLIOTT:
18 A. Marion actually reported to Heather.
19 COFFEY, Q.C.:
20 Q. I appreciate--through Heather, I appreciate
21 she's not -
22 MS. ELLIOTT:
23 A. Sure.
24 COFFEY, Q.C.:
25 Q. Through Heather.

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1 MS. ELLIOTT:
2 A. And Marion would have consulted with whoever
3 she needed to consult with to try to get that
4 information, and the executive certainly would
5 have known what was going in that before it
6 went out.
7 COFFEY, Q.C.:
8 Q. We've heard evidence concerning the sending
9 out of a letter involving a class action, do
10 you recall that?
11 MS. ELLIOTT:
12 A. Yes.
13 COFFEY, Q.C.:
14 Q. And Ms. Crowley, I believe--I understand was
15 involved in that. Were you aware that that
16 was going on at the time?
17 MS. ELLIOTT:
18 A. Yes, I was.
19 COFFEY, Q.C.:
20 Q. Could you tell the Commissioner what you
21 recall about that?
22 MS. ELLIOTT:
23 A. What I recall is Marion coming to my office
24 saying that these letters had to go out.
25 Heather was off on annual leave at the time,

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1 and so we were looking at--we had gotten a
2 call, I think, from the lawyer's office saying
3 that Eastern Health would be responsible for
4 sending out these letters, and that the letter
5 had been, I guess, from a court order, and it
6 was specified what would be in the letter and
7 we only had two days to get them out. Now--
8 and I don't know why the delay was in that,
9 but I think it was known about a month before
10 that these letters would be going out to all
11 these ladies.
12 COFFEY, Q.C.:
13 Q. If I could, before we go on further, the
14 lawyer's office, do you know whose lawyer -
15 MS. ELLIOTT:
16 A. Dan Boone.
17 COFFEY, Q.C.:
18 Q. Was that Eastern Health's lawyer?
19 MS. ELLIOTT:
20 A. That was Dan Boone.
21 COFFEY, Q.C.:
22 Q. That was Dan Boone, okay.
23 MS. ELLIOTT:
24 A. His office, and they said these letters were
25 to go out and that we were the ones

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1 responsible to get them out. When I say "we",
2 I mean Eastern Health. So when it comes to
3 Eastern Health and try to find people who can
4 do this, often things get defaulted to the
5 Quality Department, and so Marion took on the
6 role of trying to get all the addresses of
7 people together, the three or four staff we
8 had, they were in the lunchroom and they had
9 the envelopes all done out because we only
10 had, if I recall correctly, a couple of days
11 to get them out, and Marion herself took them
12 to the post office on, I believe, Friday
13 evening. So that's what I remember about
14 that, and I do remember that after the letters
15 had gone out, there was some concern about the
16 wording in it.
17 COFFEY, Q.C.:
18 Q. If I could--I'll take you up on that in a
19 moment. In respect of the wording of the
20 letter, was there any discussion before the
21 envelopes ended up at the post office, any
22 questioning of the wording of the letter, do
23 you recall?
24 MS. ELLIOTT:
25 A. Not--certainly not by me. I don't know if

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1 someone else questioned it, but what I do
2 recall about that, that was such a quick task.
3 We were told these letters, the wording is
4 done by the court order, you have to get them
5 out, and I think that was the focus. So I
6 can't remember any controversy coming up about
7 the wording of the letter until after they had
8 gone out.
9 COFFEY, Q.C.:
10 Q. Before it ended up in the envelope.
11 MS. ELLIOTT:
12 A. Yes.
13 COFFEY, Q.C.:
14 Q. Then after the post office took the letters,
15 what then happened in the sense of controversy
16 or concern about it?
17 MS. ELLIOTT:
18 A. If I remember correctly, I think when the
19 oncologist, and I don't like to repeat third
20 hand, but my understanding is that when the
21 oncologist raised the issue that the wording
22 in the letter wasn't correct, first of all
23 they had breast screening instead of
24 diagnostic, and then the other piece was about
25 using the words "clinically positive", but I

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1 wouldn't even attempt to explain what their
2 concern was there.
3 COFFEY, Q.C.:
4 Q. Ms. Crowley reported through Heather to you?
5 MS. ELLIOTT:
6 A. Yes.
7 COFFEY, Q.C.:
8 Q. And at the time the letters went out Ms.
9 Predham was away, i.e. Ms. Crowley, I presume,
10 then reported to you?
11 MS. ELLIOTT:
12 A. Yes.
13 COFFEY, Q.C.:
14 Q. There was, it's apparent from some of the
15 exhibits we've seen, concern expressed by some
16 physicians about the wording of the letter,
17 some criticism, in fact, by them?
18 MS. ELLIOTT:
19 A. Yes.
20 COFFEY, Q.C.:
21 Q. Concerning the wording of the letter, and it
22 was directed at--in effect, directed at Ms.
23 Crowley?
24 MS. ELLIOTT:
25 A. Yes.

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1 COFFEY, Q.C.:
2 Q. What do you recall about what happened then in
3 relation to that? I mean, this is a lady
4 who's working for you.
5 MS. ELLIOTT:
6 A. Yeah.
7 COFFEY, Q.C.:
8 Q. And you being her supervisor at the time the
9 letters went out -
10 MS. ELLIOTT:
11 A. Yes.
12 COFFEY, Q.C.:
13 Q. What do you recall then about your
14 department's response to this?
15 MS. ELLIOTT:
16 A. I remember Marion was very upset about it
17 because she was receiving a lot of--I don't
18 like to use "criticism", but, you know,
19 remarks and concerns being expressed by the
20 oncologists about this letter. She did her
21 best to explain, and by then--by the time this
22 had erupted, Heather was back at work and
23 Heather took it upon herself to speak to some
24 of the oncologists, and I don't really want to
25 speak more for what Heather did in that

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1 regard, but I know there was discussion.
2 Heather, the oncologists, Pat Pilgrim, I
3 believe was involved in that discussion to try
4 to gain some understanding so that the
5 oncologists would know that that letter was
6 court ordered and that she would not have
7 changed the wording.
8 COFFEY, Q.C.:
9 Q. Now with respect to court ordered, do you know
10 in the response to the physician's expression
11 of concern, and I appreciate everybody says,
12 well, court ordered, and I presume that the
13 suggestion there is that ends the matter, but
14 what I wanted to ask you about is this, do you
15 recall anyone afterward making it plain within
16 Eastern Health that Eastern Health's lawyers,
17 Mr. Boone, had in fact asked Eastern Health to
18 send that letter with that exact wording; in
19 other words, our lawyer is the one--whoever
20 else might have been involved, but our lawyers
21 were involved in this, was that made plain to
22 the physicians and within Eastern Health?
23 MS. ELLIOTT:
24 A. Yes, they--I didn't communicate it, but I was
25 told by staff in my department that they did

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1 explain that the lawyer, Dan Boone and them,
2 had sent up these letters to be sent out.
3 COFFEY, Q.C.:
4 Q. So that it's your view that within Eastern
5 Health in the aftermath of this, people who
6 were aware of the goings on, would have
7 understood that, well, yes, maybe the court
8 did order it, but our lawyer is communicating
9 that to us, and if there are concerns about
10 the wording, our lawyer presumably would take
11 it up with the court?
12 MS. ELLIOTT:
13 A. Yeah, see what I can't tell you is if there
14 was any concern expressed to lawyers ahead of
15 time. This was a case of, I think, we got it
16 on a Thursday and had to be out on a Friday,
17 and, you know, just nobody picked up on that.
18 THE COMMISSIONER:
19 Q. Just to make sure I'm clear on this because
20 there have been a number of versions of this
21 particular event, I'm taking it from what
22 you're saying that to your knowledge there was
23 no inquiry from within Eastern Health to Mr.
24 Boone's office regarding the content of the
25 letter before it actually went out?

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1 MS. ELLIOTT:
2 A. Before it went out. I do believe, and it
3 wasn't done firsthand by me, but I do believe
4 there was some discussion afterwards.
5 THE COMMISSIONER:
6 Q. Uh-hm, well, we have a letter from the
7 oncologists.
8 MS. ELLIOTT:
9 A. Okay.
10 THE COMMISSIONER:
11 Q. And it's been spoken to, but what I'm
12 interested in is whether--the point made in
13 the question, the last one or the one before
14 it by Mr. Coffey, and that is whether or not
15 anybody during the process of getting it out,
16 read the letter and said, oops, there's a
17 problem here because it refers to breast
18 screening, for example, and can we do anything
19 about that and called up the office or
20 whatever, but what I'm taking from you is that
21 that kind of exercise did not take place, it
22 was not until the letter actually had gone out
23 that people concentrated on what the wording
24 was and whether or not it might or might not
25 mislead people who got it?

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1 MS. ELLIOTT:
2 A. Yeah, that's my recollection, unless someone
3 had a discussion with an oncologist that I'm
4 not aware of.
5 THE COMMISSIONER:
6 Q. All right, thank you.
7 COFFEY, Q.C.:
8 Q. If we could look, please, at Exhibit P-1155.
9 This topic came up when you were here the
10 other day, several days ago, Ms. Elliott. This
11 is an e-mail of August 3rd, 2006 from Ms.
12 Predham to a number of individuals. You're
13 included there. And this relates to, it says
14 a "seriously flawed story on CBC" is the
15 subject matter, and it--she says further into
16 the e-mail that "Nancy, Dr. Denic and Dr.
17 Laing met with three women on July 12th. The
18 claim is dated July 7th. How did Ches know to
19 include this paragraph when only a very
20 limited number of people knew this part of the
21 whole thing?" and she's got paragraph 12 from
22 the Statement of Claim.
23 MS. ELLIOTT:
24 A. Um-hm.
25 COFFEY, Q.C.:

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1 Q. Was there--do you recall whether there was a
2 concern in the summer of 2006 about there
3 being, I don't know, I'll refer to it as kind
4 of inside information being given to Mr.
5 Crosbie?
6 MS. ELLIOTT:
7 A. I had heard--well, Heather has it in writing
8 there, but I had also heard her say on a
9 couple of occasions, saying "I wonder who's
10 giving him his information?" and there was a
11 sense that he must have some linkages from
12 inside the organization.
13 COFFEY, Q.C.:
14 Q. And was there, at the time, as well, because
15 this is the time period--and I won't--I'm not
16 going to take you back through it, in August,
17 early August 2006, the preparation of the
18 briefing note or the information to be sent
19 over to the Department of--actually, to the
20 executive council, the briefing note. Do you
21 recall whether there was any concern that was
22 being talked about at the time concerning,
23 "look, if we give the Government information,
24 they may pass it out to the media through an
25 ATIPP request"?

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1 MS. ELLIOTT:
2 A. Yes, there was concern with that, in
3 particular on, I guess, the peer review
4 reports.
5 COFFEY, Q.C.:
6 Q. Okay. If we could look at Exhibit P-2107?
7 This is an e-mail of Sunday, March--I'm sorry,
8 November 19th, 2006 from Ms. Predham to
9 yourself and Ms. Pilgrim, and this is, I
10 gather, in the lead up to what's going to be
11 the media briefing in December, and here, Ms.
12 Predham writes "I met with Bev Carter, Ford
13 Elms, Don Cook, Nash Denic and Susan Bonnell
14 on Friday afternoon. We reviewed the
15 presentation from Monday and it's very good
16 and comprehensive. As always, Bev's comments
17 in the meeting were a bit alarmist in nature,
18 but she is only speaking about ER/PR testing
19 at the presentation." Do you recall or what,
20 if anything, do you recall about the view that
21 Ms. Predham expressed, either--not just here,
22 but at any other time about, for example, Bev
23 Carter's comments "were a bit alarmist in
24 nature"? What do you recall about that?
25 MS. ELLIOTT:

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1 A. My recall on that--well, first of all, I
2 didn't know Dr. Carter. I think I'd only been
3 in her presence twice. But my sense that was-
4 -she was more reflective of the personality,
5 as opposed to the issue of the ER/PR.
6 COFFEY, Q.C.:
7 Q. And I appreciate that, but what do you mean
8 reflective of the personality? I'm just -
9 MS. ELLIOTT:
10 A. I don't want to use--I don't want to speak for
11 Heather, but, you know, my sense was that
12 she'd been in a number of meetings and people
13 were trying to deal with this in the best way
14 that they could and want to go at it as a
15 team, and all I can say is that I think that
16 was more reflective comments or how she felt
17 about the personality side of it.
18 COFFEY, Q.C.:
19 Q. Suggesting that Ms. Carter may not have been
20 perceived of as part of the team, Dr. Carter?
21 MS. ELLIOTT:
22 A. I don't think she ever used the words "not a
23 team member," but I guess just not dealing
24 with things in a calm way. Like a lot of
25 things we deal with in health are very

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1 emotional. I mean, we're dealing with a lot
2 of difficult situations, sad situations. Our
3 whole department is about dealing with adverse
4 events, and you know, you do try to remain
5 calm, professional, and try to stick to the
6 facts and some objectivity, but I really
7 didn't explore that much with her on that
8 because I just--you know, knowing that it was
9 more along the fact of the personality, as
10 opposed to being alarming about the ER/PR
11 situation.
12 COFFEY, Q.C.:
13 Q. Now I just referred you to those particular
14 things and they're just examples, frankly. I
15 can take you to more. Ms. Elliott, you had
16 been an ADM responsible for board services in
17 the late 1990s?
18 MS. ELLIOTT:
19 A. Yes.
20 COFFEY, Q.C.:
21 Q. You had two years experience in that regard.
22 In effect, had been Moira Hennessey's
23 predecessor. You had been an ADM for the
24 Health Care Corporation from 1999 through
25 2004.

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1 MS. ELLIOTT:
2 A. Yes, vice-president.
3 COFFEY, Q.C.:
4 Q. Vice-president, I'm sorry. Yes, not ADM,
5 vice-president, I apologize. And certainly in
6 the period you were ADM, you knew Dr. Williams
7 well?
8 MS. ELLIOTT:
9 A. Yes.
10 COFFEY, Q.C.:
11 Q. You would have known him well. You certainly
12 would have met Ms. Dawe, Joan Dawe, who was
13 the -
14 MS. ELLIOTT:
15 A. She had been my deputy for a while.
16 COFFEY, Q.C.:
17 Q. Yes, and by '06/07, she was chair of the
18 board?
19 MS. ELLIOTT:
20 A. Yes.
21 COFFEY, Q.C.:
22 Q. Of Eastern Health. The various people
23 involved in this, Ms. Pilgrim had worked for
24 you before?
25 MS. ELLIOTT:

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1 A. Yes.
2 COFFEY, Q.C.:
3 Q. Now you were working for her. Ms. Predham,
4 you'd known for years.
5 MS. ELLIOTT:
6 A. I didn't really know Heather for years. She
7 used to report to Sharon Smith. I certainly
8 knew of her.
9 COFFEY, Q.C.:
10 Q. Of her, and she reported again up through.
11 MS. ELLIOTT:
12 A. Yes.
13 COFFEY, Q.C.:
14 Q. She'd been a subordinate. Sharon Smith you
15 knew?
16 MS. ELLIOTT:
17 A. Yes.
18 COFFEY, Q.C.:
19 Q. By this point, in '06, was over at the Cancer
20 Clinic.
21 MS. ELLIOTT:
22 A. Yes.
23 COFFEY, Q.C.:
24 Q. You had not been involved in the first six
25 months of this, May of '05 through November of

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1 '05, until you--well, the end of October '05.
2 MS. ELLIOTT:
3 A. Yes.
4 COFFEY, Q.C.:
5 Q. I mean, you hadn't been at work at all because
6 you'd been away. But yet, beginning November
7 1/05, you were kept apprised from time to time
8 of what was going on?
9 MS. ELLIOTT:
10 A. Yes.
11 COFFEY, Q.C.:
12 Q. Can you tell the Commissioner, I mean now,
13 looking back on it, as an informed observer,
14 in effect, close to the people who are
15 actually managing it day to day, and bearing
16 in mind your experience, and you've told the
17 Commissioner at times you interceded in '06 -
18 MS. ELLIOTT:
19 A. Yes.
20 COFFEY, Q.C.:
21 Q. - to say "look, the Department is going to
22 look for these things. I've been in the
23 Department. I know this is what they'll
24 want."
25 MS. ELLIOTT:

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1 A. Yes.
2 COFFEY, Q.C.:
3 Q. Do you have any thoughts on what, looking back
4 on it, what you observed in terms of the
5 culture at the time?
6 MS. ELLIOTT:
7 A. One of the first things I'd like to comment
8 on, and I think it's become very evident
9 through the Commission hearings, certainly any
10 time I've tuned in, is you get to see with
11 regionalization and restructuring the number
12 of people that switch hats. Like even in just
13 the few people that you just mentioned, we've
14 all had different reporting relationships,
15 working in different environments, all in the
16 health system. So you get like a handful of
17 people who've been recirculated in times of
18 restructuring, because Health Care Corp had
19 been restructuring and now this Eastern Health
20 was restructuring.
21 So when I came in in November, and I
22 think I started to mention this yesterday,
23 when I was first briefed on it, I thought
24 "okay, they have an issue in the lab. They've
25 stopped the testing. They've made

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1 arrangements to get testing done from a gold
2 standard lab. They're now in the process of
3 communicating with patients." These were all
4 experienced people who I had known and worked
5 with and trusted fully in terms of what their
6 philosophical approach was to health care.
7 So I thought, okay, this is in hand now.
8 I'll move on and take care of the other
9 things, because we just had numerous demands
10 and ER/PR was one issue within one part of our
11 department, because we take on a broad range
12 of responsibilities. So our most seasoned few
13 people were there, and I had areas of the
14 region that had nobody. So I said, okay, I'll
15 go on and focus on the other things and leave
16 it in the capable hands of the people that
17 were doing this. But as time went on and
18 during the briefings, and if you're asking my
19 perception -
20 COFFEY, Q.C.:
21 Q. Yes.
22 MS. ELLIOTT:
23 A. - what I came to realize that this is one of
24 the most complex issues that I had seen in my
25 30 years, I mean, and we deal with many

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1 serious things. There could be an unexpected
2 death at the Janeway, which is a very serious
3 event, or medication overdoses that result in
4 death. Like we deal with a lot of serious
5 things. But in terms of complexity, to me
6 this was probably the most complex thing I had
7 seen in 30 years, and that you all different
8 boards involved. It was a specialty service,
9 technicians, oncologists, pathologists and the
10 communications around it, inadequate
11 databases. You were dealing with an issue
12 that I came to understand, and each time I
13 would ask a question about it, there would be
14 like another detail that would come up, or say
15 "oh yeah, this is affecting this now." You
16 know, it wasn't just one cause. There was
17 differing opinions on all of this. So, and
18 then there were delays, like Mount Sinai
19 couldn't do the testing.
20 It just--my observations, looking back
21 and looking on, I think it probably was the
22 complexity, and on top of that, with the
23 turmoil that resulted from regionalization, I
24 think it--and someone else, I think, said it
25 before me, I don't think that this issue could

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1 have come to the forefront at a worse time in
2 our history than what it did. You had people
3 who had moved around, positions vacant, people
4 not knowing what was happening to their own
5 future, people trying to do two and three jobs
6 at the one time. So it was absolutely the
7 worst possible time in the Health Care
8 organization's history to deal with probably
9 the most complex issue that we have seen,
10 because of the specialty nature of it and the
11 numbers of people involved.
12 COFFEY, Q.C.:
13 Q. You knew, in the summer of '06, August of '06,
14 that the--what Ms. Pilgrim has described as
15 the project manager, that was never the title
16 Ms. Predham had, but that's what Ms. Pilgrim
17 described it as, from her perspective. The
18 project manager, who reported to you, and I
19 appreciate you've told us some of the e-mail
20 traffic you didn't see until after the
21 briefing note went over, but you understood,
22 certainly by the end of August, that Ms.
23 Predham, the project manager had concerns
24 about leaks to Mr. Crosbie, didn't want to
25 give certain information to the Government,

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1 didn't want to write it down, was prepared to
2 tell them verbally but not write it down. You
3 had been involved in a situation where you
4 were telling Ms. Predham and others,
5 presumably, "look, I know they want--they will
6 want to know things."
7 MS. ELLIOTT:
8 A. Yes.
9 COFFEY, Q.C.:
10 Q. And in effect, I suspect, I'm going to suggest
11 to you, you were telling your fellow workers,
12 "we have to tell them."
13 MS. ELLIOTT:
14 A. Yes.
15 COFFEY, Q.C.:
16 Q. So in terms of that, this is going on, did you
17 ever take it up with anyone, like Ms. Pilgrim
18 or anyone else at that level or higher, to
19 express any concerns about what you were
20 seeing unfold, bearing in mind your prior
21 experience in the Department and as a VP?
22 MS. ELLIOTT:
23 A. First I want to clarify. When you say that
24 Heather was a project manager who reported to
25 me, we had made the agreement first when I

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1 came in the fall of 2005 that I would not be
2 the--you know, one to be giving all the
3 direction. She would report directly to the
4 executive on that matter.
5 COFFEY, Q.C.:
6 Q. Yes.
7 MS. ELLIOTT:
8 A. But certainly keep me in the loop, and I would
9 try to help where I could, which is where I
10 said yesterday, at least I knew how to do
11 briefing notes and I could help in that way,
12 even if I couldn't help with all the
13 coordination and details around ER/PR because
14 I was already trying to do--carry three or
15 four vacancies in our department myself. So
16 she was reporting directly to the executive
17 and getting direction from a team, like the
18 core group they had together. Like because
19 Heather, you know, in fairness to her, she
20 took on a far greater role than one would have
21 anticipated or that we were to put anybody in
22 that position nowadays, and she didn't have
23 specialty. I mean, yes, her focus was, you
24 know, we have these reports, we can't have
25 them out in the media because we have always

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1 protected, under the Evidence Act, external
2 peer reviews. But I do know that--and I
3 shouldn't say do know, I was told that there
4 were discussions at that group and there was a
5 lot of concern in the organization about what
6 this would be precedent setting, that if we
7 were to release external review reports.
8 Having said that, some of the issues
9 around the time delays, that wasn't related to
10 external reviews and I did have the
11 understanding that there was frequent
12 communication between executive level, like
13 Dr. Williams, like George Tilley, with ADMs
14 and Deputy Ministers on all the issues around
15 that. So that's -
16 COFFEY, Q.C.:
17 Q. So I take it then, you're telling the
18 Commissioner, look, in that regard, that you
19 understood, in terms of communication with the
20 Department concerning, you know, what you
21 understood the Department would want to know -
22 MS. ELLIOTT:
23 A. Yes.
24 COFFEY, Q.C.:
25 Q. - that you didn't raise it with the executive,

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1 above your level, because you understood that
2 that executive was already doing that
3 communication, except they just weren't
4 putting it in writing? Is that your -
5 MS. ELLIOTT:
6 A. Yes, and why would I think that? Because I do
7 remember comments from Dr. Williams that he
8 was in close communication or they were up to
9 the Department or they're talking to John
10 Abbott that day. So that's why I would feel
11 comfortable, and I guess having known Dr.
12 Williams and worked with him in a couple of
13 capacities, knowing how conscientious he is
14 about those things, and I know, you know,
15 there's a struggle between releasing the
16 reports as is, but that's difference in
17 revealing to the Department about that there
18 were issues identified in that, and I do feel
19 comfortable in saying that Dr. Williams or
20 George would have had some conversations with
21 different people at the Department, i.e. an
22 executive level, indicating that we knew that
23 there were a number of factors contributing to
24 this.
25 COFFEY, Q.C.:

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1 Q. And that, you're in effect saying to the
2 Commissioner, and "that's why, Commissioner, I
3 did not take it up with my own executive,
4 because I understood that they were doing this
5 anyway"?
6 MS. ELLIOTT:
7 A. Yes, and I know Heather had been involved in a
8 number of discussions, the different people
9 involved. I wasn't in on every discussion
10 certainly, but I know it wasn't being ignored.
11 It was an issue what do we release here, and
12 it wasn't so much of releasing to the
13 Department as then what could end up from the
14 Department into the public forum.
15 COFFEY, Q.C.:
16 Q. And that related to factors contributing to
17 the review time line and concerns, as in that
18 -
19 MS. ELLIOTT:
20 A. Yeah, and I don't even think the time lines
21 would be the issue of getting out in the
22 public, because you know, my sense is that
23 that would be very important for the public to
24 know why is this taking so long. It was the
25 actual external review reports itself, because

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1 traditionally in health care, it had always
2 been protected, and that was the only factor
3 that I would hear quoted.
4 COFFEY, Q.C.:
5 Q. Thank you very much, ma'am. Thank you,
6 Commissioner.
7 THE COMMISSIONER:
8 Q. Mr. Pritchard, do you have any questions of
9 this witness?
10 MR. PRITCHARD:
11 Q. No, thank you, Commissioner. Thank you for
12 your evidence.
13 THE COMMISSIONER:
14 Q. Mr. Browne?
15 BROWNE, Q.C.:
16 Q. No questions. Thank you for your evidence.
17 THE COMMISSIONER:
18 Q. Mr. Pritchett?
19 MR. PRITCHETT:
20 Q. No questions, Commissioner.
21 THE COMMISSIONER:
22 Q. Ms. Newbury?
23 MS. NEWBURY:
24 Q. No questions.
25 THE COMMISSIONER:

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1 Q. Mr. Simmons?
2 MS. PAMELA ELLIOTT, EXAMINATION BY MR. DANIEL SIMMONS
3 MR. SIMMONS:
4 Q. Thank you, Commissioner. Ms. Elliott, just on
5 that last point that Mr. Coffey asked you
6 about, you've told us about what your
7 expectations would have been about
8 communication between Dr. Williams and people
9 at the Department and others. Do you have any
10 knowledge yourself of what the content of any
11 such communication actually was or are you
12 just speaking of your expectations as to what
13 you would have thought it would have been?
14 MS. ELLIOTT:
15 A. No, I do remember Dr. Williams saying that he
16 had telephone calls. I remember George Tilley
17 saying that they had telephone calls. I
18 remember there were meetings. Now, if they
19 were exactly in that summer of 2006, I can't
20 tell you, but I know that there was ongoing
21 frequent discussion between Eastern Health and
22 Department of Health.
23 MR. SIMMONS:
24 Q. Specifically in relation to peer review
25 information and the external reports, do you,

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1 yourself, have any knowledge of what
2 communications there were between Dr. Williams
3 or Mr. Tilley and others and the Department
4 about those things?
5 MS. ELLIOTT:
6 A. No.
7 MR. SIMMONS:
8 Q. Then Mr. Coffey asked you a moment ago,
9 prefaced the question with a number of
10 statements about events in the summer of 2006,
11 and you've commented on Ms. Predham's role and
12 who she was actually reporting to about the
13 ER/PR then. He had also said that Ms. Predham
14 had concerns about leaks, and you told us
15 something about that as well. From what you
16 can recall, in August of 2006, when the
17 briefing note was being prepared to go to
18 Government, how much of a factor was any
19 concern about potential leak from Government
20 in determining what the content was going to
21 be in that briefing note? Was that
22 significant, insignificant? Did it play any
23 part or do you know?
24 MS. ELLIOTT:
25 A. No, not really, because I remember a comment

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1 made about, you know, that Ches Crosbie must
2 have some linkages, and I remember our
3 comments were "sure, we can't stop that. We
4 can't do anything about that." No, there
5 wasn't a lot about where is this coming from,
6 who's doing this. I can't recall any -
7 MR. SIMMONS:
8 Q. Right, so there's a comment, but did that
9 concern, in any way, direct or influence, as
10 far as you are aware, the content of what
11 information was given to the Department in
12 those briefing notes?
13 MS. ELLIOTT:
14 A. No. The only concern that I heard raised is
15 that whatever goes out there needs to be
16 accurate and we were involved in a class
17 action law suit by that time, I think, yes.
18 MR. SIMMONS:
19 Q. Right. So there's a concern about accuracy?
20 MS. ELLIOTT:
21 A. Yes.
22 MR. SIMMONS:
23 Q. Mr. Coffey also asked you if you brought your
24 concerns about all that forward to Ms.
25 Pilgrim. Did you have any concerns at that

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1 point to bring forward about the way in which
2 the briefing note was being prepared or the
3 way in which information was being selected
4 for communication to the Department?
5 MS. ELLIOTT:
6 A. Did I have any concerns about it?
7 MR. SIMMONS:
8 Q. Yes, then.
9 MS. ELLIOTT:
10 A. No, not at that time.
11 MR. SIMMONS:
12 Q. Okay. Good, thank you, Ms. Elliott. I don't
13 have any other questions. Thank you.
14 MS. PAMELA ELLIOTT, EXAMINATION BY MADAM COMMISSIONER
15 THE COMMISSIONER:
16 Q. Your answer to Mr. Simmons' question, you said
17 "no, not at that time."
18 MS. ELLIOTT:
19 A. Yes.
20 THE COMMISSIONER:
21 Q. Does that mean you had concerns at another
22 time?
23 MS. ELLIOTT:
24 A. What I think, you know, what I mentioned two
25 days ago is that the issue of the time lines,

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1 why is this taking so long, and I had made
2 comments to Heather that the Department--"I'm
3 surprised," I said, "that they're not asking
4 for information on this." But at the time,
5 they were just asking her for the numbers. So
6 that briefing note at the time just had the
7 numbers, but I said at some point, and I think
8 I said this two days ago, as an organization,
9 we're going to have to articulate why it took
10 so long and what are all the problems and
11 concerns about this.
12 THE COMMISSIONER:
13 Q. All right. Anything arising, Mr. Coffey.
14 COFFEY, Q.C.:
15 Q. No, Commissioner, thank you.
16 THE COMMISSIONER:
17 Q. Before you leave, Ms. Elliott, there was--in
18 the conversation this morning, and I've
19 thought of it actually on a number of
20 occasions, particularly during Ms. Predham's
21 rather long visit with us, and one of the
22 reasons, of course, Ms. Predham's visit was
23 long was because she seemed to be so involved,
24 and it has crossed my mind that Ms. Predham,
25 and perhaps other people who were involved in

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1 this had too much on their plates. Were there
2 any efforts to expend the--to share the load,
3 to deal with what seemed to have been, at
4 least from time to time, signs that many of
5 those involved were under a great deal of
6 stress and were just carrying too much of a
7 burden?
8 MS. ELLIOTT:
9 A. Yes, there was certainly recognition of that,
10 and as I mentioned a couple of days ago, when
11 I came into the department in November of
12 2005, I quickly realized that we don't have
13 enough people. Now other people had realized
14 it, but I was charged--my primary
15 responsibility was to identify how we can
16 organize and structure services in the whole
17 region, and we had had places that never even
18 had anybody in them that had been vacant for
19 over a year. So what we did, we tried--I met
20 with a lot of people throughout the region. I
21 did some homework with other organizations
22 that are large and complex and Eastern Health
23 actually is one of the most complex
24 organizations in health care in the country,
25 in terms of the scope of our services, and we

1 did--Dr. Williams and I did put a proposal
2 through then in February of 2006 to get more
3 new people, such as the ATIPP coordinator,
4 several quality and clinical safety leaders,
5 and an accreditation manager, claims manager.
6 So we did get approval to hire new people.
7 The difficulty became, because with
8 regionalization and restructuring, it was so
9 long to fill positions. To this day, I don't
10 have all the positions filled in three years.
11 So there were times we would interviews, hire
12 people, and I would have to wait eight months
13 before they could be released from their other
14 position. So in light of that, I think really
15 it was probably the summer of 2006 that we
16 even got the first extra person to come in,
17 and that was an accreditation manager, because
18 we had a survey coming up in 2007. I knew,
19 from having experience with accreditation
20 before, that we were already behind the eight
21 ball in terms of organizing a large
22 organization. In fact, I did try to lobby to
23 say "can we not do accreditation next year?
24 Can we not put our survey off?" and I was told
25 that that was not negotiable. We were

1 involved in a Safer Health Care Now program
2 that again, I said, "can we just put this off
3 until we deal with some other things?" and
4 again, you know, it was an executive decision
5 that that was not negotiable as well.
6 So we did try--we added new people. We
7 just had to wait so long for them to come. We
8 tried to negotiate some key responsibilities
9 in our department, and then in addition to
10 that, we tried to spread out the load more.
11 Like I personally, myself, took on more work,
12 as well as some other people in our
13 department, to try to free up Heather as best
14 that we could. But everybody in our
15 department, and you know, in health care,
16 that's part of our culture and I think it's a
17 part of our culture that needs to change.
18 Everybody just tries to do the best they can
19 with what they have.
20 THE COMMISSIONER:
21 Q. So what I'm understanding is that you were
22 making efforts to take some of the non ER/PR
23 related duties away from Ms. Predham?
24 MS. ELLIOTT:
25 A. Yes, and by -

1 THE COMMISSIONER:
2 Q. Did she have too much on her plate respecting
3 ER/PR?
4 MS. ELLIOTT:
5 A. Well, by the time that I came into the
6 organization, the bulk of the work had been
7 done, because that had started in May, and I
8 think she got involved in late June or early
9 July, and I know she told me that she had an
10 extremely busy, difficult summer. Then by the
11 time I came on board, most all--you know, the
12 decision making around the testing and the
13 communications, the panelling had already
14 started. So by then though, it wasn't full
15 time, didn't require her full-time attention,
16 because it was just the panelling and keeping
17 things going. The bulk of the pressure on her
18 was in those first few months.
19 THE COMMISSIONER:
20 Q. All right.
21 MS. PAMELA ELLIOTT, RE-EXAMINATION BY BERNARD COFFEY,
22 Q.C.
23 COFFEY, Q.C.:
24 Q. If I could, Commissioner, just arising out of
25 your question, Commissioner? Ms. Elliott, I

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1 take it then that your sense, as her immediate
2 supervisor, beginning in November '05, was
3 that from that point on that her role as, I'll
4 use Ms. Pilgrim's words, project manager was
5 not over burdening? The over burden had
6 occurred before you arrived? As her manager,
7 that was your sense?
8 MS. ELLIOTT:
9 A. Yeah, my hesitation is in the use of the word
10 overburdening, because someone--there's a
11 difference between having too much volume work
12 and being burdened. You could have a job that
13 only takes you two hours a day and still find
14 it burdensome, you know.
15 COFFEY, Q.C.:
16 Q. Yeah.
17 MS. ELLIOTT:
18 A. But the thing was it wasn't full time for
19 anyone involved in that role at the time.
20 COFFEY, Q.C.:
21 Q. And from the time you arrived back in November
22 of '05, you were telling the Commissioner,
23 that I and as far as I knew, others of my
24 seniority in the organization or higher didn't
25 feel that this was--Ms. Predham's role was a

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1 full time or required a full time job.
2 MS. ELLIOTT:
3 A. And Heather herself was saying this will soon
4 come to an end.
5 COFFEY, Q.C.:
6 Q. If you could, so there wasn't a perception
7 from November onward, from your perspective,
8 nor from the management above you that you
9 knew of that this role that she was performing
10 was a full-time position or required a full-
11 time position.
12 MS. ELLIOTT:
13 A. That's correct. It has become full-time since
14 last June, again, since the Department of
15 Health, the task force and Centre for Health
16 Information, since they have started to, I
17 guess, what we call, to re-create that
18 database, then it was pretty much full time
19 for her because she did have the majority of
20 records related to it, as well as the majority
21 of recall related to it. So, that did consume
22 her--and again, we took things off of her--
23 there was still a few things that filtered in,
24 but for the last year or so certainly it's
25 been full time for her.

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1 COFFEY, Q.C.:
2 Q. Thank you, Commissioner.
3 THE COMMISSIONER:
4 Q. Thank you very much, Ms. Elliott, you've been
5 very helpful.
6 MS. ELLIOTT:
7 A. I would like to say--I understand time is of
8 the essence -
9 THE COMMISSIONER:
10 Q. Indeed, if you wish to do so, go ahead.
11 MS. ELLIOTT:
12 A. I'm involved in this Commission process as a
13 person, health care professional who works in
14 quality improvement. And you would have heard
15 through others in my department, like Nancy
16 Parsons, who talked to many patients and
17 families and heard first hand their stories.
18 You certainly have heard from Heather Predham
19 who, I feel, was put in a position way beyond
20 what anyone would expect, in terms of trying
21 to co-ordinate this complex issue and then
22 myself. And we were supported by two
23 executive, like Dr. Williams who never, ever
24 wavered in his compassion and his conviction
25 to deal with this. And then Pat Pilgrim with

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1 her passionate approach to try to keep things
2 moving. We have all learned through this
3 process, we've already made changes
4 internally. We've had some more multi-patient
5 events since then, none to the complexity that
6 we experienced with ER/PR, but things that
7 required us looking at things differently. We
8 have changed our communications with letters
9 and telephone calls. Another issue that we
10 dealt with, we implemented the verification of
11 physician contact so that--because typically
12 in health care, when a letter went out to a
13 physician, you would assume that the physician
14 would get the results and speak to the
15 patient. That would be part of their
16 practice. But now in our most recent on,
17 probably a few months ago, yes, could be a
18 year ago, but what we did, we implemented a
19 system that involved 42 patients that
20 communication was made with their physicians.
21 We actually did the verification process that
22 the physicians had.
23 So, we have learned things and we are
24 doing things differently. We certainly await
25 the report of the Commission as well as we're

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1 looking forward to the report from the task
2 force on adverse events. In the health care
3 industry itself, this is an evolving field.
4 There's been an explosion of information on
5 the whole issue of patient safety. And I know
6 Mr. Coffey mentioned yesterday that I'm doing
7 a PhD part time and one of the pieces of work
8 that I'm doing with my research is related to
9 our employee project. I think Heather might
10 have mentioned we were lucky enough to get 1.6
11 million dollars from Canada Health Infoway to
12 implement and electronic occurrence reporting
13 system because typically we had a paper based
14 system where reports would get lost; they were
15 cumbersome to fill in; people never heard
16 back. There were a host of issues with our
17 current paper based system. And we've been a
18 couple of years working on this project and we
19 finally did get the money. We're actually
20 going to start implementation in November.
21 And part of the research work that I'm doing
22 is measuring the change in patient safety
23 culture related to this. So, we'll be
24 measuring our patient safety culture prior to
25 the implementation of this tool. But with the

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1 tool, it's not just the software itself that
2 really matters, it's all the education that
3 comes with it and about the importance of
4 occurrence reporting, what types of things
5 should you be reporting? And what I will do
6 is like, six months after implementation,
7 we're going to re-evaluate our patient safety
8 culture again to see if we've made a
9 difference.
10 So, there's a lot of things happening in
11 the field and particularly in this province
12 which I do think that other provinces, I heard
13 from people that I know in my networks and
14 they tell me that they're really watching
15 what's going on here with interest. So, I
16 think that there will be things come out of it
17 that can help everybody.
18 And I'm also here, you know, as Pam
19 Elliott, a family member that of a family that
20 has been very much been affected by cancer.
21 My two grandmothers had cancer. My mother
22 actually in the summer of 2005 was diagnosed
23 with breast cancer. She's from Corner Brook.
24 So, when she comes to St. John's for her
25 radiation treatments, she stays with me. So,

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1 while I was dealing with this at work, you
2 know, getting notes in 2006, I was also taking
3 my mother to her radiation treatments. I was
4 at home nighttime with her and I saw the
5 physical and emotional aspects of breast
6 cancer firsthand. And because of my strong
7 family history of breast cancer, I am followed
8 regularly with different tests, just to make
9 sure that they catch it early with me. So, I
10 guess I just wanted to say that from a
11 professional capacity of working in the
12 department as always trying to improve things
13 and a personal interest in making sure that we
14 get this right. And I do think that we're on
15 the road to making things better. Thank you.
16 THE COMMISSIONER:
17 Q. Thank you very much. We have another witness.
18 Would you like me to take five minutes or
19 would you like me to take the morning break.
20 It's a bit early for that. Do you want me to
21 take five minutes while arrangements--all
22 right. We'll just take five minutes.
23 (BREAK)
24 THE COMMISSIONER:
25 Q. Please be seated. Ms. Chaytor.

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1 CHAYTOR, Q.C.:
2 Q. Good morning, Commissioner. The next witness
3 is Deana Stokes-Sullivan.
4 MS. DEANA STOKES-SULLIVAN (SWORN) EXAMINATION BY SANDRA
5 CHAYTOR, Q.C.
6 REGISTRAR:
7 Q. Would you please state and spell your complete
8 name for the Commission.
9 MS. STOKES-SULLIVAN:
10 A. My name is Deana Stokes Sullivan D-E-A-N-A S-
11 T-O-K-E-S S-U-L-L-I-V-A-N.
12 REGISTRAR:
13 Q. Thank you.
14 CHAYTOR, Q.C.:
15 Q. Commissioner we have a number of new exhibits
16 this morning, P-1654 through P-1660 inclusive;
17 P-1662, P-1664, and P-1667.
18 CHAYTOR, Q.C.:
19 Q. Entered.
20 EXHIBITS ENTERED AND MARKED P-1654 TO P-1660, INCLUSIVE
21 EXHIBITS ENTERED AND MARKED P-1662, P-1664 AND P-1667
22 CHAYTOR, Q.C.:
23 Q. Thank you. Ms. Stokes-Sullivan, perhaps we
24 could begin please if you could tell the
25 Commissioner about your educational and

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1 professional background.
2 MS. STOKES-SULLIVAN:
3 A. Okay. I started in the media at a very young
4 age, while I was still in school, basically.
5 I graduated from High School in 1977 and I
6 became fulltime reporter in 1978. I did a
7 three-year broadcasting program which was
8 offered by MUN. I became my career working at
9 Q Radio as a municipal reporter. I worked at
10 the Daily News as an editor/reporter for three
11 years. I worked at The Telegram since 1983
12 and it's 25 years now. I also freelanced.
13 I've written for McLeans and since 2002, I've
14 been writing for the National Review of
15 Medicine as well.
16 CHAYTOR, Q.C.:
17 Q. Okay, and what is your current position with
18 The Telegram?
19 MS. STOKES-SULLIVAN:
20 A. I'm what's called a desk editor at The
21 Telegram, laying out pages, editing copy. I
22 took that position in April of last year.
23 CHAYTOR, Q.C.:
24 Q. And over the course of your 25 years with The
25 Telegram, have you had a particular focus on

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1 health issues?
2 MS. STOKES-SULLIVAN:
3 A. I have. From 2002 up until last year, I was a
4 health beat reporter at The Telegram. Prior
5 to that, I also wrote health stories as a
6 Lifestyles reporter and as a Sunday reporter
7 as well, so expand a period of time before
8 becoming solely dedicated to health care in
9 2002.
10 CHAYTOR, Q.C.:
11 Q. So from 2002 through 2007, you were dedicated
12 to health issues.
13 MS. STOKES-SULLIVAN:
14 A. Uh-hm.
15 CHAYTOR, Q.C.:
16 Q. And your current position then you took up in
17 2007?
18 MS. STOKES-SULLIVAN:
19 A. In April of 2007.
20 CHAYTOR, Q.C.:
21 Q. In your capacity as a health reporter, is that
22 the right term, a health reporter?
23 MS. STOKES-SULLIVAN:
24 A. Right, uh-hm.
25 CHAYTOR, Q.C.:

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1 Q. Would you have come into frequent contact with
2 the communications personnel at the Health
3 Care Corporation and then more recently the
4 Eastern Health?
5 MS. STOKES-SULLIVAN:
6 A. Yes, I would have been in contact with them a
7 lot.
8 CHAYTOR, Q.C.:
9 Q. And how was your relationship with them?
10 MS. STOKES-SULLIVAN:
11 A. I would say I had a fairly good relationship
12 as a journalist and that they trusted that my
13 reporting was accurate, but I always found
14 they were somewhat guarded with the media and
15 cautious in what they put out to the media.
16 They were more inclined to, if they were
17 pitching story ideas to us, that would be one
18 thing; if you were looking for stories from
19 them, they were more guarded in giving
20 responses back.
21 CHAYTOR, Q.C.:
22 Q. And was that different than what you
23 experienced with dealing other health
24 authorities, for example, or other
25 institutions?

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1 MS. STOKES-SULLIVAN:
2 A. It was in a sense because I found, I found
3 here in Newfoundland that it was more guarded
4 than even in Ontario. I could contact health
5 officials in Ontario and get far more candid
6 response and directly contact people, where
7 here, in Newfoundland and especially in St.
8 John's, there was more of an approach to the
9 media that you have to go through
10 communications' people, you couldn't contact
11 somebody directly at home or--they often sent
12 out memos telling the media that we were not
13 to contact any people that were employed with
14 Eastern Health without going through their
15 communications department. They were quite
16 upset if you didn't follow that protocol.
17 CHAYTOR, Q.C.:
18 Q. And when did you first become aware of what we
19 call the ER/PR issue?
20 MS. STOKES-SULLIVAN:
21 A. It was in October of 2005.
22 CHAYTOR, Q.C.:
23 Q. And how did you become aware of it?
24 MS. STOKES-SULLIVAN:
25 A. The Independent first broke the story, Claire

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1 Marie Gosse with The Independent did a front-
2 page story on it. We had heard some rumblings
3 before that there were problems with breast
4 cancer testing and some testing was being sent
5 out of the province and I can remember trying
6 to find out about it and I basically was
7 getting a response saying, well, you know,
8 that happens all the time, you know, if we
9 don't have the capacity in the labs here,
10 tests do get sent outside.
11 CHAYTOR, Q.C.:
12 Q. And who was telling you that?
13 MS. STOKES-SULLIVAN:
14 A. The Eastern Health communications people.
15 CHAYTOR, Q.C.:
16 Q. And anyone in particular that you can recall
17 telling you that?
18 MS. STOKES-SULLIVAN:
19 A. Well it would have been--at the time Susan
20 Bonnell was the manager of communications, and
21 I can't recall, Deborah Thomas Pennell was
22 someone I was dealing with around that time
23 and I'm not sure if it would have been Susan,
24 probably, that gave me that response.
25 Normally--like we knew that there was

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1 something brewing, but we just couldn't get to
2 the bottom of it and it was in the first week
3 of October, 2005, The Independent broke the
4 story. They had a very brief story on their
5 front page and my assignment editor, Ken
6 Meaney, basically put the story on my desk and
7 asked me if I would follow up on it and see if
8 we could get something more in depth than what
9 The Independent had carried.
10 CHAYTOR, Q.C.:
11 Q. And did you do that?
12 MS. STOKES-SULLIVAN:
13 A. I did. I contacted Deborah Thomas Pennell and
14 asked her if she had seen The Independent, she
15 had, and I asked her if there was some way,
16 because normally we won't copy a story from
17 some other media, we look to get, you know, a
18 more in-depth interview or something more
19 extensive. I asked her if we could get an
20 interview with someone from Eastern Health to
21 basically explain, you know, what was going on
22 and she lined up an interview with Dr. Robert
23 Williams for me.
24 CHAYTOR, Q.C.:
25 Q. And did you now Deborah Thomas Pennell in some

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1 other capacity?
2 MS. STOKES-SULLIVAN:
3 A. She worked with us at The Telegram as a
4 reporter prior to going with Eastern Health.
5 CHAYTOR, Q.C.:
6 Q. So you had had a working relationship with her
7 in the past?
8 MS. STOKES-SULLIVAN:
9 A. Right, uh-hm.
10 CHAYTOR, Q.C.:
11 Q. And if we could just bring up, please, P-0142?
12 This is an e-mail, Ms. Stokes-Sullivan, and
13 it's from Tansy Mundon, communications
14 director with the Department of Health and
15 Community Services at the time to a number of
16 people within the Department. And you will
17 see here it's October 3rd, 2005. And it's
18 update on ER/PR. "For your information as
19 mentioned previously, Dr. Williams has done a
20 follow-up interview with Carolyn Stokes. In
21 addition, Eastern Health contacted Deana
22 Stokes-Sullivan (The Telegram). She is going
23 to do a follow-up piece in tomorrow's
24 Telegram. No interest from any other media."
25 Now do you recall, was it you who made the

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1 contact with Eastern Health or did Eastern
2 Health seek you out to do a -
3 MS. STOKES-SULLIVAN:
4 A. No, I definitely made the contact with Eastern
5 Health because, as I said, Ken Meaney had left
6 the article from The Independent on my desk
7 and asked me to follow it. Eastern Health
8 normally didn't contact me about anything like
9 that to pitch a story idea, if it was, it was
10 something in their favour and not something
11 like this.
12 CHAYTOR, Q.C.:
13 Q. Okay, so then, I take it, you did do a follow-
14 up story.
15 MS. STOKES-SULLIVAN:
16 A. Uh-hm.
17 CHAYTOR, Q.C.:
18 Q. And who did you interview for the purposes of
19 your story?
20 MS. STOKES-SULLIVAN:
21 A. It was Dr. Robert Williams.
22 CHAYTOR, Q.C.:
23 Q. And perhaps you could tell us when--this e-
24 mail here says you're going to be doing a
25 follow-up story and that's on October 3rd, so

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1 do you know when your interview took place
2 with Dr. Williams?
3 MS. STOKES-SULLIVAN:
4 A. It would have been either on the 3rd or the
5 4th. I think my story appeared in the paper
6 on the 5th, which would indicate to me it
7 probably wasn't until the 4th that they made
8 him available to me.
9 CHAYTOR, Q.C.:
10 Q. Okay. And did you have a sit-down interview
11 with him or was he made available over the
12 phone?
13 MS. STOKES-SULLIVAN:
14 A. Over the phone.
15 CHAYTOR, Q.C.:
16 Q. And how long was your interview him?
17 MS. STOKES-SULLIVAN:
18 A. It was probably at least a half hour, I think
19 because where it was a complex issue, I spoke
20 to him for quite awhile to get clarification
21 on what the ER/PR testing was all about and
22 what information he could provide to me
23 regarding the number of inaccurate testing,
24 that kind of thing.
25 CHAYTOR, Q.C.:

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1 Q. And did you find in your interview with Dr.
2 Williams at the time that he was forthright
3 and answered your questions?
4 MS. STOKES-SULLIVAN:
5 A. He seemed to be.
6 CHAYTOR, Q.C.:
7 Q. And if we could look then, please, at P-1662?
8 And Ms. Stokes-Sullivan, I believe this is
9 your article that ran on October 5th, 2005?
10 MS. STOKES-SULLIVAN:
11 A. Uh-hm.
12 CHAYTOR, Q.C.:
13 Q. I just want to show you a few points in here
14 and by all means then, if there's other things
15 you would like to point out. Well first of
16 all, in your second paragraph here, you
17 referred to "Dr. Bob Williams, vice president
18 of Quality Diagnostic and Medical Services
19 with Eastern Health said the decision was made
20 after new information became available
21 concerning a patient in May." First of all,
22 was this your first interaction with Dr.
23 Williams or had you interviewed him on prior
24 occasions?
25 MS. STOKES-SULLIVAN:

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1 A. I'm pretty sure I had interviewed him on prior
2 occasions regarding, not this topic, but other
3 issues.
4 CHAYTOR, Q.C.:
5 Q. And then you go on in the next paragraph "But
6 retesting of the same tissue sample after new
7 information became available about the patient
8 showed a positive result." And then over
9 here, "as an added caution, tissue samples
10 collected as far back as 1997 are also being
11 sent to Mount Sinai for retesting. All lab
12 results from Mount Sinai are expected to be
13 received within the next few weeks or a month,
14 Williams said." And then if we come over here
15 then, "Williams said retesting is not uncommon
16 when additional information becomes available
17 about a patient or through new research. The
18 reason for the discrepancy in the breast
19 tissue results isn't clear, but last year
20 Eastern Health implemented a new full
21 automated system for detecting hormone
22 receptors in breast tissue. Williams said the
23 older system was semi-automated and the
24 testing involved multiple steps, including
25 boiling or microwaving specimens to tease out

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1 the antigen from the nucleus of the cell, so
2 the staining would be taken up by the antigen
3 if there are receptors there. It was the new
4 automated system that yielded conflicting
5 results on retesting." And then you finish up
6 by saying "The quality review is expected to
7 provide recommendations for future testing of
8 breast tissue samples in the Eastern Health
9 Authority's lab." And I'm just wondering in
10 the interview for this story, I guess on the
11 last point or on all of those points that I
12 have pointed out, were you advised as to
13 whether or not Eastern Health had already
14 identified any issues with their testing
15 processes?
16 MS. STOKES-SULLIVAN:
17 A. No, I just had the impression that they were
18 basically trying to say that the equipment was
19 outdated, that the DAKO system that they were
20 using, where it was semi-automatic, was more
21 difficult to use than the automatic system and
22 it was more prone to errors. I got that
23 impression that it was because of the
24 technology.
25 CHAYTOR, Q.C.:

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1 Q. Okay, and was there anything said to you that
2 there could be any issues of lack of quality
3 assurance processes, for example in the
4 laboratory?
5 MS. STOKES-SULLIVAN:
6 A. No.
7 CHAYTOR, Q.C.:
8 Q. And this, again, is October, around October
9 3rd or 4th that you would have interviewed Dr.
10 Williams?
11 MS. STOKES-SULLIVAN:
12 A. Right, I would think it would have been the
13 day before that appeared because The Telegram
14 wanted the story as quickly as possible, so I
15 would think if I did the interview on the 4th,
16 then it would have been the next day that it
17 would have appeared.
18 CHAYTOR, Q.C.:
19 Q. And the idea that the quality review is
20 expected to provide recommendations for future
21 testing, were you advised that external
22 reviewers had already been in and that there
23 were already a number of recommendations?
24 MS. STOKES-SULLIVAN:
25 A. Not at that point, no.

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1 CHAYTOR, Q.C.:
2 Q. So after interviewing then Dr. Williams, what
3 impression were you left with as to Eastern
4 Health's knowledge level at that point in time
5 as to what the potential causes of the problem
6 might have been?
7 MS. STOKES-SULLIVAN:
8 A. I felt at that time that they probably were
9 not sure what the cause was, but like I said,
10 I had the distinct impression that they were
11 leaning toward the equipment being the problem
12 where the equipment was outdated or supposedly
13 outdated.
14 CHAYTOR, Q.C.:
15 Q. There's a couple of other points that you
16 mentioned in your article here and one is,
17 over here it says, "Testing for estrogen and
18 progesterone receptors was introduced in
19 Europe in the mid 1990's and had been
20 available in North America since about 1997."
21 Would that have been research that you did
22 yourself or was that something that was told
23 to you by Dr. Williams?
24 MS. STOKES-SULLIVAN:
25 A. That would have been something told to me by

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1 Dr. Williams.
2 CHAYTOR, Q.C.:
3 Q. And then if we come over here, Dr. Williams is
4 quoted as saying "Most of the tests performed
5 were positive" Williams said, so most of the
6 original tests. "We had about 73 percent of
7 tests that were positive, so we're only
8 retesting the 27 percent or so that were
9 negative and from the early results, Williams
10 said it appears only 10 percent of the overall
11 tests performed over the past 7 years showed
12 different results." And Ms. Stokes-Sullivan,
13 I'm wondering at that time when you reported
14 on this, what did you understand Dr. Williams
15 to have been telling you about the magnitude
16 of the expected problem? What did you
17 understand his 10 percent to be saying?
18 MS. STOKES-SULLIVAN:
19 A. I thought that 10 percent was a significant
20 number. I was asking him for numbers, and of
21 course, I couldn't get specific numbers, but
22 when you look at how many he mentioned that
23 they did per year, I think he said, you know,
24 there's about 350 done per year and then he
25 mentioned this 10 percent showing different

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1 results and I assumed he's talking about 10
2 percent being errors, so that 350 figure over
3 a period of like 10 years, we would be up in
4 the 300 numbers for the incorrect results, but
5 he wouldn't come right out and say that. So I
6 assumed the 10 percent figure was a fairly
7 high error rate, but that was as far as I
8 could get in getting any kind of figures from
9 him.
10 CHAYTOR, Q.C.:
11 Q. And so were you asking for specific figures or
12 information that Dr. Williams didn't answer or
13 didn't provide to you?
14 MS. STOKES-SULLIVAN:
15 A. Yes, yeah. I asked him for numbers and like I
16 said, I put the 10 percent figure in there
17 because I taped the interview and
18 unfortunately I don't have a copy of the tape
19 because we moved buildings and at the time
20 when we moved, we had to clear out a lot of
21 things that we had and it's too bad I don't
22 have the tape, but I did tape that interview
23 because it was so technical and I made the
24 point of getting whatever figures he gave me
25 in the there, in the absence of not having the

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1 actual numbers.
2 CHAYTOR, Q.C.:
3 Q. And what types of questions were you asking
4 him for or was he able to provide you with an
5 explanation as to why he couldn't at this
6 particular point in time give you the numbers
7 you were looking for?
8 MS. STOKES-SULLIVAN:
9 A. It seemed to me that he was putting it across
10 as if it was just an estimate because it was
11 so early, that this was so preliminary that he
12 couldn't provide me with definite figures
13 until they reviewed it further.
14 CHAYTOR, Q.C.:
15 Q. And was there anything else that you asked of
16 him that he wasn't able to answer?
17 MS. STOKES-SULLIVAN:
18 A. Not that I can recall and like I said, he
19 answered quite a few of my questions, but not
20 necessarily in a direct fashion.
21 CHAYTOR, Q.C.:
22 Q. So not quite in a direct fashion.
23 MS. STOKES-SULLIVAN:
24 A. Uh-hm.
25 CHAYTOR, Q.C.:

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1 Q. So I take it you were also asking him, well
2 what caused all this and what we see reflected
3 in your article is that--Dr. Williams is the
4 source of that.
5 MS. STOKES-SULLIVAN:
6 A. Right, they were still looking at what the
7 problem was but they referenced back to the
8 technology changing and because they brought
9 in a new automated system, that's how they
10 picked up the errors, that's what I was told.
11 CHAYTOR, Q.C.:
12 Q. Okay. And if we could have, please--well
13 before I leave it then, Ms. Stokes-Sullivan,
14 is there anything else about this, about your
15 encounter of having interviewed Dr. Williams
16 and then the story that you produced, now
17 looking back on it, is there anything else
18 that you wanted to say about this?
19 MS. STOKES-SULLIVAN:
20 A. Only that it probably indicates that they knew
21 more at the time when you look at the numbers
22 now, over 300, that 10 percent figure seems to
23 fall in line and I have to wonder when I look
24 at that if they didn't know that it was 300
25 plus at the time and didn't want to say.

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1 CHAYTOR, Q.C.:
2 Q. And if we could look at P-0143 please? And
3 this is another e-mail exchange originating
4 from Tansy Mundon and it's now October 5th,
5 2005 and she writes again to a number of
6 people within the Department, CBC Online
7 Story, and "For your information, this story
8 was based on today's Telegram story. I was
9 speaking to Susan Bonnell this afternoon and
10 she advised that CBC did not do an interview
11 for this story. To date Eastern Health
12 received six calls"--and it talks about other
13 media contacts. And there's some concern
14 about this story, for example, down in this
15 paragraph, "According to the St. John's
16 Telegram, the concern started in May when an
17 initial test on a patient indicated that
18 tumour cells were not cancerous." Now, Ms.
19 Stokes-Sullivan, was this brought to your
20 attention that your story was being quoted and
21 erroneous information was being quoted?
22 MS. STOKES-SULLIVAN:
23 A. It was. That morning when I arrived at work,
24 well that was the same day that my story
25 appeared in the paper. CBC at the time was in

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1 a strike position, there was an ongoing
2 strike. I guess that's why they were taking
3 stories that appeared in The Telegram, re-
4 writing them and putting them on their web
5 because they only had limited number of people
6 working. I was not in the office very long
7 when I received a call from Deborah Thomas
8 Pennell who asked me if I had looked at CBC's
9 website. This appeared on their cbc.ca
10 website, on the National. And when I looked
11 at it, I couldn't believe that they were
12 quoting my story, but they were basically
13 putting a whole different slant on it as if
14 women were tested for cancer when they were
15 not--when they had no breast cancer. When I
16 read it, on CBC's website they have an area
17 that you can click either for feedback or to
18 report a typo error. I clicked either the
19 typo error or the feedback, I'm not sure which
20 one and I typed in a note to them and I said
21 that's my story you're mentioning on your
22 website but you've got it wrong, if you're
23 going to, you know, take Telegram stories, at
24 least get them right. So I was pretty
25 assertive about it, not, you know, polite but

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1 assertive. They e-mailed me back and thanked
2 me for letting them know that and within an
3 hour, I think that was one dated 10:45, within
4 an hour, 11:00 or 11:15, something like that,
5 Deborah Thomas Pennell called me back and
6 asked me to have a look a the website again.
7 And when I looked at it, they had posted
8 another story and basically they quoted The
9 Telegram again, but this time the explanation
10 I had typed in and given them about the ER/PR
11 testing, they had put that in there almost
12 directly from what I had said, that it was not
13 to determine cancer, these women already had
14 breast cancer, it was to determine the hormone
15 receptivity of the cancer tumour. And they
16 had basically put the same kind of top on the
17 story as what I had.
18 CHAYTOR, Q.C.:
19 Q. And so I take it then your story was being
20 used and used accurately at that point?
21 MS. STOKES-SULLIVAN:
22 A. It was at that point and in between I was
23 going back and forth to my editor letting him
24 know what was happening as well.
25 CHAYTOR, Q.C.:

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1 Q. And did Deborah Thomas Pennell indicate
2 whether or not Eastern Health was taking any
3 action, trying to have the erroneous
4 information removed?
5 MS. STOKES-SULLIVAN:
6 A. No.
7 CHAYTOR, Q.C.:
8 Q. And were you left with the impression from Ms.
9 Thomas Pennell that the ball was being put in
10 your court to alert you to it so that you
11 could take some action?
12 MS. STOKES-SULLIVAN:
13 A. I don't know if I really thought of it that
14 way. I thought that she probably contacted me
15 to let me know where she had worked with me
16 before and I knew her from a working
17 relationship, but I think she would know from
18 the type of person that I am, I wouldn't let
19 something like that go. I know there was
20 testimony here saying that reporters don't do
21 that, well I certainly do, I mean, if someone
22 takes one of my stories and references it, the
23 fact that my by-line is on it, and they
24 reference a story in The Telegram, it puts a
25 negative reflection on me when it's inaccurate

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1 scalping of our stories, so, you know, I
2 certainly would respond.
3 CHAYTOR, Q.C.:
4 Q. Yes. Ms. Stokes-Sullivan, we understand that
5 Eastern Health held two media technical
6 briefings on December 11th, 2006. Did you
7 attend one of those briefings?
8 MS. STOKES-SULLIVAN:
9 A. I did.
10 CHAYTOR, Q.C.:
11 Q. And what do you recall about the briefing?
12 MS. STOKES-SULLIVAN:
13 A. The briefing was rather unorganized, I guess,
14 you could call it. When we arrived at the
15 briefing--I was contacted the day before and
16 told that they were going to do a briefing,
17 they would make available doctors to us, and
18 we could interview them after the briefing.
19 CHAYTOR, Q.C.:
20 Q. And who told you that?
21 MS. STOKES-SULLIVAN:
22 A. Susan Bonnell.
23 CHAYTOR, Q.C.:
24 Q. Okay.
25 MS. STOKES-SULLIVAN:

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1 A. When we arrived that morning, obviously with
2 our photographer, Joe Gibbons, there was a
3 couple of other reporters; Caroline Stokes was
4 there, and there was a reporter from VOCM. We
5 found that we were waiting a long time for the
6 briefing to start and we asked what's going
7 on. We found out that they had taken CBC in
8 for a briefing ahead of the rest of the media.
9 I don't know what the reason was for that, but
10 that delayed us for a fair length of time.
11 Afterwards when the briefing -
12 CHAYTOR, Q.C.:
13 Q. If I could just ask you, Ms. Stokes-Sullivan,
14 had that ever--had you ever seen that before
15 in your career where you would be told to show
16 up at a particular time and then certain media
17 was taken in in advance? Is that usual?
18 MS. STOKES-SULLIVAN:
19 A. No, normally in briefings that I've ever
20 attended, like, pre-budget briefings, that
21 kind of thing, technical briefings, the media
22 is all there together.
23 CHAYTOR, Q.C.:
24 Q. Everyone gets told whatever has to be told at
25 the same time?

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1 MS. STOKES-SULLIVAN:
2 A. Right, uh-hm.
3 CHAYTOR, Q.C.:
4 Q. Okay, sorry, go ahead. I didn't mean to
5 interrupt.
6 MS. STOKES-SULLIVAN:
7 A. Okay. At the briefing, Dr. Oscar Howell did a
8 slide presentation. Dr. Nash Denic was there,
9 Dr. Kara Laing, and we were told that we were
10 not allowed to record anything, you know,
11 cameras that kind of thing were not permitted,
12 but we could do interviews after the briefing,
13 we were allowed to take notes, which I did.
14 We were there for quite some time with the
15 briefing before they took us to the lab and we
16 did a tour of the lab, but in the process of
17 between the end of the briefing and the tour
18 of the lab, Susan Bonnell told us that there
19 was a change of plans, that they were going to
20 embargo any information until the next day,
21 that the doctors wouldn't be available for
22 interviews that day, until the next morning.
23 I became rather upset.
24 CHAYTOR, Q.C.:
25 Q. Was there any reason given for that? You had

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1 been told at the beginning that there would be
2 interviews, you'd been told the day before.
3 MS. STOKES-SULLIVAN:
4 A. Right.
5 CHAYTOR, Q.C.:
6 Q. So what was the reason for the embargo?
7 MS. STOKES-SULLIVAN:
8 A. We couldn't really get a reason. Now I didn't
9 know if the doctors wouldn't be available
10 because the briefing had taken longer, or--
11 there was no reason given to us.
12 CHAYTOR, Q.C.:
13 Q. And in addition to no interviews, any
14 information they gave you would be embargoed,
15 so you couldn't take your notes and run your
16 story?
17 MS. STOKES-SULLIVAN:
18 A. Right.
19 CHAYTOR, Q.C.:
20 Q. Okay.
21 MS. STOKES-SULLIVAN:
22 A. I argued that, you know, the fact that we had
23 spent so much time there, and I would be
24 expected to write a story the next day, I said
25 this is just not good enough, we were told we

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1 would be able to interview the doctors
2 afterwards, you know, use the information from
3 the briefing, or whatever, and Susan had to go
4 back and forth. I don't know who she was
5 talking to, someone else, I guess, in Eastern
6 Health or--she came back several times to me
7 and at one point she said, well, you've taken
8 a lot of notes on this, why can't you just
9 write a column, not mentioning who the doctors
10 are or anything, just say that you've learned
11 this information about the ER/PR testing, and
12 I said, Susan, I can't do that; number one, I
13 don't write a column for the Telegram, and I
14 can't put something out in the paper without
15 having the sources attributed, especially for
16 something like this. So it went back and
17 forth for quite some time, and then finally
18 Susan came back to me and she said, well, we
19 trust your reporting, you've been factual so
20 far in this, so go ahead, write a story, do
21 what you want, and use the information you've
22 got. Now I was lucky that I had taken a lot
23 of notes because I wouldn't have been able to
24 write a story if I hadn't, and the story that
25 appeared on October 5th was all based on notes

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1 I took with no recording devices or anything
2 else.
3 CHAYTOR, Q.C.:
4 Q. Okay, and were you provided a CD from the
5 briefing with PowerPoint slide that had been
6 done?
7 MS. STOKES-SULLIVAN:
8 A. We were.
9 CHAYTOR, Q.C.:
10 Q. You were given that?
11 MS. STOKES-SULLIVAN:
12 A. Right.
13 CHAYTOR, Q.C.:
14 Q. So was that of some assistance to you as well?
15 MS. STOKES-SULLIVAN:
16 A. It was. For writing a story, you need to have
17 quotes and that kind of thing as well, so the
18 PowerPoint presentation wouldn't be as good to
19 me as having the quotes from the doctors who
20 were there.
21 CHAYTOR, Q.C.:
22 Q. Did you find the approach in this particular
23 situation different or more restrictive than
24 other such briefings that you've attended
25 throughout your professional career?

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1 MS. STOKES-SULLIVAN:
2 A. I did, and I couldn't understand why the
3 ground rules for the briefing changed so
4 suddenly. That totally confused me, but it
5 was more restrictive certainly.
6 CHAYTOR, Q.C.:
7 Q. And was there discussion amongst the reporters
8 about this, how did the other reporters feel,
9 did they share your concerns?
10 MS. STOKES-SULLIVAN:
11 A. I don't know about the embargo so much because
12 I was more--I was on the phone back and forth
13 with our editor trying to sort this out, and
14 asking his opinion on what we should do. So I
15 wasn't really into a discussion, and it was
16 more of a one on one thing with Susan over my
17 situation being there, sitting through it,
18 covering it, and what she was trying to do, it
19 also put the Telegram behind another day
20 because if electronic media did their
21 interviews the following day, we would be
22 another day before ours because of our
23 deadlines before my story would appear in the
24 paper.
25 CHAYTOR, Q.C.:

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1 Q. So you'd be at a disadvantage from the
2 electronic media?
3 MS. STOKES-SULLIVAN:
4 A. Right.
5 CHAYTOR, Q.C.:
6 Q. So was the embargo still imposed, but you were
7 given the go ahead that you could get your
8 story ready that evening for publication the
9 following day, so you could then also have
10 your story out the same time as the other
11 media?
12 MS. STOKES-SULLIVAN:
13 A. Well, she said at the end of back and forth
14 with her, she said the embargo is lifted, do
15 what you want. Now, of course, we couldn't
16 get it in the paper until the next morning
17 because the paper had already published that
18 day.
19 CHAYTOR, Q.C.:
20 Q. And how about the interviews with the
21 physicians, did that happen?
22 MS. STOKES-SULLIVAN:
23 A. No. Again she said they wouldn't be available
24 until the next day, but if I wanted to go with
25 the story, I'd have to use whatever I had from

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1 my notes, which is what I did.
2 CHAYTOR, Q.C.:
3 Q. And were physicians made available then the
4 next day?
5 MS. STOKES-SULLIVAN:
6 A. They were to the rest of the media, yeah.
7 CHAYTOR, Q.C.:
8 Q. Were there questions asked during the briefing
9 for which there were no answers provided?
10 MS. STOKES-SULLIVAN:
11 A. Uh-hm.
12 CHAYTOR, Q.C.:
13 Q. On the numbers, the only figure that they
14 would give us was the 117 figure, which is
15 what they said were the number of people who
16 had treatment changes as a result of the
17 testing errors. They refused to give us any
18 numbers on how many in total were inaccurate
19 or how many women might have died, you know,
20 that were involved in the testing errors, and
21 the answer for that when we kept pressing them
22 for these figures was that there was a class
23 action lawsuit and there was some information
24 they didn't feel that they should give us or
25 put out in the public.

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1 CHAYTOR, Q.C.:
2 Q. And Ms. Deana Stokes, did you specifically ask
3 those questions?
4 MS. STOKES-SULLIVAN:
5 A. Oh, yes, yeah.
6 CHAYTOR, Q.C.:
7 Q. And did other reporters ask those questions?
8 MS. STOKES-SULLIVAN:
9 A. They did, yeah, and in different ways. I
10 mean, reporters have a way of coming back to
11 the same question again.
12 CHAYTOR, Q.C.:
13 Q. So you were fairly persistent in asking for
14 those answers?
15 MS. STOKES-SULLIVAN:
16 A. Oh, yeah, uh-hm.
17 CHAYTOR, Q.C.:
18 Q. And who told you that they couldn't provide
19 that information because of the class action?
20 MS. STOKES-SULLIVAN:
21 A. It was in one of the slides which Dr. Howell
22 presented. It was referenced at the bottom of
23 one of the slides about the considerations.
24 CHAYTOR, Q.C.:
25 Q. Okay, and I'll -

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1 MS. STOKES-SULLIVAN:
2 A. Complicated disclosure, I think, was the
3 heading on it.
4 CHAYTOR, Q.C.:
5 Q. Okay, and I'll take you through that. I think
6 that might be at page 10, page 10 of, sorry,
7 P-1654. So here on this particular slide, we
8 see class action lawsuit.
9 MS. STOKES-SULLIVAN:
10 A. Right.
11 CHAYTOR, Q.C.:
12 Q. So in going through this particular slide,
13 that's when it was referenced?
14 MS. STOKES-SULLIVAN:
15 A. It was referenced there, and then the question
16 and answer part didn't happen until after the
17 slide presentation, and when the questions
18 were asked, Susan Bonnell stood up and
19 referenced again, you know, we can't give you
20 that information. She basically cut the
21 doctors off in saying any more by saying
22 because of the class action lawsuit that that
23 information would be given to us.
24 CHAYTOR, Q.C.:
25 Q. So were the doctors attempting to try and give

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1 more information and it was Ms. Bonnell who
2 was restricting the information?
3 MS. STOKES-SULLIVAN:
4 A. I think they were probably told that they
5 couldn't, anyway, but she reiterated--I
6 remember when we were asking the questions,
7 she reiterated that the class action lawsuit
8 was a consideration in revealing any of that.
9 CHAYTOR, Q.C.:
10 Q. And what were you told during the briefing was
11 the cause or causes of the problems with the
12 ER/PR testing?
13 MS. STOKES-SULLIVAN:
14 A. Again it seemed like they were going back to
15 the technology again, that the DAKO system,
16 they were referencing the DAKO system as if it
17 was an old archaic system, it was outdated,
18 and complicated, and that's why errors
19 happened, that it's not uncommon that it would
20 happen with semi-automated.
21 CHAYTOR, Q.C.:
22 Q. And at any point in time did anyone say that
23 Mount Sinai was using the DAKO semi-automated
24 system?
25 MS. STOKES-SULLIVAN:

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1 A. No. I had the impression from what we were
2 told that the reason they were sending the
3 samples to Mount Sinai for retesting was that
4 they had a better system than what was
5 available here, and it was only when they
6 bought the Ventana system here that they
7 realized that there were errors from the DAKO
8 system.
9 CHAYTOR, Q.C.:
10 Q. And back in your interview in October, 2005,
11 with Dr. Williams, did he mention to you that
12 Mount Sinai was using the DAKO semi-automated
13 system?
14 MS. STOKES-SULLIVAN:
15 A. No.
16 CHAYTOR, Q.C.:
17 Q. And who at the media technical briefing in
18 December, 2006, was talking about the
19 technology and it being--its role in the whole
20 issue with the testing?
21 MS. STOKES-SULLIVAN:
22 A. That would have been Dr. Howell. He did the
23 whole PowerPoint presentation. I think Kara
24 Laing talked more about contacting patients,
25 that kind of thing.

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1 CHAYTOR, Q.C.:
2 Q. Perhaps what I'll do now then is take you
3 through this exhibit, and we'll go back,
4 please, to page one. Ms. Stokes-Sullivan, if
5 you had been told that Mount Sinai was using
6 the DAKO semi-automated system, as a
7 journalist, would that have been of interest
8 to you?
9 MS. STOKES-SULLIVAN:
10 A. It would have been, sure.
11 CHAYTOR, Q.C.:
12 Q. And how might that have changed some of your
13 reporting on this issue?
14 MS. STOKES-SULLIVAN:
15 A. Well, I think the media would have looked at
16 it as being more human error if we had known
17 that that system was reliable and still being
18 used.
19 CHAYTOR, Q.C.:
20 Q. And this again, I understand you've provided
21 this to the Commission and it's a copy of the
22 CD which was given to you at the time of the
23 media technical briefing?
24 MS. STOKES-SULLIVAN:
25 A. Uh-hm.

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1 CHAYTOR, Q.C.:
2 Q. And it indicates that it was Dr. Howell, Dr.
3 Denic, and Dr. Kara Laing, who participated,
4 and then on page three, it says, "Photography
5 and video are not permitted in the briefing.
6 However interviews may be scheduled following
7 the briefing. You may also take video and
8 pictures in the laboratory. Tumour slide
9 samples, charts, and graphs have been provided
10 for you on CD". So on this again at the
11 beginning, you thought the interviews were
12 going to take place after the briefing?
13 MS. STOKES-SULLIVAN:
14 A. Right.
15 CHAYTOR, Q.C.:
16 Q. When did the lab tour take place? Did you sit
17 through this technical briefing first and then
18 do the lab tour?
19 MS. STOKES-SULLIVAN:
20 A. Yeah, the lab tour was immediately afterwards.
21 CHAYTOR, Q.C.:
22 Q. And how long was the technical briefing?
23 MS. STOKES-SULLIVAN:
24 A. I would say it might have been 40 minutes or
25 45 minutes probably.

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1 CHAYTOR, Q.C.:
2 Q. And how long was the lab tour?
3 MS. STOKES-SULLIVAN:
4 A. Maybe a half hour.
5 CHAYTOR, Q.C.:
6 Q. And what were you shown on your tour?
7 MS. STOKES-SULLIVAN:
8 A. Dr. Denic took us through the tour, talked to
9 us about lab testing, but what we were
10 actually shown was a person dissecting a
11 kidney tumour, it wasn't a breast cancer
12 tumour.
13 CHAYTOR, Q.C.:
14 Q. Okay, and were you shown the Ventana machine,
15 were you taken to the IHC portion of the lab
16 and shown the Ventana machine?
17 MS. STOKES-SULLIVAN:
18 A. I can't recall that we were. We certainly
19 weren't shown how it worked. I mean, I think
20 the lab tour was more for a photo opportunity
21 than anything else.
22 CHAYTOR, Q.C.:
23 Q. And when Dr. Denic was taking you through the
24 lab, was he available then to answer any
25 questions that you had?

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1 MS. STOKES-SULLIVAN:
2 A. He answered questions, but again it was not
3 recorded. I mean, it wasn't recorded
4 interviews, it was just, as I said, a photo
5 opportunity--it was more--the lab tour in my
6 mind was more of an opportunity for our
7 photographer to get photos to go with the
8 article that I would be writing.
9 CHAYTOR, Q.C.:
10 Q. Okay.
11 MS. STOKES-SULLIVAN:
12 A. They did have lab technicians there as well,
13 they were working on slides.
14 CHAYTOR, Q.C.:
15 Q. And we'll see on page four then, April, 2004,
16 Eastern Health and the Health Care Corporation
17 of St. John's installs the new Ventana system,
18 and there is a bit of chronology then up until
19 August of '05, "Mount Sinai agreeing to take
20 on the project", and then the first results
21 back in October of '05. "Tumour board begins
22 reviewing and making treatment
23 recommendations". Was there any explanation
24 given as to who the tumour board was and their
25 role?

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1 MS. STOKES-SULLIVAN:
2 A. No, I can't recall that there would have been.
3 CHAYTOR, Q.C.:
4 Q. And again Dr. Howell would have taken you
5 through all this.
6 MS. STOKES-SULLIVAN:
7 A. Uh-hm.
8 CHAYTOR, Q.C.:
9 Q. And after it was all presented, then there was
10 a Q & A session?
11 MS. STOKES-SULLIVAN:
12 A. Right.
13 CHAYTOR, Q.C.:
14 Q. And that was an opportunity for you to ask Dr.
15 Howell or Dr. Denic or Dr. Laing any questions
16 about what you'd been told?
17 MS. STOKES-SULLIVAN:
18 A. Right.
19 CHAYTOR, Q.C.:
20 Q. Or any other questions, okay. And it says,
21 "organization conducts media interviews.
22 Phone contact with all individuals being
23 retested". What was said in terms of that,
24 about--it says here, "all individuals being
25 retested". What were you told in terms of the

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1 patient contact and whether or not they had
2 all been retested in October, 2005?
3 MS. STOKES-SULLIVAN:
4 A. From what I can recall, they were saying it
5 was a massive process trying to contact the
6 patients, and I can't recall if they said that
7 all patients had been contacted at that time.
8 I don't think they had. I think they were
9 still in the process of contacting patients.
10 CHAYTOR, Q.C.:
11 Q. Okay, to let them know their results.
12 MS. STOKES-SULLIVAN:
13 A. Right.
14 CHAYTOR, Q.C.:
15 Q. What about the phone contact with all
16 individuals being retested? So contacting
17 people in October, 2005, to let them know
18 they're part of the retesting process, did you
19 understand that they had all been contacted
20 beforehand?
21 MS. STOKES-SULLIVAN:
22 A. No, I think they were still in the process of
23 trying to reach these people because they made
24 it seem like it was a massive undertaking
25 trying to go back through files to contact

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1 people where people have moved, that kind of
2 thing.
3 CHAYTOR, Q.C.:
4 Q. And that was made clear during the briefing?
5 MS. STOKES-SULLIVAN:
6 A. Yeah, uh-hm, and they made the comment too
7 that some people probably--like, we asked
8 about the number of people who might have
9 died, and I can remember it being said that
10 that was another difficulty because it would
11 be difficult to ascertain how they had died,
12 whether it was linked with their breast cancer
13 or some other case.
14 CHAYTOR, Q.C.:
15 Q. And were you told whether or not all the
16 deceased patients had been retested?
17 MS. STOKES-SULLIVAN:
18 A. We weren't told if they had been, no.
19 CHAYTOR, Q.C.:
20 Q. Did anyone think to ask that, was that a
21 question that was asked?
22 MS. STOKES-SULLIVAN:
23 A. I can remember something about it, and I think
24 in some cases they were--from what I can
25 recall, I think in some cases they said when

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1 they contacted people, if they had already
2 been through treatments and that kind of
3 thing, they probably weren't--some people may
4 not have been interested in being retested. I
5 can remember something about that because they
6 may not have--if they had already gone through
7 chemotherapy, radiation, that kind of thing,
8 they may not have even wanted to be offered
9 Tamoxifen at that point, and if they didn't,
10 it was my understanding they wouldn't retest
11 those samples.
12 CHAYTOR, Q.C.:
13 Q. Okay, so from what you were understanding was
14 being said, perhaps not everyone had been
15 retested because they may have already been on
16 the treatment?
17 MS. STOKES-SULLIVAN:
18 A. Right.
19 CHAYTOR, Q.C.:
20 Q. But people were being offered the choice as to
21 whether or not they should be retested?
22 MS. STOKES-SULLIVAN:
23 A. Right, uh-hm.
24 CHAYTOR, Q.C.:
25 Q. Do you recall who was saying that in the

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1 briefing?
2 MS. STOKES-SULLIVAN:
3 A. Dr. Kara Laing offered some of that, and I can
4 remember, like, on the issue too of deceased
5 patients, she said it would be up to their
6 family members whether they would want their
7 samples retested or not.
8 CHAYTOR, Q.C.:
9 Q. Okay, and I'll just go back here for a second.
10 It indicates, "August 2005 Mount Sinai took on
11 the project", and then October, November,
12 December, Mount Sinai concerns. Do you recall
13 what you were told about Mount Sinai concerns?
14 MS. STOKES-SULLIVAN:
15 A. I can't recall exactly if that would have been
16 elaborated on very much or not.
17 CHAYTOR, Q.C.:
18 Q. And in between here, August, and in September,
19 we're aware, of course, that it says--it does
20 say here, "October, 2005, external review
21 process begins". Was there anything else said
22 about that, about what the external review
23 process was?
24 MS. STOKES-SULLIVAN:
25 A. They did tell us that they were looking at

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1 the--they were reviewing the process in the
2 lab, and again at that point it seemed like
3 they were looking at whatever might have been
4 involved in causing the errors, but they
5 seemed to be leaning toward the technology,
6 but I can remember Dr. Denic telling us that
7 they were going to look at the whole lab to
8 try to ensure the best quality assurances for
9 patients for testing.
10 CHAYTOR, Q.C.:
11 Q. And this was December, 2006. Did you--were
12 you told that external reviewers had already
13 been in, and, in fact, had been in twice at
14 that point by December, 2006?
15 MS. STOKES-SULLIVAN:
16 A. I can't recall being told that at that point,
17 no.
18 CHAYTOR, Q.C.:
19 Q. So was it your impression that this was
20 something that they were going to be looking
21 at on a go forward basis or were still in the
22 process of looking at?
23 MS. STOKES-SULLIVAN:
24 A. That's my recollection of it, yeah.
25 CHAYTOR, Q.C.:

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1 Q. And then it says here, "Late November, 2006,
2 quality review completed. September, 2006, a
3 statistical review begins. This work is
4 continuing". Was there an elaboration on what
5 that meant?
6 MS. STOKES-SULLIVAN:
7 A. I can't recall a whole lot of elaboration on
8 that.
9 CHAYTOR, Q.C.:
10 Q. And "June to November, 2006, quality review
11 process established Centre of Excellence for
12 Breast Cancer Pathology, assign head
13 pathologist for immunohistochemistry, prepare
14 for continuation of ER/PR testing", and then
15 late November, 2006, quality review completed.
16 What did you understand was being said about
17 that?
18 MS. STOKES-SULLIVAN:
19 A. The only thing I can remember, as I said, Dr.
20 Denic was talking about trying to improve
21 procedures and processes in the lab, and it
22 was my understanding that he was fairly new in
23 his position there as well, and that part of
24 his appointment was that he was hired to try
25 to improve the lab technology, the lab

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1 processes.
2 CHAYTOR, Q.C.:
3 Q. And were you told that that in any way there
4 were things lacking that required improvement,
5 and that that had somehow contributed to the
6 whole issue?
7 MS. STOKES-SULLIVAN:
8 A. Again the technology, again my impression was
9 that they felt that the lab was falling behind
10 and they needed new equipment, newer
11 technology, and there was also the issue of
12 the lack of pathologists, and I had done some
13 stories on that before this story broke with
14 Dr. Dan Fontaine, and Dr. Denic, I can
15 remember, he was stressing that as well that
16 the pathology shortage and the fact they need
17 to recruit and retain pathologists here.
18 CHAYTOR, Q.C.:
19 Q. And then on the next page, after the
20 chronology is disclosure, and there's a quote
21 here from the Canadian Patient Safety
22 dictionary, and then "Eastern Health is
23 committed to candid and timely disclosure of
24 adverse events, particularly those that may
25 cause risk to a patient," and then there's two

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1 slides which set out "our policy states" and
2 indicated to be a disclosure policy, and
3 "concentrate on what happened, remain factual,
4 take the lead in disclosure, outline a plan of
5 care to rectify the harm, offer to obtain
6 second opinions where appropriate, offer the
7 option of family meeting, document the
8 discussion on the patient's health record,
9 determine the need for follow-up meetings, be
10 prepared for strong emotions, accept
11 responsibility for outcomes. Apologies are
12 appropriate."
13 Were you told that--well, I guess, what
14 were you told about this? And was it
15 indicated that this was the disclosure policy
16 that had been followed with respect to the
17 ER/PR issue?
18 MS. STOKES-SULLIVAN:
19 A. Seems to me, from what I recall, they were
20 saying that this was Eastern Health's policy,
21 and basically putting patients first was their
22 objective.
23 CHAYTOR, Q.C.:
24 Q. And the only issue you were there to discuss,
25 I take it, was the ER/PR issue?

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1 MS. STOKES-SULLIVAN:
2 A. Right.
3 CHAYTOR, Q.C.:
4 Q. That's what this whole presentation was about?
5 MS. STOKES-SULLIVAN:
6 A. Right.
7 CHAYTOR, Q.C.:
8 Q. And then we have the slide we brought up
9 before, "it's a complicated disclosure." It
10 says "systems issue. Oncology practice has
11 changed. Laboratory technology has changed.
12 No patient specific information to disclose.
13 National implications, and class action law
14 suit." What do you remember being said about
15 those various issues and how it contributed to
16 it being a complicated disclosure?
17 MS. STOKES-SULLIVAN:
18 A. Again, from what I can recall, they were
19 falling back again on the lab technology and
20 the reference there, it has changed. It made
21 it seem like the labs here were behind the
22 times, that they were outdated and behind what
23 was available in other centres. The privacy,
24 the mention there about patient specific
25 information, from what I recall on that, it

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1 was talking about privacy issues, like
2 disclosing any information. And the class
3 action law suit, again was definitely
4 something that they were fearful of disclosing
5 too much with that action pending.
6 CHAYTOR, Q.C.:
7 Q. And what did you understand systems issue?
8 Was there any explanation given as to what
9 that was?
10 MS. STOKES-SULLIVAN:
11 A. I can't recall exactly.
12 CHAYTOR, Q.C.:
13 Q. And what about oncology practice has changed?
14 Was there any expansion on that as to how the
15 oncology practice had changed?
16 MS. STOKES-SULLIVAN:
17 A. From what I can recall, they were talking
18 about how it was more complex today, I guess
19 because of increasing of cancer cases and more
20 complex cancer cases to deal with, that kind
21 of thing.
22 CHAYTOR, Q.C.:
23 Q. Okay, and then there's a number of slides here
24 "understanding the ER/PR test" and I take it
25 this was the portion that Dr. Laing would have

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1 taken you through?
2 MS. STOKES-SULLIVAN:
3 A. Um-hm.
4 CHAYTOR, Q.C.:
5 Q. And then at page 16, there's a slide dedicated
6 to "prior to April 2004 and after April 2004"
7 and "the DAKO testing technique was used in
8 our laboratories. This technique required the
9 manual blowing of tissue and precise measuring
10 of mixtures of immunohistochemical reagents.
11 Then after April 2004, the Ventana system was
12 installed, which automates some of this
13 process, removing as much human manipulation
14 as possible. In addition, there are
15 significant advances in the development and
16 use of reagents, such as antibodies." Who, at
17 this point in time, would have been speaking
18 to this?
19 MS. STOKES-SULLIVAN:
20 A. I think that probably would have been Dr.
21 Denic.
22 CHAYTOR, Q.C.:
23 Q. And again, what was it that you took from
24 this?
25 MS. STOKES-SULLIVAN:

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1 A. Again, it seemed to point to me that they
2 wouldn't have picked up on these errors
3 without having installed the new Ventana
4 system. When the first--they took one of the
5 tests from a batch of tests that were done
6 previously and they came up with a different
7 result, and again, the impression was that the
8 DAKO system was far more complex and
9 complicated to use and more prone to errors.
10 CHAYTOR, Q.C.:
11 Q. And then there's slides here, and in
12 understanding the ER/PR test it says "in
13 tumors with low expressers, it is difficult to
14 retrieve the antigen." Who was speaking to
15 that? Was that, this part of Dr. Denic's
16 presentation?
17 MS. STOKES-SULLIVAN:
18 A. I think it probably was.
19 CHAYTOR, Q.C.:
20 Q. And then on the next page is "Eastern Health
21 outcomes" and they indicate from 1997 to 2005,
22 there were 2760 ER/PR tests. 939 individual
23 samples were sent to Mount Sinai and 117
24 individuals had recommended treatment changes.
25 So those were, I take it, the only numbers

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1 given out during the media technical briefing?
2 MS. STOKES-SULLIVAN:
3 A. Right, and when we asked for further numbers,
4 the number of errors, we were told well, the
5 only number that's really important is that
6 117, patients that had treatment changes or
7 recommended treatment changes.
8 CHAYTOR, Q.C.:
9 Q. And in your understanding as to what was said
10 about how the error was picked up on and the
11 retesting with the Ventana, did anyone
12 indicate to you whether or not an oncologist
13 from the United States had been involved in
14 providing advice which led to the retesting?
15 Was there any information along those lines?
16 MS. STOKES-SULLIVAN:
17 A. I can't recall that there was a mention of
18 anyone from the U.S., no. From my
19 recollection, we were told that it was when
20 they brought in this new equipment that they
21 decided to retest some of the slides and they
22 found that one patient's test results had
23 converted.
24 CHAYTOR, Q.C.:
25 Q. And that's what led to then testing more?

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1 MS. STOKES-SULLIVAN:
2 A. Right, and we were told that that sample was
3 sent to Mount Sinai after and it confirmed
4 that the test result initially here was wrong.
5 CHAYTOR, Q.C.:
6 Q. The original index patient's sample?
7 MS. STOKES-SULLIVAN:
8 A. Right.
9 CHAYTOR, Q.C.:
10 Q. Had been sent to Mount Sinai?
11 MS. STOKES-SULLIVAN:
12 A. That was my understanding back then, that it
13 was confirmed at Mount Sinai as well, after
14 the Ventana system here.
15 CHAYTOR, Q.C.:
16 Q. And do you recall who was telling you that the
17 reason for it--the reason for doing the
18 retesting was on the new equipment, as opposed
19 to any external advice that may have been
20 given?
21 MS. STOKES-SULLIVAN:
22 A. I'm pretty sure Dr. Kara Laing, because it was
23 her patient, that the initial test -
24 CHAYTOR, Q.C.:
25 Q. So she was speaking to that?

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1 MS. STOKES-SULLIVAN:
2 A. - that the initial flawed test was found, and
3 I know she addressed that specifically
4 herself. I think Dr. Denic did as well, but
5 she certainly gave information about it.
6 CHAYTOR, Q.C.:
7 Q. And what was it you understood Dr. Laing to
8 say about the index patient and how that
9 person or the first test, how that came to
10 happen?
11 MS. STOKES-SULLIVAN:
12 A. From my recollection, I can recall her saying
13 it was one of her patients who tested
14 initially and was not qualified for Tamoxifen.
15 Her test came back negative. When they
16 brought in the Ventana system, that she was
17 one of the tests that--one of the slides that
18 was tested again, and came back this time as
19 being positive, which meant she was a
20 candidate for Tamoxifen, and from what I can
21 remember, we were told that that sample was
22 also double checked at Mount Sinai and
23 confirmed that the Ventana system was right.
24 CHAYTOR, Q.C.:
25 Q. But did Dr. Laing tell you why they would have

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1 picked this particular patient to be retested
2 on the Ventana?
3 MS. STOKES-SULLIVAN:
4 A. At that point, no. I mean, I know now, having
5 heard since, but I can't recall her telling us
6 at that point.
7 CHAYTOR, Q.C.:
8 Q. And so you've heard about how that all
9 happened through this process, I take it?
10 MS. STOKES-SULLIVAN:
11 A. Right.
12 CHAYTOR, Q.C.:
13 Q. And Ms. Stokes-Sullivan, if that had been told
14 to you, do you think it would have sounded
15 familiar when you were hearing it through the
16 Inquiry process?
17 MS. STOKES-SULLIVAN:
18 A. Yeah. When I heard it through the Inquiry
19 process, I realized it was something different
20 from what I had heard in the beginning, yes.
21 CHAYTOR, Q.C.:
22 Q. And still on this slide for a moment, "of
23 these 117 individuals, some of the changes
24 were related to ER/PR conversion, while others
25 were as a result of the panel reviewing their

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1 charts." What did you understand that to
2 mean?
3 MS. STOKES-SULLIVAN:
4 A. I think when they're talking about the panel
5 reviewing their charts--well, the ER/PR
6 conversion they're talking about are the tests
7 that they rechecked on the Ventana equipment,
8 from what I can recall, and I think when they
9 talk about the panel reviewing their charts,
10 they were talking about going through the
11 patient files and, from my recollection, they
12 were looking at things that were
13 uncharacteristic in some of the files, which
14 would indicate that the person probably did
15 have a tumor that was hormone--it had hormone
16 receptivity, whereas the initial test results
17 indicated they didn't.
18 CHAYTOR, Q.C.:
19 Q. Okay, and just go back to 19 for a moment,
20 "understand the ER/PR test." I had brought
21 you to the last bullet, but the other three
22 talk about "there are no standardized
23 immunohistochemistry testing methodologies
24 worldwide. Currently there is no national
25 laboratory accreditation process for

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1 immunohistochemicallabs.
2 Immunohistochemistry tests are probabilistic,
3 not accurate" and that's a quote given, and
4 what did you take from what's being said
5 there?
6 MS. STOKES-SULLIVAN:
7 A. It was my impression, from what they were
8 saying, that this type of testing anyway is
9 hit or miss. It can produce a lot of false
10 test results.
11 CHAYTOR, Q.C.:
12 Q. And then on the last slide, "for the last six
13 months, Eastern Health has been focused on
14 completing the disclosure process and a
15 quality review. Within the next two months,
16 we will be reinstating ER/PR testing at our
17 laboratory. Quality assurances: all
18 recommendations from our external reviews have
19 been implemented or are in progress." So it
20 seems to be indicating here that they have
21 recommendations from external reviews that
22 have either been put in place or are in
23 progress. And "designated IHC lab is separate
24 department, including three designated IHC
25 technologists, IHC lab director and dedicated

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1 cutter. Technologists and pathologists have
2 received specialized training in
3 immunohistochemistry. Consolidated all breast
4 cases for examination and reporting to a
5 designated"--designated, I guess it should be,
6 "group of pathologists. Improved quality
7 management program, seeking accreditation for
8 the entire lab, and involved in proficiency
9 testing."
10 This list then here under the heading
11 "quality assurances," did you understand that
12 any or all of these were items which were
13 lacking during the relevant time period and as
14 such may have contributed to the problems with
15 the testing?
16 MS. STOKES-SULLIVAN:
17 A. It seems to me that what we were told, they
18 were looking at improving quality in the lab,
19 improving technology and testing, that kind of
20 thing, but I don't think that they were
21 indicating that that might have been a problem
22 in the errors. It was more in the vein that
23 we want to make sure that we have the best,
24 you know, lab technology and qualified people
25 for patient care. It was almost like this

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1 brought everything to light, but I can't
2 recall them giving any indication that there
3 was any problem with qualifications of anyone
4 in the lab, as opposed to the technology.
5 Again, from what I can recall, the technology
6 was a big thing that was looming that they
7 were indicating was a problem.
8 CHAYTOR, Q.C.:
9 Q. Okay, and then if we could see, please, P-
10 0187? And Ms. Stokes-Sullivan, this is a copy
11 then of your article that you wrote. It was
12 published, I believe, December 13th. Is that
13 correct? It's written on the top here anyhow.
14 MS. STOKES-SULLIVAN:
15 A. Right, it was the day after the briefing.
16 CHAYTOR, Q.C.:
17 Q. Day after, so it would have been the 12th,
18 would it?
19 MS. STOKES-SULLIVAN:
20 A. Right, um-hm.
21 CHAYTOR, Q.C.:
22 Q. Okay, and "treatments change after cancer
23 files reviewed," by Deana Stokes-Sullivan.
24 MS. STOKES-SULLIVAN:
25 A. Um-hm.

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1 CHAYTOR, Q.C.:
2 Q. And we have a picture here. I take it this is
3 from the tour of the lab?
4 MS. STOKES-SULLIVAN:
5 A. Right.
6 CHAYTOR, Q.C.:
7 Q. And you write in your article, "however,
8 because of a pending class action lawsuit,
9 Eastern Health officials won't say how many
10 samples have converted in the latest round of
11 testing from negative to positive for estrogen
12 and progesterone receptors." And that's what
13 you recall being told at the briefing?
14 MS. STOKES-SULLIVAN:
15 A. Right, that was their explanation for not
16 giving the full numbers.
17 CHAYTOR, Q.C.:
18 Q. And "the initial testing was conducted using a
19 semi-automatic DAKO system, involving a more
20 complex process and multiple steps. In April
21 2004, a new automatic Ventana system was
22 installed for use in the immunohistochemistry
23 laboratory. The second test was conducted
24 using this new equipment." And again, you've
25 dedicated two paragraphs to this issue about

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1 the change in technology, and why is that?
2 Why is it that you saw that as being
3 important?
4 MS. STOKES-SULLIVAN:
5 A. Because it was stressed a lot to us, and from
6 what I can recall, like the answer to our
7 questions, when we were questioning why this
8 happened, again, it fell back on the
9 equipment. That's why it's there.
10 CHAYTOR, Q.C.:
11 Q. And then on the next page, it says--you're
12 quoting Dr. Laing here, "Laing said while the
13 retesting has resulted in recommended
14 treatment changes for 117 patients, some of
15 these women might have already been taking the
16 commonly prescribed Tamoxifen. 'But if seven
17 years had gone by, we wouldn't recommend a
18 treatment change,' she added." And you've put
19 that in quotes.
20 MS. STOKES-SULLIVAN:
21 A. Right.
22 CHAYTOR, Q.C.:
23 Q. And so in putting that in quotes, how
24 confident are you that that's what Dr. Laing
25 said?

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1 MS. STOKES-SULLIVAN:
2 A. Well, pretty confident. Even though at that
3 briefing I was taking notes, I'm pretty fast
4 at taking notes, so I'm pretty sure.
5 CHAYTOR, Q.C.:
6 Q. And you have Dr. Laing here, although you
7 don't have it in quotations, but the idea that
8 out of the 117, some of them might already
9 have been taking the commonly prescribed
10 Tamoxifen.
11 MS. STOKES-SULLIVAN:
12 A. Um-hm.
13 CHAYTOR, Q.C.:
14 Q. So your understanding of the number 117, did
15 you understand those were the people who
16 needed a change in treatment and were then put
17 on Tamoxifen or what did you understand the
18 117 to be?
19 MS. STOKES-SULLIVAN:
20 A. It was my understanding these would have been
21 the patients when they retested, they were
22 candidates for the Tamoxifen drug. But she
23 said some may have already been taking it, and
24 if a period of time had lapsed, then they
25 probably wouldn't consider putting the person

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1 on it. Because, I guess, in that period of
2 time, their cancer would have either returned
3 or not returned. But if they had already gone
4 through radiation and chemotherapy as well,
5 they may not want to go on Tamoxifen as
6 another mode of treatment.
7 CHAYTOR, Q.C.:
8 Q. So while there was--the slide presentation had
9 said 117 patients had recommendations for
10 treatment change, you understood amongst those
11 117 recommended for change, they might not
12 need it, because they might have already
13 received it?
14 MS. STOKES-SULLIVAN:
15 A. Right. There would have been recommended, but
16 some may reject it. Some may have already
17 been taking the drug.
18 CHAYTOR, Q.C.:
19 Q. Received it.
20 MS. STOKES-SULLIVAN:
21 A. Um-hm.
22 CHAYTOR, Q.C.:
23 Q. And was there any explanation as to why any of
24 those patients might have already been
25 receiving Tamoxifen?

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1 MS. STOKES-SULLIVAN:
2 A. I can't recall what the explanation would have
3 been. The only thing I can think is that they
4 would have been followed by the doctors and if
5 there had been signs that maybe their tumors
6 would have been receptive by the panel review
7 of their files, that there would be certain
8 things that they would look for in the patient
9 history and they may have been offered
10 Tamoxifen.
11 CHAYTOR, Q.C.:
12 Q. Okay, and then you have some information from
13 Dr. Howell over here, and I believe that it is
14 in quotes, "Howell said this quality review
15 was completed in November, but much of the
16 information is," and then his quote
17 "'protected information.' He said it was
18 important that people felt free to be open
19 with their comments."
20 MS. STOKES-SULLIVAN:
21 A. Um-hm.
22 CHAYTOR, Q.C.:
23 Q. And what did you understand that to be about?
24 MS. STOKES-SULLIVAN:
25 A. I think that would have been obtaining

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1 information from patients, because he was
2 going back again to the patient
3 confidentiality aspect.
4 CHAYTOR, Q.C.:
5 Q. And could the protected information be the
6 information from the external reviews and it
7 being important for the health care workers to
8 be open with their comments in participating
9 in that process?
10 MS. STOKES-SULLIVAN:
11 A. Right, that certainly would have been too,
12 yeah.
13 CHAYTOR, Q.C.:
14 Q. Okay, and at the media briefing when this was
15 being suggested that some of the information
16 was protected information, was there any
17 objection to that, or any questioning of it?
18 MS. STOKES-SULLIVAN:
19 A. I can't recall if there would have been any
20 objection to it. I think most reporters who
21 have dealt with Eastern Health know that
22 there's a certain aspect of a lot of things
23 they deal with that they don't want to
24 disclose because of patient confidentiality.
25 So I don't think it would come as such as

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1 shock or that--you could challenge all you
2 want, I think they still wouldn't give you the
3 information.
4 CHAYTOR, Q.C.:
5 Q. Okay. So I don't know if there's anything
6 else then on this story that you wanted to
7 point out, now having read it over in the
8 context of what you now know from the Inquiry
9 process. Is there anything else that -
10 MS. STOKES-SULLIVAN:
11 A. Not that I can think of.
12 CHAYTOR, Q.C.:
13 Q. Okay.
14 THE COMMISSIONER:
15 Q. Ms. Chaytor, we're at the point where we would
16 normally take a morning break. I'm in your
17 hands on that point.
18 CHAYTOR, Q.C.:
19 Q. Okay. I'm probably going to be another--maybe
20 another ten minutes.
21 THE COMMISSIONER:
22 Q. Well, why don't we take the break then?
23 CHAYTOR, Q.C.:
24 Q. Okay, thank you.
25 THE COMMISSIONER:

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1 Q. We'll take 15 minutes.
2 (BREAK)
3 THE COMMISSIONER:
4 Q. Please be seated. Ms. Chaytor?
5 CHAYTOR, Q.C.:
6 Q. Thank you, Commissioner. Ms. Stokes-Sullivan,
7 did you understand by the end of the media
8 technical briefing, in December 2006, when, if
9 ever, did you understand the full numbers
10 would be disclosed and the causes of the
11 problems would be disclosed?
12 MS. STOKES-SULLIVAN:
13 A. At the end of the briefing, I wasn't certain
14 that full numbers would be disclosed at all,
15 because of the class action lawsuit pending
16 and their reluctance to give us the numbers.
17 I didn't think that they would be willing.
18 CHAYTOR, Q.C.:
19 Q. And in terms of the causes of the problem, you
20 took away from it that the cause, the main
21 issue was the technology?
22 MS. STOKES-SULLIVAN:
23 A. That was my distinct impression from it, yes.
24 But I did know that they were going to look at
25 reviewing the labs and improving or providing

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1 quality assurances for patients, that kind of
2 thing, and of course, being a journalist, I
3 mean, you would follow up to try to find out
4 after, you know, if they could provide you an
5 update with it, and I did that and up to the
6 point of where I left the health beat, had not
7 got a lot of further figures or information
8 from Eastern Health.
9 CHAYTOR, Q.C.:
10 Q. So you followed up from time to time to try
11 and get that information?
12 MS. STOKES-SULLIVAN:
13 A. I did. There were times, after that story
14 broke, that I would call and Ken Meaney, my
15 assignment editor, would ask me on occasion to
16 call and see if they had, you know, an update
17 on numbers and how far they had gone in
18 contacting patients, that kind of thing, and
19 usually I'd be told, well, you know, it's
20 still in progress, and you know, we'll check
21 with Dr. Williams and see if he can tell you
22 more, but it just didn't happen.
23 CHAYTOR, Q.C.:
24 Q. And that was after your original story, I take
25 it, then in October 2005 that you were

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1 following up?
2 MS. STOKES-SULLIVAN:
3 A. Right.
4 CHAYTOR, Q.C.:
5 Q. Yes, and for Dr. Williams to still be there?
6 MS. STOKES-SULLIVAN:
7 A. Right, and after the briefing in December
8 2006, I left the health beat and took the
9 editing position with the paper in April of
10 2007. So there were other reporters at the
11 paper that followed up and did get figures
12 afterwards.
13 CHAYTOR, Q.C.:
14 Q. Okay, and I take it you're referring to Mr.
15 Mark Quinn in May of 2007 and his efforts to
16 get more numbers?
17 MS. STOKES-SULLIVAN:
18 A. Well, Rob Antle and Terry Roberts did as well.
19 CHAYTOR, Q.C.:
20 Q. Yes.
21 MS. STOKES-SULLIVAN:
22 A. At The Telegram.
23 CHAYTOR, Q.C.:
24 Q. Okay, yes, that's right. Actually, if we
25 could look for a moment at P-1662? Is it

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1 1662? No, sorry. Sorry, Registrar. I think
2 it's P-0672. Yes, this is it. Skipped over
3 this at the time. This is after your first
4 story, November 1st, 2005 and it's a media
5 statistics form from Eastern Health, and it's
6 written here that "on November 1st, 2005,
7 Deana Stokes-Sullivan, from The Telegram" and
8 phone number, "update." Your request was
9 "update on ER/PR when Dr. Williams is ready.
10 Told her we'd call her in a couple of weeks."
11 Did that ever happen, Ms. Stokes-Sullivan?
12 Did anyone get back to you on this for further
13 update after your October 2005 story?
14 MS. STOKES-SULLIVAN:
15 A. I don't think so. I don't believe.
16 CHAYTOR, Q.C.:
17 Q. Okay.
18 MS. STOKES-SULLIVAN:
19 A. And like I said, there were occasions that I
20 would call and normally I'd be told that Dr.
21 Williams wasn't available or he didn't have
22 enough new information to give me.
23 CHAYTOR, Q.C.:
24 Q. Okay, and if we could look, please, at P-1664?
25 And this is an e-mail this time from Leona

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1 Barrington to a number of people within
2 Eastern Health, as well as Mr. Boone, and it's
3 Tuesday, December 12th, 2006, and importance
4 is high, and this answers the question about
5 the date of your article because it's December
6 12th and she's referring to the article.
7 "Attached and below you'll find the media
8 coverage from the last 24 hours on ER/PR. All
9 and all, no real surprises. Deana Stokes-
10 Sullivan from The Telegram provided the most
11 accurate coverage. There were some
12 inaccuracies in the other reports, which I
13 believe we addressed during the interviews
14 today."
15 So in terms of--and you indicated earlier
16 that Ms. Bonnell had said to you that they
17 trusted your journalism and that you provided
18 accurate coverage, and again, here it appears
19 that they're seeing your story as being the
20 most accurate coverage.
21 MS. STOKES-SULLIVAN:
22 A. Right.
23 CHAYTOR, Q.C.:
24 Q. I take it that's something that you'd heard
25 previously from Eastern Health and Eastern

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1 Health's personnel?
2 MS. STOKES-SULLIVAN:
3 A. Yeah. In that respect, I had a good
4 relationship with Eastern Health and the
5 doctors there as well, even though I didn't
6 always agree with them, and challenged them on
7 a lot of things. They did give me credit for
8 being accurate when I did get information from
9 them or I did interviews that they had no
10 problem with it.
11 CHAYTOR, Q.C.:
12 Q. And if we could have, please, P-0825? And
13 this is an e-mail then in May of 2007, May
14 16th, 2007, from Ms. Bonnell to Tansy Mundon,
15 and she's referring to "old e-mail around the
16 time of the media briefing. Note that almost
17 all the reporters referenced the fact that we
18 will not reveal how many women had a false
19 report, only that 117 had treatment changes.
20 In the briefing, this obviously came up. We
21 were asked by Mark Quinn and others if there
22 were more than 117 women whose test results
23 had changed, and we did tell them yes, but
24 that the number was not relevant or available
25 to provide due to the pending litigation."

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1 And then there's a Q and A that they had
2 prepared at the time to answer the question.
3 So I take it that's consistent with what
4 you recall the questions being and the answer
5 given to those questions?
6 MS. STOKES-SULLIVAN:
7 A. Right, that they did know further numbers, but
8 weren't prepared to disclose them to us.
9 CHAYTOR, Q.C.:
10 Q. And that was because of the pending
11 litigation?
12 MS. STOKES-SULLIVAN:
13 A. Right.
14 CHAYTOR, Q.C.:
15 Q. Ms. Stokes-Sullivan, after taking on then your
16 current position in the spring of 2007, did
17 you have any further involvement in the ER/PR
18 issue?
19 MS. STOKES-SULLIVAN:
20 A. I did, because I continued to write articles
21 for the National Review of Medicine and in my
22 position as a desk editor, I'm responsible for
23 editing other reporters' stories and where I
24 had covered the health beat for so many years,
25 some of the reporters working on this would

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1 come to me and ask me to read over their
2 stories or if they were confused about
3 something or had conflicting numbers or
4 anything like that, they would talk to me
5 about it to try to sort out issues in their
6 stories.
7 CHAYTOR, Q.C.:
8 Q. Okay, and if we could look then, please, at P-
9 1666?
10 REGISTRAR:
11 Q. 1666 is a cancelled exhibit.
12 CHAYTOR, Q.C.:
13 Q. Okay. Then it is 1659. Yes, this is it, and
14 this is an article then, I believe, that you
15 wrote along with Gillian Woodford and the date
16 we have for this is June 15th, 2007, and this
17 was written in the National Review of Medicine
18 that you write for from time to time.
19 MS. STOKES-SULLIVAN:
20 A. Right.
21 CHAYTOR, Q.C.:
22 Q. And who did you interview then for this
23 article?
24 MS. STOKES-SULLIVAN:
25 A. At that time, it was a combination of a number

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1 of people, I think. Some of the information I
2 had there was based on -
3 CHAYTOR, Q.C.:
4 Q. People quoted in the--or people referred to, I
5 should say, in the article, we see there
6 something from Dr. Laing.
7 MS. STOKES-SULLIVAN:
8 A. Yeah.
9 CHAYTOR, Q.C.:
10 Q. And further along, there's Minister Wiseman is
11 referenced, Dr. Boutany, Joseph Boutany.
12 MS. STOKES-SULLIVAN:
13 A. Yeah. Now, he would have been interviewed by
14 Gillian Woodford. That was the part that she
15 contributed to it. The rest is what I would
16 have done from my part.
17 CHAYTOR, Q.C.:
18 Q. Okay, and I think there's reference to a Court
19 analysis signed by Dr. Charles Hutton. Was
20 Dr. Hutton interviewed or was this just
21 looking at his affidavit?
22 MS. STOKES-SULLIVAN:
23 A. Right, that was looking at his affidavit, his
24 information that Ches Crosbie had, yeah.
25 CHAYTOR, Q.C.:

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1 Q. Okay, and what was the purpose of this
2 article? It's entitled "Cancer scandal puts
3 path standards under the scope."
4 MS. STOKES-SULLIVAN:
5 A. Well, basically they asked me to do a story on
6 what had transpired to date or to that date in
7 Newfoundland on the ER/PR testing, and because
8 it was becoming a national issue and was being
9 looked at across the country, Gillian Woodford
10 decided that she wanted to get a national
11 scope there as well, and she interviewed the
12 pathologist.
13 CHAYTOR, Q.C.:
14 Q. Dr. Boutany?
15 MS. STOKES-SULLIVAN:
16 A. Right.
17 CHAYTOR, Q.C.:
18 Q. And under "chilling discovery" it's written,
19 "the problem came to light, says Dr. Kara
20 Laing, Eastern Health's cancer program
21 clinical chief, when the situation of one
22 patient who had a negative ER/PR test made her
23 doctors question whether she might be
24 positive. The test was reordered." So is
25 this information you'd already had or is this

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1 new information from Dr. Laing?
2 MS. STOKES-SULLIVAN:
3 A. That's what I had already, just explaining the
4 background of how it came about.
5 CHAYTOR, Q.C.:
6 Q. Okay. "Meanwhile, Eastern Health had
7 installed a new automatic Ventana system in
8 its immunohistochemistry lab. Before, testing
9 was done using a more complex semi-automatic
10 system. The second test with the new
11 equipment confirmed the doctors' suspicions.
12 Based on this, Eastern Health"--can you make
13 that a little bit bigger, please, Registrar?
14 "Eastern Health decided to go do further
15 retesting, going back to 1997." So that's
16 what you had understood all along and from the
17 media briefing?
18 MS. STOKES-SULLIVAN:
19 A. Right, um-hm.
20 CHAYTOR, Q.C.:
21 Q. "Pathology under fire. No one knows yet how
22 this happened, but the case has highlighted
23 two big problems on the rock, sub-optimal
24 testing standards and pathologists shortages,"
25 and what are you referring to there and where

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1 did you get this information?
2 MS. STOKES-SULLIVAN:
3 A. That would have been Gillian's add there
4 because for one, I wouldn't call Newfoundland
5 the rock in anything I write, but that
6 certainly would have been what she had
7 inserted.
8 CHAYTOR, Q.C.:
9 Q. Okay, and then "was Newfoundland using
10 outmoded equipment? 'Not necessarily' says
11 Dr. Jagdish Boutany, President of the Canadian
12 Association of Pathologists and a pathologist
13 at the Toronto General Hospital. 'Ten years
14 ago, everyone was using semi-automatic
15 systems,' he says. Dr. Nash Denic, Eastern
16 Health's chief pathologist for its laboratory
17 program, says the health authority has since
18 established a centre of excellence for breast
19 cancer pathology. With a goal to improve
20 standards, Eastern Health will also continue
21 sending some samples to Toronto for quality
22 control." And did you interview Dr. Denic for
23 this article?
24 MS. STOKES-SULLIVAN:
25 A. I can't remember if I interviewed him again at

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1 that point. I mean, it's possible that I might
2 have, and it's possible that might have been
3 more background information that I had taken
4 from the interviews I had done previous.
5 CHAYTOR, Q.C.:
6 Q. And so--sorry, go ahead.
7 MS. STOKES-SULLIVAN:
8 A. Because that's something Dr. Denic was talking
9 about, even going back to the 2006 briefing,
10 about improving standards here in Eastern
11 Health.
12 CHAYTOR, Q.C.:
13 Q. Okay, and "what we should learn from this
14 Newfoundland case is that we need quality
15 assurance standards, says Dr. Boutany." And I
16 take it that's the portion that Gillian added?
17 MS. STOKES-SULLIVAN:
18 A. It is, yeah.
19 CHAYTOR, Q.C.:
20 Q. And then the Path Dearth, and as you've said,
21 you've written on this before about the
22 shortage of pathologists.
23 MS. STOKES-SULLIVAN:
24 A. Um-hm.
25 CHAYTOR, Q.C.:

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1 Q. "Newfoundland, even now, has the worst
2 proportion"--there's a hole in my document
3 there, but "to pathologists and the worst
4 salaries in the country, says Boutany. They
5 get people from everywhere who come and stay
6 for two years, then move on." And then the--
7 this is a better page, so we can read the
8 whole thing there. And then "the shortages
9 shouldn't affect the quality of care, notes
10 Dr. Boutany. Health Minister Wiseman admits
11 there's a 50 percent turnover in pathologists
12 since 1997. He says he hopes the Province's
13 new enhanced compensation package for
14 pathologists will boost recruitment and
15 retention." So that's the reference to Health
16 Minister Wiseman.
17 MS. STOKES-SULLIVAN:
18 A. Um-hm.
19 CHAYTOR, Q.C.:
20 Q. And do you know, did you interview him for the
21 article or where did that information come
22 from?
23 MS. STOKES-SULLIVAN:
24 A. That information likely came from the House of
25 Assembly when Ralph Wiseman was questioned

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1 about the pathology turnover. Now in the
2 meantime, I had done stories with the Health
3 Minister as well on the pathology shortage and
4 I had--I did a full interview with Dr. Dan
5 Fontaine for The Telegram on the pathology
6 shortage here as well.
7 CHAYTOR, Q.C.:
8 Q. Okay, and when the article is finished and
9 yourself and Ms. Woodford had worked on it
10 together, and you're saying that she would
11 have interviewed Dr. Boutany?
12 MS. STOKES-SULLIVAN:
13 A. Um-hm.
14 CHAYTOR, Q.C.:
15 Q. When you realized that Dr. Boutany was saying
16 "was Newfoundland using outmoded equipment?
17 Not necessary," and that that would basically
18 have been in common practice to have semi-
19 automatic systems over the time period, did
20 that cause you to question then well, what
21 have I been told all along, and if not, what
22 is--what was the problem here?
23 MS. STOKES-SULLIVAN:
24 A. I was quite surprised by it, the fact that she
25 would have someone in his position say

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1 something like that. I was not expecting that
2 she would get that kind of response from him.
3 So it did catch me, you know, quite by
4 surprise.
5 CHAYTOR, Q.C.:
6 Q. Yes, and did it cause you to make any further
7 inquiries as to what the causes were here in
8 Newfoundland's situation?
9 MS. STOKES-SULLIVAN:
10 A. No, I didn't, because when I wrote that
11 article with Gillian, I was fully into my job
12 as a desk editor at The Telegram and I didn't
13 have as much time to concentrate on writing
14 health stories.
15 CHAYTOR, Q.C.:
16 Q. And Ms. Stokes-Sullivan, those are all my
17 questions, unless there's anything else that
18 you can think of we haven't covered, or you'd
19 like to add, if there's anything else.
20 MS. STOKES-SULLIVAN:
21 A. One thing on the figures I should just mention
22 as well, there were figures that came out in
23 the report that Dr. Charles Hutton did for
24 Ches Crosbie, as part of the court documents,
25 and I can recall last year when other

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1 reporters took over the coverage of this, that
2 even the Health Minister himself was giving
3 figures that were conflicting in the House of
4 Assembly, and we were in a dilemma at work as
5 to how to incorporate them into the stories,
6 while Eastern Health was providing the Health
7 Minister with one set of figures, Ches Crosbie
8 had another set, and it was really confusing
9 as to who was right, and I can remember
10 telling the reporters working on it, well,
11 it's best to insert a line in there and say
12 these are figures that were provided to the
13 Health Minister by Eastern Health. Now as it
14 turned out, the figures that Ches Crosbie had
15 were more accurate than what Eastern Health
16 was providing, and I found that quite
17 interesting, but at the time we didn't know
18 which set of figures were right, we just knew
19 there were two completely different sets of
20 figures out there.
21 CHAYTOR, Q.C.:
22 Q. And this was in through 2007?
23 MS. STOKES-SULLIVAN:
24 A. Right, uh-hm.
25 CHAYTOR, Q.C.:

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1 Q. Thank you. Some of my colleagues may have
2 questions.
3 THE COMMISSIONER:
4 Q. Mr. Pritchard.
5 MR. PRITCHARD:
6 Q. Thank you, Commissioner. I don't have any
7 questions for Ms. Stokes-Sullivan. Thank you
8 very much.
9 THE COMMISSIONER:
10 Q. Mr. Simmons.
11 MR. SIMMONS:
12 Q. Thank you, Commissioner.
13 MS. DEANA STOKES-SULLIVAN - EXAMINATION BY MR. SIMMONS
14 MR. SIMMONS.:
15 Q. Hello, Ms. Stokes-Sullivan, I'm Dan Simmons.
16 i'm here for Eastern Health.
17 MS. STOKES-SULLIVAN:
18 A. Hi.
19 MR. SIMMONS.:
20 Q. Just a few things to ask you about.
21 MS. STOKES-SULLIVAN:
22 A. Uh-hm.
23 MR. SIMMONS.:
24 Q. You interviewed Dr. Williams, you told us, on
25 the 4th or 5th of October, 2005, and you've

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1 told us about the information that he gave you
2 about the number of ER/PR tests done per year.
3 MS. STOKES-SULLIVAN:
4 A. Uh-hm.
5 MR. SIMMONS.:
6 Q. And how many years those tests had been done
7 for, and he gave you the figure of 10 percent
8 as a possible percentage of those total tests
9 that could be changed as a result of the
10 retesting. Have I got that basically right?
11 MS. STOKES-SULLIVAN:
12 A. Uh-hm.
13 MR. SIMMONS.:
14 Q. Okay, did you know at that time that all the--
15 all those original tests had not yet been
16 retested and that the results of the retesting
17 for all of them were not known?
18 MS. STOKES-SULLIVAN:
19 A. Yes, I knew that they weren't all--they were
20 in the process of retesting them.
21 MR. SIMMONS.:
22 Q. Right, so you understood at the time then that
23 it wouldn't have been possible to give an
24 exact number of how many changes in tests, it
25 would have to be an estimate of some sort

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1 based on what information Was then available?
2 MS. STOKES-SULLIVAN:
3 A. I assumed it would be an estimate based on the
4 number of tests that had been done to that
5 point.
6 MR. SIMMONS.:
7 Q. Up to that point, yeah.
8 MS. STOKES-SULLIVAN:
9 A. Right.
10 MR. SIMMONS.:
11 Q. And I think you've told us already that if you
12 do the math with that 10 percent and apply it
13 to what you saw, it actually turned out to be
14 pretty close to what eventually was determined
15 to be the changed results?
16 MS. STOKES-SULLIVAN:
17 A. Right, the 10 percent of about 3000 tests.
18 MR. SIMMONS.:
19 Q. Okay, good. In December of 2006 when you went
20 to the media briefing, you've told us, and
21 we've seen the slides that refer to the
22 existence of class action litigation, and that
23 that was a reason that was given for not
24 releasing more information than what was made
25 available to you at that time, you'd been a

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1 reporter for some time before that -
2 MS. STOKES-SULLIVAN:
3 A. Uh-hm.
4 MR. SIMMONS.:
5 Q. Had you ever had occasion elsewhere to
6 encounter reluctance on anyone's part to
7 release information or to discuss a matter
8 when there was litigation outstanding or a
9 court process underway?
10 MS. STOKES-SULLIVAN:
11 A. Yeah, I guess there would have been occasions
12 when that would happen, yeah.
13 MR. SIMMONS.:
14 Q. Yes, okay, so that wasn't completely unknown
15 to you to encounter that sort of a situation
16 where someone would say we're not commenting
17 because it's in court or it's in the court
18 process?
19 MS. STOKES-SULLIVAN:
20 A. Yeah, it's not uncommon, no, but in a case
21 like this I found it kind of unusual, given
22 the magnitude of the situation.
23 MR. SIMMONS.:
24 Q. Right.
25 MS. STOKES-SULLIVAN:

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1 A. And the impact.
2 MR. SIMMONS.:
3 Q. Right, and, of course, the difficulty it
4 created was while there was some information
5 being given, there was other information not
6 being given?
7 MS. STOKES-SULLIVAN:
8 A. Right.
9 MR. SIMMONS.:
10 Q. Okay. Now the 117 figure that was released
11 about the number of treatment changes, did you
12 understand leaving that briefing that the
13 number of tests that had a changed result when
14 they were retested was different than that 117
15 figure, or would it be something different
16 than that?
17 MS. STOKES-SULLIVAN:
18 A. The 117, it was my understanding they said
19 they were--that was the number of recommended
20 treatment changes.
21 MR. SIMMONS.:
22 Q. Yes.
23 MS. STOKES-SULLIVAN:
24 A. And again that figure could go either way, it
25 was my understanding.

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1 MR. SIMMONS.:
2 Q. Right.
3 MS. STOKES-SULLIVAN:
4 A. Yeah.
5 MR. SIMMONS.:
6 Q. So that there would be--so that there was a
7 different number there. You weren't being
8 told what the number was, but there was a
9 different number of total tests that had
10 changed once they were retested?
11 MS. STOKES-SULLIVAN:
12 A. Right, because in some cases, like I said
13 earlier, if a person had already been on two
14 types of cancer treatment, they probably
15 wouldn't be given a third type of treatment.
16 MR. SIMMONS.:
17 Q. Right.
18 MS. STOKES-SULLIVAN:
19 A. I mean, I think, it would probably be looked
20 upon as if they had already been through
21 enough.
22 MR. SIMMONS.:
23 Q. Uh-hm.
24 THE COMMISSIONER:
25 Q. I'm sorry, I just want to make sure I'm clear.

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1 Are you saying there was another class of
2 people like that, or are you saying those
3 people would be within the 117?
4 MS. STOKES-SULLIVAN:
5 A. Within the 117. They were recommended
6 treatment changes is my understanding and not
7 all of them might opt for taking the
8 treatment.
9 MR. SIMMONS.:
10 Q. So although there's 117 recommendations, there
11 might not be 117 people who would end up
12 choosing Tamoxifen or being placed on
13 Tamoxifen?
14 MS. STOKES-SULLIVAN:
15 A. Right.
16 MR. SIMMONS.:
17 Q. But the number of tests that had changed from
18 retesting, did you have any conception of
19 whether that was a number greater or less than
20 the 117 or did you just not know?
21 MS. STOKES-SULLIVAN:
22 A. I think we just didn't know because at that
23 point the figures were preliminary.
24 MR. SIMMONS.:
25 Q. Right.

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1 MS. STOKES-SULLIVAN:
2 A. But on that 117 figure, I know, from what I
3 can remember as well, there might have been
4 women that had like mastectomies after having
5 the breast cancer, and, of course, in that
6 case if there was no fear of a tumour being
7 receptive to estrogen and progesterone, they
8 certainly wouldn't go on Tamoxifen if they had
9 a full mastectomy, so there were certain
10 treatments that if they had gone through it,
11 they may not take the drug.
12 MR. SIMMONS.:
13 Q. Anyway, in any event, it's fair to say that
14 when you left the briefing, and in the
15 reporting afterwards by you and others -
16 MS. STOKES-SULLIVAN:
17 A. Uh-hm.
18 MR. SIMMONS.:
19 Q. It was quite clear that Eastern Health wasn't
20 hiding the fact that there was another number,
21 but they just weren't telling you what it was?
22 MS. STOKES-SULLIVAN:
23 A. They were just withholding it from us, yeah.
24 MR. SIMMONS.:
25 Q. Okay. Thank you very much. Those are all the

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1 questions I have for you.
2 MS. STOKES-SULLIVAN:
3 A. Thank you.
4 THE COMMISSIONER:
5 Q. Mr. Browne.
6 BROWNE, Q.C.:
7 Q. No questions for the witness. Thank you,
8 Commissioner.
9 THE COMMISSIONER:
10 Q. Mr. Pritchett.
11 MR. PRITCHETT:
12 Q. No questions.
13 THE COMMISSIONER:
14 Q. Ms. Newbury.
15 MS. NEWBURY:
16 Q. No questions for Ms. Stokes-Sullivan.
17 THE COMMISSIONER:
18 Q. Mr. Crosbie.
19 CROSBIE, Q.C.:
20 Q. No questions.
21 PIKE, Q.C.:
22 Q. No questions.
23 THE COMMISSIONER:
24 Q. Mr. Pike, thank you. Arising, Ms. Chaytor?
25 CHAYTOR, Q.C.:

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1 Q. Nothing arising.
2 THE COMMISSIONER:
3 Q. Thank you very much, Ms. Stokes-Sullivan for
4 contributing to our search here for
5 information. I do appreciate it very much.
6 MS. STOKES-SULLIVAN:
7 A. Thank you.
8 THE COMMISSIONER:
9 Q. It's a little early, but I'm sure you won't
10 mind taking your luncheon break a little
11 early, but since it is a little early -
12 MR. SIMMONS:
13 Q. Ms. Smith is here and available.
14 THE COMMISSIONER:
15 Q. Oh, she is? Oh, I'm sorry, I just assumed she
16 wouldn't be here until after lunch. I didn't
17 realize she was here. I'm quite prepared to
18 start and then we can break for lunch at the
19 usual time. Are you ready, Mr. Coffey? Thank
20 you, Ms. Stokes-Sullivan.
21 MS. STOKES-SULLIVAN:
22 A. Thank you.
23 MR. SIMMONS:
24 Q. (Inaudible).
25 THE COMMISSIONER:

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1 Q. You just don't want to stay late. As the
2 children say, Mr. Simmons, only one more
3 sleep.
4 MS. SHARON SMITH (SWORN) EXAMINATION BY BERNARD COFFEY,
5 Q.C.
6 REGISTRAR:
7 Q. Would you please state and spell your complete
8 name for the Commission?
9 MS. SMITH:
10 A. Sharon Smith, S-H-A-R-O-N S-M-I-T-H.
11 THE COMMISSIONER:
12 Q. Mr. Coffey.
13 COFFEY, Q.C.:
14 Q. Thank you, Commissioner. Commissioner, there
15 are some new exhibits. They are numbers 3566
16 through 3576 inclusive, as well as C-277 and
17 C-278.
18 THE COMMISSIONER:
19 Q. Are there two others?
20 COFFEY, Q.C.:
21 Q. Very well.
22 THE COMMISSIONER:
23 Q. They seem to be on my list, Mr. Coffey, so -
24 REGISTRAR:
25 Q. P-3582 and P-3583.

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1 COFFEY, Q.C.:
2 Q. If you would, please, Commissioner, there were
3 two others. I understood that Mr. Simmons, in
4 fact, asked to put them in. They haven't made
5 it in a number form into mine yet.
6 THE COMMISSIONER:
7 Q. Okay, do you have a listing, Mr. Simmons, just
8 to confirm that those are the ones that you
9 sought to have -
10 MR. SIMMONS:
11 Q. There were two I had identified. I don't know
12 which number it is now.
13 THE COMMISSIONER:
14 Q. They're called "Gaining Ground", and -
15 MR. SIMMONS:
16 Q. Yes.
17 THE COMMISSIONER:
18 Q. Those would be the ones.
19 MR. SIMMONS:
20 Q. Yes.
21 THE COMMISSIONER:
22 Q. All right, so that's 3582 and 3583, as well as
23 the others you had mentioned, entered.
24 EXHIBITS MARKED AND ENTERED--P-3566 THROUGH P-3576
25 EXHIBITS MARKED AND ENTERED--C-277 AND C-278

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1 EXHIBITS MARKED AND ENTERED--P-3582 AND P-3583
2 COFFEY, Q.C.:
3 Q. And when you're ready, Registrar, Exhibit P-
4 3566. Ms. Smith, this document, is this your
5 CV?
6 MS. SMITH:
7 A. Yes, it is.
8 COFFEY, Q.C.:
9 Q. And, Ms. Smith, would you give the
10 Commissioner, please, an overview of your
11 educational and professional background?
12 MS. SMITH:
13 A. Certainly. I graduated from high school in
14 Gander, Gander Collegiate, and proceeded on to
15 Memorial University where I received by
16 Bachelor Degree in Nursing in 1979, at which
17 time I returned to Gander to work at the James
18 Paton Memorial Hospital for a bit of time in
19 the Medicine Unit and Coronary Care Unit, and
20 I returned to St. John's in 2000--sorry, 1980,
21 I'm jumping ahead of myself there, and went to
22 work at the General Hospital on the in-patient
23 oncology unit. At that point in time, I was a
24 staff nurse and that in-patient unit was
25 oncology and general medicine, and I worked

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1 with a number--mostly hematology/oncologist
2 patients at that time, but then the unit
3 changed and we did see more tumour treatments
4 and the radiation oncology division moved down
5 there as well. So it was during that time on
6 4 North A that I developed my skills as an
7 oncology nurse and was responsible for a
8 number of patient education initiatives, and
9 the development of some safe handling programs
10 for administration of chemotherapy. At that
11 time, we used to--as nurses, we would mix and
12 deliver chemotherapy, which we recognized was
13 not a safe thing to do from an occupational
14 and safety initiative and a patient safety
15 initiative, so I developed a chemotherapy
16 program for nursing and was responsible for
17 that. I left the in-patient unit and went to
18 work in staff development.
19 COFFEY, Q.C.:
20 Q. I'm sorry, you left in 1984, I take it?
21 MS. SMITH:
22 A. Yes, I did.
23 COFFEY, Q.C.:
24 Q. You were there for four years?
25 MS. SMITH:

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1 A. Yes, and went to work in staff development as
2 a general educator at that point in time, and
3 had responsibilities for some nursing
4 education programs, specifically to medicine
5 and oncology. I was also responsible for
6 orientation, CPR training, those types of
7 general education activities. A couple of
8 years into my tenure within that area, I did a
9 brief stint as the emergency medical attendant
10 program coordinator, which was quite a
11 different role for me to play, but I did play
12 that role for--stay in that role for a while
13 until I returned to the nursing side of things
14 as a nursing quality assurance and education
15 coordinator.
16 COFFEY, Q.C.:
17 Q. So if I could then, you were an instructor in
18 staff development from 1984 through 1990?
19 MS. SMITH:
20 A. Yes.
21 COFFEY, Q.C.:
22 Q. And I understand from your CV, in fact, in
23 1986 it was, you became the coordinator for
24 emergency medical attendant program?
25 MS. SMITH:

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1 A. Yes.
2 COFFEY, Q.C.:
3 Q. And you would have remained in that role until
4 1990?
5 MS. SMITH:
6 A. Yes.
7 COFFEY, Q.C.:
8 Q. Okay, so in effect then, you were an
9 instructor per se?
10 MS. SMITH:
11 A. Yes.
12 COFFEY, Q.C.:
13 Q. For about two years?
14 MS. SMITH:
15 A. Yes.
16 COFFEY, Q.C.:
17 Q. And then you became the coordinator for this
18 attendant program. So in 1990 then you moved-
19 -this would be all at the General Hospital?
20 MS. SMITH:
21 A. Yes.
22 COFFEY, Q.C.:
23 Q. Such as it then was.
24 MS. SMITH:
25 A. Yes.

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1 COFFEY, Q.C.:
2 Q. You moved to nursing quality assurance?
3 MS. SMITH:
4 A. Yes, that's correct.
5 COFFEY, Q.C.:
6 Q. And patient education?
7 MS. SMITH:
8 A. Uh-hm.
9 COFFEY, Q.C.:
10 Q. Could you tell--you were there, I believe,
11 five years. Could you tell the Commissioner
12 about that?
13 MS. SMITH:
14 A. Sure. That was a relatively new role--
15 actually, Patricia Pilgrim had held the role
16 for some time ahead of me, and that role was
17 to support quality assurance programs within
18 the nursing department. We were very much a
19 traditional department within the General
20 Hospital at that point in time, so there was a
21 Department of Nursing, Department of Pharmacy,
22 Social Work, etc. So my role was with the
23 Nursing Department, and I basically worked
24 with managers, nurses, and others to identify
25 ways to measure and improve quality of service

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1 delivery on the in-patient units. I also had
2 roles to play in terms of linking with the
3 educators in some of the more specialty units
4 to help them develop processes for quality
5 assurance as well. At that time, there was--
6 there had been no clinical educator position
7 within the medical surgical areas of the in-
8 patient unit. There had been certainly these
9 positions in the operating room and in the
10 intensive care unit, but we did not have that
11 luxury on the in- patient units. So I also
12 was responsible for developing some of the
13 roles within the education side. If I found
14 that a particular issue related to quality
15 arose at one of the in-patient units, I would
16 work with the educators to help put in some
17 education activities to improve those
18 processes. So there's a number of activities
19 that I was involved with there within Quality
20 Assurance. We had developed a computerized
21 occurrence reporting system, we implemented
22 what was called an ENCON system, which was
23 very much a form that staff would fill in the
24 dots basically and we would send those forms
25 away to be analyzed, and that was a fair bit

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1 of work to set up and educate people about,
2 but it was something that we did accomplish,
3 and the other side was around the patient
4 education activities. So coordinating
5 processes for education, developing templates
6 for education materials, looking at different
7 ways to do patient education in some of the
8 specialty areas, such as diabetes. So there
9 was a lot of work that happened in that
10 department.
11 COFFEY, Q.C.:
12 Q. In looking at your CV, looking at page five of
13 it, in this era 1990 through 1995 -
14 MS. SMITH:
15 A. Yes.
16 COFFEY, Q.C.:
17 Q. The last bullet says, "During my tenure, the
18 position evolved", and the position in
19 question is coordinator nursing, QA, and
20 patient education, "During my tenure, the
21 position evolved from one of coordinator to
22 facilitator in keeping with the shift from
23 quality assurance to quality improvement. My
24 responsibilities were extended beyond the
25 Department of Nursing and I was responsible

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1 for the development and implementation of the
2 organization's quality improvement plan. This
3 included the development of a reporting
4 mechanism as well as education for all staff".
5 I take it this reporting mechanism is this
6 computerized occurrence reporting? Would that
7 be -
8 MS. SMITH:
9 A. No, no, not exactly.
10 COFFEY, Q.C.:
11 Q. Okay, that's something else, is it?
12 MS. SMITH:
13 A. Yes.
14 COFFEY, Q.C.:
15 Q. What is that?
16 MS. SMITH:
17 A. So if I can just explain this little shift
18 piece from quality assurance to quality
19 improvement.
20 COFFEY, Q.C.:
21 Q. Yes.
22 MS. SMITH:
23 A. When--in my day as a staff nurse, we would do
24 audits. We always had these nursing audit
25 days and we would go from one unit to another.

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1 We rarely did our own units, and we would do
2 an audit of the services that were provided.
3 We had our standards set. They might have
4 been 85 percent. So if we got 85 percent,
5 that was considered to be good quality, but we
6 started wondering, well, what about the other
7 15 percent. So to us, just doing an audit to
8 say status quo has been met was not good
9 enough, so we decided we needed to try and
10 move away from this audit role, this police
11 person, to get people involved to facilitate
12 improvements, to look at that other 15 percent
13 or whatever it might have been and try to
14 improve that and come up with ways to make
15 things better. At this point in time, there
16 was a fair bit of information in the
17 literature about moving to quality
18 improvement, quality management, quality
19 initiatives, there's many, many names to it,
20 but the basic premise was that you look at
21 doing the right things right and always making
22 them better. So it wasn't just saying did the
23 patient have an arm band on, for example, but
24 it would be looking at things as did people
25 check the arm band before they administered

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1 the medication, so it went from looking at
2 very structured audits to process and then
3 some outcomes. So in order to do that, I had
4 to move beyond this, the person who walked
5 around with the audits and got people to do
6 them and the person who went around with the
7 little occurrence report sheets to involving
8 staff to sit down and say, we have an issue
9 here, how can we make it better, how can we
10 improve the quality of the services that we're
11 providing here. So that was the type of shift
12 that happened.
13 The reporting mechanism was how we
14 reported quality. That went beyond--and I'll
15 give you an example, if I may, and I don't
16 mean to pick on the Pharmacy Department, but
17 I'll use the Pharmacy Department as an
18 example, the Pharmacy would report on their
19 audits and they always got 100 percent; nurses
20 would, we would go up on the nursing units and
21 ask were there issues around pharmacy and
22 there were, missing medications or not the
23 correct medications being available for the
24 patient, those types of issues. So we started
25 to say people need to look at who their

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1 customers were, for want of a better word, and
2 try to look at satisfaction of the service
3 that was provided, so this is what was meant
4 around this reporting mechanism, it was going
5 beyond the traditional department, audits and
6 reporting to looking outside the department
7 and the people that were served by those
8 services and making some assessment of the
9 quality of services therein.
10 COFFEY, Q.C.:
11 Q. Now this indicates that your responsibilities
12 were extended beyond the Department of
13 Nursing.
14 MS. SMITH:
15 A. Yes.
16 COFFEY, Q.C.:
17 Q. And, of course, that raises the question, well
18 into what?
19 MS. SMITH:
20 A. There was another individual hired at that
21 time and that other person was responsible for
22 a lot of quality initiatives around the
23 medical staff but we work together and try to
24 divvy up the departments because, you can
25 appreciate, there were a fair number of

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1 departments, human resources, pharmacy,
2 laboratory, et cetera.
3 COFFEY, Q.C.:
4 Q. So who was that person?
5 MS. SMITH:
6 A. That was Regina Coady.
7 COFFEY, Q.C.:
8 Q. And who was responsible for the lab?
9 MS. SMITH:
10 A. It was a shared responsibility at that time,
11 but I think in terms of the quality processes
12 it would have gone through Regina for some of
13 the activities, but through me for others.
14 COFFEY, Q.C.:
15 Q. And what was the lab's scoring? Pharmacy is
16 scoring 100 and the nursing is scoring 85, do
17 you recall what, if anything, the lab was
18 scoring?
19 MS. SMITH:
20 A. I don't recall at this point in time and I use
21 those numbers out of my head.
22 COFFEY, Q.C.:
23 Q. Yes, I appreciate that.
24 MS. SMITH:
25 A. We're going back a long, long time.

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1 COFFEY, Q.C.:
2 Q. Do you know if there was any reporting by the
3 lab at the time?
4 MS. SMITH:
5 A. Some of the reporting might have been for
6 turnaround times for specimen delivery and
7 some of the other issues that I recall being
8 involved with was specimens that had to be
9 discarded because they were not properly
10 labelled. And those were areas that had a
11 distinct relationship between nursing and
12 laboratory. Some of the other issues were
13 around education for how to collect and store
14 blood cultures, those were some--some things
15 that come to mind back in those days.
16 COFFEY, Q.C.:
17 Q. And at that time and this is circa 1990
18 through '95.
19 MS. SMITH:
20 A. Yes.
21 COFFEY, Q.C.:
22 Q. And particularly do you recall when it was in
23 that period, that five-year period that your
24 responsibilities were extended beyond the
25 Department of Nursing?

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1 MS. SMITH:
2 A. I don't recall the exact time. I know the
3 first couple of years I was in that role it
4 was very specific to nursing.
5 COFFEY, Q.C.:
6 Q. So perhaps the first two and then with the
7 last two or three, possibly two -
8 MS. SMITH:
9 A. I'd say the last two, yes.
10 COFFEY, Q.C.:
11 Q. - you were out, yourself and Ms. Coady.
12 MS. SMITH:
13 A. Yes.
14 COFFEY, Q.C.:
15 Q. Between you, were responsible for this
16 throughout the entire organization?
17 MS. SMITH:
18 A. Yes.
19 COFFEY, Q.C.:
20 Q. Do you ever remember hearing about any
21 concerns about the quality of the lab product?
22 MS. SMITH:
23 A. No, I don't, other than, as I said, the
24 mislabelled specimens and those types of
25 issues were the ones that came to my

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1 attention.
2 COFFEY, Q.C.:
3 Q. Then I understand in 1995 you moved on to
4 something else?
5 MS. SMITH:
6 A. Yes, I did.
7 COFFEY, Q.C.:
8 Q. Okay, could you tell the Commissioner about
9 that?
10 MS. SMITH:
11 A. In 1995, this was around the time of
12 restructuring, reorganization and we were
13 going to become the Health Care Corporation of
14 St. John's--actually we didn't even know what
15 the name was going to be at that initial--
16 those early days, but we knew that
17 reorganization was coming. And so I, as they
18 announced the executive team for the Health
19 Care Corporation of St. John's, there was some
20 gaps created and Patricia Pilgrim had been
21 seconded from her position as director of
22 nursing to work with the executive committee
23 of the General Hospital and I as seconded to
24 do her position.
25 COFFEY, Q.C.:

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1 Q. Which was?
2 MS. SMITH:
3 A. The director of nursing for the Medical
4 Surgical areas.
5 COFFEY, Q.C.:
6 Q. In that role, did you have any contact with
7 the clinical laboratory?
8 MS. SMITH:
9 A. My role at that point in time might have been
10 to talk about--I can recall there were some
11 issues around the use of the glucose
12 monitoring devices that we were using on the
13 in-patient units and we had some interactions
14 at that point in time, and monitoring of
15 turnaround times for specimens, those types of
16 generic issues.
17 COFFEY, Q.C.:
18 Q. Did you have any contact or in your role as
19 director of nursing involve you in oncology in
20 any way?
21 MS. SMITH:
22 A. Yes, it did. One of my areas of
23 responsibility was 4 North A, the in-patient
24 unit.
25 COFFEY, Q.C.:

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1 Q. And what sorts--and how involved would you get
2 in it, in a sense of how much would you know
3 from day to day about what was going on, on
4 that ward?
5 MS. SMITH:
6 A. On 4 North A?
7 COFFEY, Q.C.:
8 Q. Yes.
9 MS. SMITH:
10 A. As much as I would know about any of the
11 medical surgical units that I was responsible
12 for. I would be aware of budgetary issues. I
13 would be aware of access to beds, if we had
14 the ongoing, forever problem of access to
15 beds, which we still have, but if we had
16 issues around access to long-term care, any
17 negative occurrences that happened to the
18 patient that had significance. I might not be
19 aware of every single medication occurrence, I
20 certainly was aware of the numbers of
21 incidents that happened there, but was quite
22 familiar with what happened on that unit.
23 COFFEY, Q.C.:
24 Q. Just looking here on page 4 of your C.V. "In
25 this position, accountable for the provision

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1 of leadership to co-ordinate and facilitate
2 the management of 8 medical surgical units
3 within the General Hospital."
4 MS. SMITH:
5 A. Yes.
6 COFFEY, Q.C.:
7 Q. "These units include the following services"--
8 and in fact when you count them up, there are
9 11.
10 MS. SMITH:
11 A. Uh-hm.
12 COFFEY, Q.C.:
13 Q. So oncology is one of them.
14 MS. SMITH:
15 A. Yes.
16 COFFEY, Q.C.:
17 Q. And in all of these services, I'm going to
18 suggest to you an awful lot of them would
19 have, because of their nature, involve
20 interaction with the lab?
21 MS. SMITH:
22 A. Absolutely.
23 COFFEY, Q.C.:
24 Q. During the time you were the director of
25 nursing, you don't recall any particular

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1 concerns being expressed or general concerns
2 being expressed about the quality of the lab
3 product, I appreciate that from time to time
4 there'd be a particular incident, but the
5 overall level of the lab service and the
6 quality of it?
7 MS. SMITH:
8 A. The issues that impacted on us on those units
9 and there were 8 unites, so services, though,
10 one unit might have had two services on that
11 unit, so that's why -
12 COFFEY, Q.C.:
13 Q. The 11.
14 MS. SMITH:
15 A. - there's 11, it's not that I don't know how
16 to add.
17 COFFEY, Q.C.:
18 Q. Yes, and I appreciate that.
19 MS. SMITH:
20 A. So within that lab, that service, there might
21 have been a number of issues that might have
22 come up, could have been infection control,
23 there could have been report turnaround times,
24 there could have been blood collection
25 services, many, many areas that we all worked

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1 together to try and improve.
2 COFFEY, Q.C.:
3 Q. Yes, and what I'm getting at, though, in terms
4 of the overall sense of, amongst the medical
5 surgical areas in the hospital, was there any-
6 -that you were aware of, any general
7 dissatisfaction with the clinical laboratory's
8 work product?
9 MS. SMITH:
10 A. Not that I was aware of, no.
11 COFFEY, Q.C.:
12 Q. You then, I understand, move in 1996 and
13 became a professional practice co-ordinator?
14 MS. SMITH:
15 A. Yes, I did.
16 COFFEY, Q.C.:
17 Q. What was that, what did that involve?
18 MS. SMITH:
19 A. And just to also let you know that in the
20 '90s, I completed my Masters Degree in Nursing
21 at Memorial University as well and that was a
22 clinical Masters Degree, it had my clinical
23 services that I worked with were oncology, the
24 in-patient unit and the community side of it
25 and also worked with some community to develop

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1 a pain management program. So, as well as
2 being responsible for these units, I also was
3 furthering my education. And actually the day
4 that I found out I had the professional
5 practice co-ordinator position was the day I
6 convocated with my Masters of Nursing, so I
7 remember it quite well. Once the Health Care
8 Corporation was established and the decision
9 was made to develop a program management
10 approach to care, all professionals were
11 reporting through to one program director and
12 the clinical chief. Because of this, there
13 was a decision made to establish a
14 professional practice co-ordinator model which
15 would support standards and professional
16 practices of all the various disciplines
17 within the health care services. Nursing was
18 one of them, allied health professionals in
19 terms of psychologists, social work,
20 physiotherapists, et cetera, they also were
21 represented by professional practice co-
22 ordinators. There was three--I'm sorry?
23 COFFEY, Q.C.:
24 Q. Was there a clinical laboratory co-ordinator?
25 MS. SMITH:

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1 A. No, there wasn't. The decision was made that
2 the pharmacy, the laboratory, diagnostic
3 imaging and pastoral care were not represented
4 by professional practice co-ordinators.
5 COFFEY, Q.C.:
6 Q. Do you recall the rationale?
7 MS. SMITH:
8 A. I know there was discussion, there was a
9 number of meetings held and because they were
10 going to maintain the director position in
11 those departments, it felt that the director
12 would be able to enhance and support
13 professional development of the staff in those
14 areas. So, for example, to be a program
15 director of a service, such as rehabilitation,
16 that program director might have been a
17 physiotherapist leading nurses or it could
18 have been a nurse leading physiotherapists,
19 but within the lab, pharmacy and diagnostic
20 imaging, the program directors had a like
21 professional background, so it's to my
22 understanding that's why that decision was
23 made. So back to my role as the professional
24 practice co-ordinator for nursing, there were
25 three of us at that point in time and we were

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1 responsible for developing the processes that
2 would support the professional practice
3 standards of nurses within the Health Care
4 Corporation of St. John's.
5 COFFEY, Q.C.:
6 Q. And then you were there, I believe, from 1996
7 through 1999?
8 MS. SMITH:
9 A. Yes, that's correct.
10 COFFEY, Q.C.:
11 Q. Would, in your role as a professional practice
12 co-ordinator for nursing, did you have any
13 involvement or dealings with the clinical
14 laboratory?
15 MS. SMITH:
16 A. Yes, I did.
17 COFFEY, Q.C.:
18 Q. And what were they? What sort?
19 MS. SMITH:
20 A. Again, some of these issues that crossed
21 programs and services specifically were
22 related to point of care testing, so areas
23 where nurses -
24 THE COMMISSIONER:
25 Q. I'm sorry, I missed that, point of?

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1 MS. SMITH:
2 A. Point of care testing, so areas where nurses
3 were actually using machines and analyzers to
4 conduct analysis of particular laboratory
5 functions. It might have been the glucometer,
6 the glucose monitor device that's used to
7 check blood sugars or the blood gas machine
8 that's used to check blood gases in the ICU.
9 So there were some meetings held to look at
10 how we were monitoring those machines, how we
11 were monitoring doing the quality control for
12 those machines and we held those meetings with
13 laboratory personnel, that's one example I can
14 recall.
15 COFFEY, Q.C.:
16 Q. Now was there, your understanding at that
17 period, that time, which is '96 through '99,
18 in your dealings with the people from the lab,
19 what was your understanding or sense of who in
20 the clinical laboratory was responsible for
21 quality assurance in their context, what was
22 your -
23 MS. SMITH:
24 A. Well there was a director for the lab program,
25 at that time it was Vern Whalen and there was

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1 a clinical chief for the lab program as well
2 and all the programs and services within
3 Eastern Health were set up so there was a
4 director, the administrative director and the
5 clinical chief, and they had co-
6 responsibilities for monitoring and looking at
7 the quality of the services that they
8 provided. Now certainly it goes without cyan
9 the managers also had a role and staff within
10 their own scopes of responsibility had roles
11 to play.
12 COFFEY, Q.C.:
13 Q. The discipline chair in respect of the
14 Clinical Laboratory Program, was there such a
15 person, do you know?
16 MS. SMITH:
17 A. I can't recall.
18 COFFEY, Q.C.:
19 Q. In terms of like somebody representing
20 Memorial's Medical School? You referred to
21 two, the clinical chief and the director, but,
22 you know, we've seen a fair amount of material
23 here kind of in passing in the background the
24 discipline chair is referred to at times and
25 Dr. Khalifa has been here talking about it and

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1 so on, so -
2 MS. SMITH:
3 A. Uh-hm. If there was and I'm sure there was
4 one, but they did not have -
5 COFFEY, Q.C.:
6 Q. David Haegert.
7 MS. SMITH:
8 A. I think at that time that Dr. Haegert served
9 as discipline chair and clinical chief. I
10 think he held both responsibilities, Mr.
11 Coffey.
12 COFFEY, Q.C.:
13 Q. But the idea that there was someone, the
14 responsibilities might be vested in the same
15 person, but the fact that there was two
16 actually different roles.
17 MS. SMITH:
18 A. That's correct.
19 COFFEY, Q.C.:
20 Q. Were you aware of that at the time?
21 MS. SMITH:
22 A. Yes.
23 COFFEY, Q.C.:
24 Q. Did you have any understanding as to how the
25 discipline chair related to the management of

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1 the programs that had discipline chair as
2 program directors and clinical chiefs?
3 MS. SMITH:
4 A. Certainly. There was discipline chairs for
5 many of the services and there have been for
6 many, many years within the medical school.
7 Within the medical program, surgery program,
8 et cetera, there was a clinical chief, program
9 director and a clinical--a discipline chair.
10 And the interaction was that the discipline
11 chair was responsible for the development of
12 the academic side of the program and worked in
13 concert with the clinical chief and program
14 director to identify issues that might be
15 common grounds, might require education, might
16 require some development.
17 COFFEY, Q.C.:
18 Q. And could you--and so what sorts of things,
19 you know, back then did you understand the
20 discipline chair from time to time might weigh
21 in on, what sorts of things would he or she
22 get involved in?
23 MS. SMITH:
24 A. Some of the roles, because it was new and
25 evolving organization, some of the programs

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1 maintained the two positions in the one
2 person.
3 COFFEY, Q.C.:
4 Q. Yeah, but those that didn't -
5 MS. SMITH:
6 A. Those that didn't and I'm recalling who that
7 was, I know the surgery program had two
8 separate ones, there's a fair bit of work done
9 within the medical school by the discipline
10 chair to develop programs for residents,
11 interns, et cetera and continuing education
12 for the medical staff within that particular
13 discipline.
14 COFFEY, Q.C.:
15 Q. And you say that you understood the role of
16 discipline chair might identify problems or
17 make suggestions as to how things could be
18 improved.
19 MS. SMITH:
20 A. Mostly the leadership team within a clinical
21 program worked with the discipline chair and
22 others to--sorry?
23 COFFEY, Q.C.:
24 Q. The leadership team, did it include the
25 discipline chair?

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1 MS. SMITH:
2 A. Yes.
3 COFFEY, Q.C.:
4 Q. So, that's what I'm getting at, if you say the
5 leadership team worked with the discipline
6 chair, that suggests that the discipline chair
7 is outside the leadership team.
8 MS. SMITH:
9 A. The discipline chair is part of the leadership
10 team to provide input, but the decisions
11 around the clinical program, the budgetary
12 issues, staffing issues, the organization of
13 the program are very much co-responsibility of
14 the clinical chiefs and program directors.
15 Now, this has evolved over time certainly.
16 COFFEY, Q.C.:
17 Q. Okay. And then I take it in 1999 you moved on
18 to become director of Quality Initiatives.
19 MS. SMITH:
20 A. Yes, I did.
21 COFFEY, Q.C.:
22 Q. And you were there from 1999 through to 2003.
23 MS. SMITH:
24 A. That's correct.
25 COFFEY, Q.C.:

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1 Q. Could you tell the Commissioner then what that
2 involved?
3 MS. SMITH:
4 A. So, the department of Quality Initiatives had
5 been established with in the health care
6 corporation of St. John's, I think it was one
7 of the first departments that did get
8 established before many of the clinical
9 programs were. Our roles were to support and
10 facilitate quality improvement processes
11 through the health care corporation of St.
12 John's. We had the responsibility through
13 risk management, utilization management. We
14 looked at infection control. We were also
15 responsible for ongoing quality improvement.
16 COFFEY, Q.C.:
17 Q. In practice, what does that mean?
18 MS. SMITH:
19 A. So, in practice, that would be--I was the
20 director of the program. We had a utilization
21 manager as well. We had a risk manager and
22 three quality facilitators. We were there as
23 a resource to the programs. Basically, we
24 assigned or I, as director, I should say,
25 assigned specific programs to each of the

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1 quality facilitators. I also had a couple of
2 programs I was responsible for and as did the
3 risk manager and the utilization manager. So,
4 we worked with the programs and services to
5 help establish some indicators, to help them
6 look at ways to measure ongoing Quality
7 Initiatives and quality improvement and
8 facilitate planning days. Basically, we were
9 support to them to enhance the quality of
10 their care and services.
11 COFFEY, Q.C.:
12 Q. And would you ever make any inquiries of them
13 as to how effective any quality assurance or
14 quality improvement programs that they had
15 were?
16 MS. SMITH:
17 A. We would work with them, as I said, because
18 we're not all experts in the fields of which
19 these programs and services were responsible
20 for. And the people who know the most about
21 the program and services are those who provide
22 the care. So, we would work with the staff,
23 with physicians, with support departments to
24 identify what the lines of service would be
25 for that particular area and how--and get them

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1 to think about how would they know whether or
2 not they had a quality service. Sometimes
3 this was quite easy to do and quite apparent;
4 other times there was a little bit of a
5 challenge to do so.
6 COFFEY, Q.C.:
7 Q. And you held that position until when in 2003?
8 MS. SMITH:
9 A. It was December 2003.
10 COFFEY, Q.C.:
11 Q. Okay. So, you were there from what time in
12 1999, do you recall?
13 MS. SMITH:
14 A. In July.
15 COFFEY, Q.C.:
16 Q. July. And as director of Quality Initiatives,
17 July 1999 through December 2003?
18 MS. SMITH:
19 A. Um-hm.
20 COFFEY, Q.C.:
21 Q. Okay. If we could look please at exhibit P-
22 0042, page 81. If we could go back to page
23 one, please, this is entitled "Health Care
24 Corporation of St. John's implementing a
25 quality plan, framework, process, project

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1 teams and consumer feedback". And in the
2 course of this exhibit, if we could go back
3 then to page 81. Thank you, Registrar. And
4 this is entitled Quality Initiatives
5 department program/department linkages,
6 revised September 14, 1998. And here in the
7 top left hand side, you're described as Sharon
8 Smith the Director.
9 MS. SMITH:
10 A. Um-hm.
11 COFFEY, Q.C.:
12 Q. So, you had been the director then back in
13 1998?
14 MS. SMITH:
15 A. I thought it was 1999.
16 COFFEY, Q.C.:
17 Q. Again, I'm just looking at the date that's on
18 the document and this may be wrong or your
19 recollection might be. I don't know. I just
20 wanted to ask you about that, but you had said
21 1999.
22 MS. SMITH:
23 A. Actually that date is wrong because when I
24 went into that program, Jim Browne was the
25 utilization manager and you can see in the top

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1 right corner, Karen Abbott is the utilization
2 manager. So, the date revised September 14,
3 1998 is incorrect.
4 COFFEY, Q.C.:
5 Q. It probably should have been what? 1999
6 perhaps, would that be -
7 MS. SMITH:
8 A. At least 1999, it might have even been later.
9 COFFEY, Q.C.:
10 Q. Okay.
11 MS. SMITH:
12 A. And it might only have been that that
13 particular page was updated to reflect the
14 staffing.
15 COFFEY, Q.C.:
16 Q. And somebody forgot to -
17 MS. SMITH:
18 A. Absolutely.
19 COFFEY, Q.C.:
20 Q. Okay. This is, in any case, looking at the
21 names, this would have been circa what time
22 period, looking at these people?
23 MS. SMITH:
24 A. I would say this was late 1999 or even 2000.
25 COFFEY, Q.C.:

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1 Q. And you're listed as the director. There are
2 a number of, as you point out, three QI
3 facilitators, they're all named here.
4 MS. SMITH:
5 A. Yes.
6 COFFEY, Q.C.:
7 Q. Um-hm. Ms. Predham is the risk manager.
8 MS. SMITH:
9 A. That's right.
10 COFFEY, Q.C.:
11 Q. And Karen Abbott is the utilization manager.
12 And the site linkages are listed at the bottom
13 there too. As the director, would all these
14 people listed here, the five others, report to
15 you?
16 MS. SMITH:
17 A. Yes, they would.
18 COFFEY, Q.C.:
19 Q. You will notice that Ms. Parsons is there.
20 Let me see, the third one down for her is
21 laboratory.
22 MS. SMITH:
23 A. That's correct.
24 COFFEY, Q.C.:
25 Q. And the Commissioner has heard evidence from

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1 Ms. Parsons. I take it that this kind of
2 structure, at least, in respect of Ms. Parsons
3 in the laboratory, was she responsible for the
4 lab for a number of--for an extended period of
5 time or a short period, do you recall?
6 MS. SMITH:
7 A. As staff changed, we had to update
8 responsibilities for the programs and
9 services. And I would have to go back to try
10 to determine how long Ms. Parsons was
11 responsible for that program.
12 COFFEY, Q.C.:
13 Q. Were you ever responsible yourself directly
14 for laboratory, in sense of--because you've
15 said, you've pointed out to the Commissioner,
16 you had and overall responsibility and then
17 from time to time certain programs or
18 departments per your own, as it were, you
19 would pick up the slack, as it were, that
20 couldn't be covered by others.
21 MS. SMITH:
22 A. Yes.
23 COFFEY, Q.C.:
24 Q. Were you ever responsible for the lab, do you
25 recall?

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1 MS. SMITH:
2 A. Not that I recall, but I could have been for
3 some overlap of time, I may have been.
4 COFFEY, Q.C.:
5 Q. In any case, whomever the facilitator might
6 have been from time to time responsible for
7 the lab, that facilitator reported to you?
8 MS. SMITH:
9 A. That's correct.
10 COFFEY, Q.C.:
11 Q. So, if there was any problem identified in the
12 laboratory involving quality -
13 MS. SMITH:
14 A. Yes.
15 COFFEY, Q.C.:
16 Q. - related to, for example, patient care or
17 potential patient care issues -
18 MS. SMITH:
19 A. Yes.
20 COFFEY, Q.C.:
21 Q. - and it became known to the facilitator and
22 it was of any--perceived to be of any
23 significant interest, to patient care, would
24 you have expected it to be brought to your
25 attention?

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1 MS. SMITH:
2 A. Yes, I would. Oftentimes we worked as a team.
3 You can see by this document that it was a
4 very busy place to work. There were many,
5 many programs and services to support and we
6 oftentimes covered each other if one was off
7 on holiday or wasn't well. You know, whoever
8 happened to be in the office might have taken
9 a call. So, we did have ongoing staff
10 meetings and if there were particular issues
11 of concern that needed to be addressed, we do
12 so as a team, whether they be in the lab or
13 the women's health program or wherever.
14 COFFEY, Q.C.:
15 Q. So, by April and May and June of 2003 you had
16 been the director of Quality Initiatives for
17 approximately four years.
18 MS. SMITH:
19 A. Yes.
20 COFFEY, Q.C.:
21 Q. And were to spend about another nine months in
22 the position from that point on until the end
23 of the year.
24 MS. SMITH:
25 A. Um-hm.

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1 COFFEY, Q.C.:
2 Q. We've heard evidence concerning Dr. Ejeckam,
3 2003 and you'd be aware of that now.
4 MS. SMITH:
5 A. Yes, I am now.
6 COFFEY, Q.C.:
7 Q. Did you hear anything in relation to that back
8 in 2003?
9 MS. SMITH:
10 A. No, I didn't.
11 COFFEY, Q.C.:
12 Q. Can you provide the Commissioner with any
13 explanation as to how it was possible that
14 those sorts of memos could be written, those
15 sorts of actions taken, including
16 communicating with other health authorities
17 across the province at the time, that
18 pathologists in them, you know that Dr.
19 Ejeckam sent these memos out to pathologists,
20 all pathologists in Newfoundland, can you
21 explain to the Commissioner why it would be or
22 was that you never heard of it? What sort of
23 circumstances existed that could involve that
24 and you, as the director, would not hear about
25 it?

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1 MS. SMITH:
2 A. I really can't explain why I didn't hear about
3 it. There certainly were processes in place
4 to ensure reporting of events and situations
5 that required improvement because while we
6 were the facilitators within the Quality
7 Initiatives department not only helped with
8 developing program plans and those types of
9 things, but if issues arose, they would also
10 be, they would facilitate a process
11 improvement type of a team. So, we often were
12 communicated when adverse events occurred that
13 required our help. Now, there were other
14 things that may have happened within programs
15 and services that people felt they could deal
16 with on their own that they would not report
17 to us, but for the most part, major events we
18 were aware of. So, I don't know why this
19 wasn't reported to us.
20 COFFEY, Q.C.:
21 Q. By April 2003 do you think it was generally
22 understood within the Health Care Corporation
23 of St. John's that occurrences were to be
24 reported?
25 MS. SMITH:

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1 A. I'd like to say it was generally understood,
2 but I really don't know if I can even say that
3 today. I think we've made major efforts to
4 try to educate people about what an occurrence
5 report is, why it's used, how it can improve
6 patient care and safety, but some people just
7 don't use those report forms, but we certainly
8 had made major inroads in terms of educating.
9 THE COMMISSIONER:
10 Q. Mr. Coffey, wherever you can find a spot,
11 we'll take the luncheon break.
12 COFFEY, Q.C.:
13 Q. So, in relation to that then, as the director
14 of Quality Initiatives, would it have been of
15 interest to you back in 2003 to have been made
16 aware of what you now know to be the contents
17 of Dr. Ejeckam's memos.
18 MS. SMITH:
19 A. Yes, it would have.
20 COFFEY, Q.C.:
21 Q. And why is that?
22 MS. SMITH:
23 A. Well, I think that we could have offered some
24 services to help look at the issue and
25 determine whether or not we could make the

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1 process better than it was.
2 COFFEY, Q.C.:
3 Q. And might it have caused you to ask the
4 question at the time, well, what about the
5 patients who were tested in the month before
6 or the two months before April?
7 MS. SMITH:
8 A. Most likely.
9 COFFEY, Q.C.:
10 Q. And thereby potentially having involved, as an
11 outsider, to the lab, you as the director
12 saying, look, well what about the patients in
13 January, February, March -
14 MS. SMITH:
15 A. Um-hm.
16 COFFEY, Q.C.:
17 Q. - 2002 and are you going to retest them.
18 MS. SMITH:
19 A. Yes.
20 COFFEY, Q.C.:
21 Q. And if not, why not? That sort of -
22 MS. SMITH:
23 A. It could have, yes.
24 COFFEY, Q.C.:
25 Q. Yes. Thank you, Commissioner, until after

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1 lunch.
2 THE COMMISSIONER:
3 Q. All right then, we'll return at 2:15.
4 (LUNCH BREAK)
5 THE COMMISSIONER:
6 Q. Please be seated. Mr. Coffey.
7 COFFEY, Q.C.:
8 Q. Thank you, Commissioner. Ms. Smith, just
9 before lunch, we were dealing with your period
10 as director of quality initiatives.
11 MS. SMITH:
12 A. Yes.
13 COFFEY, Q.C.:
14 Q. And in relation to that, I was asking about
15 Dr. Ejeckam and which you now know about,
16 April, May and June. We also have heard
17 evidence, the Commissioner has, the Dr.
18 Ejeckam was involved with what's known as the
19 Surgical Pathology Review committee.
20 MS. SMITH:
21 A. Yes, I heard that at this hearing.
22 COFFEY, Q.C.:
23 Q. In these hearings, right.
24 MS. SMITH:
25 A. Yes.

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1 COFFEY, Q.C.:
2 Q. Before these hearings, had you ever heard of
3 that?
4 MS. SMITH:
5 A. No, I did not.
6 COFFEY, Q.C.:
7 Q. So, we've also seen in some of the exhibits,
8 the Surgical Pathology Review Committee, for
9 example, focused, during a certain period of
10 time, upon trying to get surgeons, in
11 particular, to fill out forms with the
12 appropriate information and it was quite an
13 effort.
14 MS. SMITH:
15 A. Yes.
16 COFFEY, Q.C.:
17 Q. And the Commissioner has heard about that.
18 And if I recall correctly, at least at one or
19 more points, it came up in front of the MAC,
20 that issue did, and it was an ongoing matter.
21 So, and it first arose, if I recall correctly,
22 in September of 2003. I think the record will
23 bear that out in terms of written record. I
24 may even be before that. So, by the time you
25 left in December of 2003, you hadn't heard

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1 anything about a Surgical Pathology Review
2 Committee?
3 MS. SMITH:
4 A. Not that I can remember.
5 COFFEY, Q.C.:
6 Q. In relation to that then during your tenure as
7 the director of quality initiatives, was there
8 any understanding within the Health Care
9 Corporation that you were aware of that the
10 director should be notified about such
11 committees, their existence?
12 MS. SMITH:
13 A. Which director would that be, Mr. Coffey? The
14 director of -
15 COFFEY, Q.C.:
16 Q. The director of Quality Initiatives.
17 MS. SMITH:
18 A. No, there was no need to let the director know
19 that committees had been struck. I would have
20 expected that the director of the service
21 might report on specific committees in their
22 quality initiatives report. Because every
23 program and service completed a quality
24 initiative report which was submitted for
25 review to their appropriate vice-president and

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1 on to the corporate QI committee. So, I would
2 expect that committee structure would be
3 identified there and it may have been in the
4 lab. I just don't remember hearing about it.
5 COFFEY, Q.C.:
6 Q. So, there was no corporation wide policy
7 requiring that the director of Quality
8 Initiatives actually, or his or her office, as
9 it turns out it was your office be so
10 apprised?
11 MS. SMITH:
12 A. No.
13 COFFEY, Q.C.:
14 Q. So, do you have any reason to believe that
15 within the organization there was any one body
16 that knew about the existence of all such
17 committees?
18 MS. SMITH:
19 A. I do know that at one point in time we tried
20 to do and inventory of committees with in the
21 Health Care Corporation of St. John's to try
22 to standardize terms of reference and identify
23 whether or not there's duplication of
24 services.
25 COFFEY, Q.C.:

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1 Q. I'm going to suggest to you to even find out
2 the names of such committees.
3 MS. SMITH:
4 A. And perhaps to find out the names of such
5 committees.
6 COFFEY, Q.C.:
7 Q. Even find out that they existed.
8 MS. SMITH:
9 A. Yes, I would agree with you.
10 COFFEY, Q.C.:
11 Q. And I'm going to suggest to you that that
12 initiative to try to even identify them proved
13 to be problematic.
14 MS. SMITH:
15 A. Yes, it was.
16 COFFEY, Q.C.:
17 Q. It was difficult even to figure out what
18 committees exist, where they are, who's
19 involved -
20 MS. SMITH:
21 A. It was difficult to determine what was a
22 committee and--an established committee and
23 what was a working group or an ad hoc group,
24 different people had different ideas of what
25 committees were; hence, the problem.

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1 COFFEY, Q.C.:
2 Q. And so I'm going to suggest to that that
3 initiative--do you recall when that initiative
4 was? That was in 2003, 2002/2003, trying to
5 get a handle on the committees.
6 MS. SMITH:
7 A. It could have been.
8 COFFEY, Q.C.:
9 Q. And it's referred to in the minutes. There
10 are some minutes, I believe, in the board
11 level committee that--and I stand to be
12 corrected, but I believe there is a reference
13 there to -
14 MS. SMITH:
15 A. Well, I know we had a committee on committees
16 and we kind of thought that was a bit of
17 redundancy, but anyway.
18 COFFEY, Q.C.:
19 Q. If we could go then to, your period then--you
20 moved from the director of Quality Initiatives
21 to the Senior Director of Clinical Efficiency?
22 MS. SMITH:
23 A. Yes.
24 COFFEY, Q.C.:
25 Q. And then you were there from 2003 to 2005?

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1 MS. SMITH:
2 A. That's correct.
3 COFFEY, Q.C.:
4 Q. What did that involve?
5 MS. SMITH:
6 A. That basically was another support department,
7 working with clinical programs and services to
8 try to determine efficiencies that would help
9 us improve wait times and access to services,
10 those types of events.
11 COFFEY, Q.C.:
12 Q. And did you have any involvement with the lab,
13 the clinical lab, in your period as the senior
14 director of clinical efficiency?
15 MS. SMITH:
16 A. Not a great deal at that point in time, Mr.
17 Coffey. There may have been some interactions
18 around improving access, wait times for blood
19 collection services, those types of
20 initiatives. We also had--I'm just trying to
21 recall. That was pretty well it.
22 COFFEY, Q.C.:
23 Q. Now then, I understand that you are currently
24 the program director of Cancer Care?
25 MS. SMITH:

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1 A. That's correct.
2 COFFEY, Q.C.:
3 Q. And you've been so since?
4 MS. SMITH:
5 A. October 17th, 2005.
6 COFFEY, Q.C.:
7 Q. Okay, just passed the three year mark.
8 MS. SMITH:
9 A. I did.
10 COFFEY, Q.C.:
11 Q. And I'm going to ask you about that, and we'll
12 discuss that.
13 MS. SMITH:
14 A. Sure.
15 COFFEY, Q.C.:
16 Q. Before moving into that position, October
17 17th, 2005, because by then, the ER/PR matter
18 had become known within at least a certain
19 group within Eastern Health. Prior to May, or
20 April or May of 2005, had you ever heard any
21 indication that there had to be or there was
22 ER/PR retesting for breast cancer patients
23 going on from time to time?
24 MS. SMITH:
25 A. No, I didn't hear that.

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1 COFFEY, Q.C.:
2 Q. And what did you first hear then about ER/PR?
3 MS. SMITH:
4 A. Well, the first time I heard that there was an
5 indication of an issue was I had contacted
6 Heather Predham when I was seconded into the
7 clinical efficiency position. It was a
8 temporary secondment, and Heather -
9 COFFEY, Q.C.:
10 Q. That's that two year stint, okay.
11 MS. SMITH:
12 A. Yes, and Heather had been seconded into
13 backfill my position as Director of Quality
14 Initiatives. I had contacted her about--I'm
15 not exactly sure why, but we had ongoing
16 discussions because efficiency measures were
17 often linked with quality measures, etcetera,
18 and in the conversation, I just asked Heather
19 "how are things?" and she said she was busy
20 investigating a potential issue with ER/PR
21 testing within the lab. That was the first
22 time I had heard of it.
23 COFFEY, Q.C.:
24 Q. And did you know what ER/PR was?
25 MS. SMITH:

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1 A. Yes, I knew what it was.
2 COFFEY, Q.C.:
3 Q. And I take it that was from your days as an
4 oncology nurse?
5 MS. SMITH:
6 A. Yes.
7 COFFEY, Q.C.:
8 Q. And back then, in the '90s, that would have
9 been--'80s and '90s, that would have been the
10 biochemical assay?
11 MS. SMITH:
12 A. Biochemical assay, yes.
13 COFFEY, Q.C.:
14 Q. And you would have understood, I take it, that
15 the significance or potential significance of
16 ER/PR for treatment regimes?
17 MS. SMITH:
18 A. Yes.
19 COFFEY, Q.C.:
20 Q. And just in that regard, Ms. Smith, because a
21 number of witnesses have come before the
22 Commissioner, including people from Eastern
23 Health, have indicated that it was only in
24 2005 that they first even became aware that
25 there was such a thing as ER or PR. Just

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1 they'd never encountered it before, despite
2 having been at the hospital for years. But in
3 your case, it would be fair to conclude that,
4 based upon your background, that you knew,
5 when you heard about ER/PR problems, if they
6 were getting the test results wrong -
7 MS. SMITH:
8 A. I knew that an ER/PR test result would be an
9 indicator, prognostic indicator, and would
10 identify whether or not an individual would be
11 eligible for Tamoxifen.
12 COFFEY, Q.C.:
13 Q. And did you understand the ramifications of
14 making a mistake about that eligibility?
15 MS. SMITH:
16 A. Yes.
17 COFFEY, Q.C.:
18 Q. For the patient?
19 MS. SMITH:
20 A. Yes.
21 COFFEY, Q.C.:
22 Q. In other words, it could end up, if they were
23 denied the treatment, denied in the sense of
24 it wasn't thought appropriate to give it to
25 them because the results, they were negative

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1 ER/PR that it could end up potentially
2 shortening their life, did you understand
3 that?
4 MS. SMITH:
5 A. I did, yes.
6 COFFEY, Q.C.:
7 Q. Okay, or affecting, in a negative way, the
8 quality of their life?
9 MS. SMITH:
10 A. Could affect their outcome, their clinical
11 outcome, yes.
12 COFFEY, Q.C.:
13 Q. And I appreciate the clinical outcome. The
14 clinical outcome can be, you know, is it
15 phrased, in fact, in this context, refers to
16 the quality of your life, how well you feel
17 from day to day, as well as perhaps how long
18 you live?
19 MS. SMITH:
20 A. Yes.
21 COFFEY, Q.C.:
22 Q. You understood that, yourself?
23 MS. SMITH:
24 A. I did, yes.
25 THE COMMISSIONER:

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1 Q. I'm sorry, I didn't--I missed when it was you
2 said you had this conversation with Ms.
3 Predham.
4 MS. SMITH:
5 A. It probably was June. I don't remember the
6 exact date, but it was when I was still the
7 director of clinical efficiency, maybe June.
8 COFFEY, Q.C.:
9 Q. June of 2005?
10 MS. SMITH:
11 A. 2005.
12 COFFEY, Q.C.:
13 Q. Because it was only October -
14 THE COMMISSIONER:
15 Q. Before you left that position?
16 MS. SMITH:
17 A. Yes, it was before I left that position.
18 COFFEY, Q.C.:
19 Q. What was your reaction at the time?
20 MS. SMITH:
21 A. At the time that I spoke with Heather first?
22 COFFEY, Q.C.:
23 Q. Yes.
24 MS. SMITH:
25 A. I just asked her what--you know, what had

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1 happened and what was being done to
2 investigate the problem, from her perspective,
3 you know, and basically we just spoke about
4 that. Now I was in a role as clinical
5 efficiency. I wasn't directly involved with
6 the quality program any more, and so I just--
7 it was more in passing.
8 COFFEY, Q.C.:
9 Q. Did you--you understood--did you have any
10 understanding of the size of the problem at
11 the time, or potential size of it?
12 MS. SMITH:
13 A. No.
14 COFFEY, Q.C.:
15 Q. She didn't communicate that to you?
16 MS. SMITH:
17 A. No, I don't think anyone did at that point in
18 time.
19 COFFEY, Q.C.:
20 Q. When did you next hear about this, formally or
21 informally?
22 MS. SMITH:
23 A. I know I--that summer was a bit of a
24 disruptive time, I guess, for everyone within
25 Eastern--within the Health Care Corporation as

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1 all of the regional structure had been
2 announced and we were busy applying for
3 positions and so, the dates are very, very
4 blurry to me. I was still a member of the
5 Corporate Quality Initiatives committee as the
6 director of clinical efficiency for the
7 efficiency side of things, and I do know that
8 it was brought forward there at a meeting
9 before I finished my stint on that committee.
10 COFFEY, Q.C.:
11 Q. And do you recall who brought it forward and
12 what was said?
13 MS. SMITH:
14 A. It would have been most likely brought forward
15 by Heather Predham, as her role as director of
16 quality initiatives. We often--every month at
17 that committee level, we submitted a report
18 from our department and we highlighted areas
19 that were problematic.
20 COFFEY, Q.C.:
21 Q. And if we could, Exhibit P-0030, page 50? P-
22 0030, page 50. You'll see here, Corporate
23 Quality Initiatives Committee, September 22nd,
24 2005.
25 MS. SMITH:

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1 A. Right.
2 COFFEY, Q.C.:
3 Q. Let me see, there you are, right there.
4 MS. SMITH:
5 A. Yes.
6 COFFEY, Q.C.:
7 Q. Ms. Predham is there. And we go to page 50,
8 there's a thing, "laboratory patient initially
9 tested in 2002 for ER/PR was found to be
10 negative, was retested and was strongly
11 positive. Four other patients were retested
12 and all now tested positive. A full review of
13 services, including external review of the
14 immunohistochemistry service is being
15 conducted. All ER/PR testing and reporting by
16 this lab is presently on hold awaiting outcome
17 of review."
18 MS. SMITH:
19 A. Yes.
20 COFFEY, Q.C.:
21 Q. That's the one you're talking about?
22 MS. SMITH:
23 A. Yes.
24 COFFEY, Q.C.:
25 Q. And the occurrence reporting, there's a

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1 reference to that below, is now completely up
2 to date, and then it goes on to talk about
3 that there. This committee, Corporate Quality
4 Initiatives Committee, which you had been a
5 member of for quite some period of time before
6 this, for years before this, your name appears
7 in the minutes.
8 MS. SMITH:
9 A. Yes.
10 COFFEY, Q.C.:
11 Q. The issue of occurrence reporting, had that
12 arisen like routinely in terms of as a concern
13 in that committee, the fact that at one--at
14 some points, apparently, they were a year
15 behind in recording occurrence reporting. Do
16 you recall that?
17 MS. SMITH:
18 A. In collating the reports.
19 COFFEY, Q.C.:
20 Q. Collating?
21 MS. SMITH:
22 A. Yes.
23 COFFEY, Q.C.:
24 Q. Well, in collating in the sense of actually
25 putting them into some kind of a database?

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1 MS. SMITH:
2 A. Yes.
3 COFFEY, Q.C.:
4 Q. Where they might be of some -
5 MS. SMITH:
6 A. To be able to trend, to trend the information.
7 COFFEY, Q.C.:
8 Q. What then happened, in terms of--so Ms.
9 Predham speaks, spoke of it. Do those minutes
10 capture your recollection of what she said?
11 MS. SMITH:
12 A. As far as I can recall.
13 COFFEY, Q.C.:
14 Q. Having then been reminded of this at this
15 committee, did you speak to anyone else about
16 it? I mean, you go to work day in and day
17 out, you know, week to week, was this a topic
18 of conversation at the General Hospital?
19 MS. SMITH:
20 A. I was actually working at St. Clare's Hospital
21 at that point in time.
22 COFFEY, Q.C.:
23 Q. Okay, well, at St. Clare's then, was it a
24 topic of conversation?
25 MS. SMITH:

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1 A. No, no, it was not, and it wasn't in the
2 circles that I held. I guess that's what I
3 should rephrase that at.
4 COFFEY, Q.C.:
5 Q. Okay, and then what's your next recollection
6 then of ER/PR?
7 MS. SMITH:
8 A. So that happened in September '05.
9 COFFEY, Q.C.:
10 Q. September 22nd actually, yes.
11 MS. SMITH:
12 A. And I then went to--I began my role as the
13 Director of the Cancer Care Program in
14 October, and upon starting that role, I was
15 again told about the ER/PR issue and I was
16 told that there was a process in place to have
17 patients retested and that there was going to
18 be--I think at that point in time, the panel
19 had been established as well, and basically
20 that was it.
21 COFFEY, Q.C.:
22 Q. Now this broke in the media October 2nd, a
23 Sunday.
24 MS. SMITH:
25 A. Um-hm.

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1 COFFEY, Q.C.:
2 Q. Monday would be the 3rd. The 17th was two
3 weeks later, the day you first started your
4 current position.
5 MS. SMITH:
6 A. Um-hm.
7 COFFEY, Q.C.:
8 Q. During that two-week period, were you at work?
9 MS. SMITH:
10 A. Pardon me?
11 COFFEY, Q.C.:
12 Q. Were you at work in that two-week period?
13 MS. SMITH:
14 A. Yes, I was.
15 COFFEY, Q.C.:
16 Q. And -
17 MS. SMITH:
18 A. I was at St. Clare's.
19 COFFEY, Q.C.:
20 Q. St. Clare's, and was the topic discussed at
21 that point?
22 MS. SMITH:
23 A. It may have been a topic of discussion.
24 COFFEY, Q.C.:
25 Q. And well -

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1 MS. SMITH:
2 A. Among other topics of discussion. I don't
3 recall anything major, except that, you know,
4 there was a problem within the lab, that
5 people were reviewing it, and it was
6 considered to be a significant issue.
7 COFFEY, Q.C.:
8 Q. And by that point in time, did you know that
9 on October 17th, you would be the director of
10 the Cancer Care Program?
11 MS. SMITH:
12 A. When the story broke?
13 COFFEY, Q.C.:
14 Q. Yes. How long in advance did you know you had
15 a new job?
16 MS. SMITH:
17 A. I'm trying to recall, because we did the
18 interviews in August and there was--I had
19 applied for a number of positions and I think
20 we were still trying to determine where I
21 would end up in late September. I don't think
22 I knew September 22nd where I was going to be.
23 So I'm not sure about the next week when the
24 story broke, if I knew for sure I was going to
25 be.

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1 COFFEY, Q.C.:
2 Q. I take it you knew at least a week before you
3 went to your new job?
4 MS. SMITH:
5 A. Yes.
6 COFFEY, Q.C.:
7 Q. And maybe two weeks before?
8 MS. SMITH:
9 A. Um-hm.
10 COFFEY, Q.C.:
11 Q. Then Ms. Smith, I mean, knowing that you were
12 going into this position at the Cancer Care
13 Program and in the main, that's the
14 organization within Eastern Health that would
15 deal with the patients affected by this,
16 correct?
17 MS. SMITH:
18 A. Yes.
19 COFFEY, Q.C.:
20 Q. You don't have a whole lot of recollection
21 then about what was being said about this?
22 MS. SMITH:
23 A. I was busy at that point in time trying to
24 clue up my old position so I could assume my
25 director at the Cancer Program position. When

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1 I went into that job, I did have discussions
2 with Pat Pilgrim and Heather Predham, in terms
3 of some of the processes that had been
4 established and what was happening around that
5 issue.
6 COFFEY, Q.C.:
7 Q. And what, if anything, when you first got into
8 your new position then did you understand was
9 to be your role in addressing this matter?
10 MS. SMITH:
11 A. Well, I think when I first went there, I had
12 offered to be a support to whatever area
13 needed support when I started my position, and
14 certainly Ms. Pilgrim and Ms. Predham were
15 aware of that. I was told that there had been
16 a panel. That patients were being retested
17 and when the results were back that it would
18 be dealt with, and -
19 COFFEY, Q.C.:
20 Q. Dealt with by whom?
21 MS. SMITH:
22 A. By that panel, and that process had been
23 established.
24 COFFEY, Q.C.:
25 Q. And dealt with how?

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1 MS. SMITH:
2 A. By reviewing the results and reviewing the
3 patient's chart to see whether or not they
4 were appropriately treated, and make
5 recommendations for same.
6 COFFEY, Q.C.:
7 Q. And did you understand that panel was going to
8 review the results of every retest?
9 MS. SMITH:
10 A. I'm not sure if I understood that at that
11 point in time, Mr. Coffey.
12 COFFEY, Q.C.:
13 Q. Now as the Director of the Cancer Care
14 Program, where is that program located?
15 MS. SMITH:
16 A. Within--well, it's operated on a number of
17 sites. The main site is the Dr. H. Bliss
18 Murphy Cancer Care Centre, which is located
19 adjacent to the Health Sciences Complex. We
20 also have a centre in Gander, which is located
21 within the James Paton Memorial Hospital, a
22 centre in Grand Falls and one in Corner Brook.
23 COFFEY, Q.C.:
24 Q. And in Grand Falls and in Corner Brook, are
25 they associated with the major hospitals

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1 there?
2 MS. SMITH:
3 A. The centre in Grand Falls was redeveloped. It
4 had been over in the old nurses residence at
5 Central Newfoundland Hospital, and is now a
6 wing of the actual main hospital building.
7 COFFEY, Q.C.:
8 Q. And in Corner Brook?
9 MS. SMITH:
10 A. It is on the fourth floor of Western Memorial
11 Regional Hospital.
12 COFFEY, Q.C.:
13 Q. It's either incorporated into or adjacent to
14 the main premises of these hospitals?
15 MS. SMITH:
16 A. That's correct.
17 COFFEY, Q.C.:
18 Q. Then as the director then of the Cancer Care
19 Program, what are you responsible for? You
20 took over this job in October 2005 and what is
21 it you were responsible for doing?
22 MS. SMITH:
23 A. What do I do as a director?
24 COFFEY, Q.C.:
25 Q. Yes.

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1 MS. SMITH:
2 A. I'm responsible for the program planning, goal
3 setting, identifying resources that are
4 needed, budget responsibilities, fiscal
5 responsibilities around the administration and
6 management of the program, identifying issues
7 related to quality, identifying processes
8 around quality. Many, many, many activities
9 come under my responsibility and I share those
10 with the clinical chief of the Cancer Care
11 Program, of whom you know is Dr. Kara Laing.
12 COFFEY, Q.C.:
13 Q. And whom do you report to?
14 MS. SMITH:
15 A. Patricia Pilgrim.
16 COFFEY, Q.C.:
17 Q. And -
18 THE COMMISSIONER:
19 Q. Ms. Smith, when you say you share the
20 responsibilities with the clinical chief, is
21 there--are you saying that you and Dr. Laing
22 are each responsible for those things that
23 you've listed or that she has other duties
24 which, if you will, meld with the kind of
25 things that you do?

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1 MS. SMITH:
2 A. Some things we share the responsibilities
3 equally. We have both an equal role to play
4 within program planning.
5 THE COMMISSIONER:
6 Q. For example?
7 MS. SMITH:
8 A. To give you an example?
9 THE COMMISSIONER:
10 Q. Please.
11 MS. SMITH:
12 A. For example, identification of issues around
13 service delivery. So about wait times for
14 radiation therapy, I'll give you a good solid
15 example, are above what they should be, myself
16 and Dr. Laing would be the ones to sit down to
17 try to sort out how we might go about
18 resolving this issue, and in that particular
19 case, we put forward a proposal to--along with
20 Dr. Ganguly to--we did a proposal to expand
21 radiation therapy services within the Cancer
22 Centre, and that took a great deal of
23 planning.
24 THE COMMISSIONER:
25 Q. And -

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1 MS. SMITH:
2 A. Some--sorry.
3 THE COMMISSIONER:
4 Q. And would there be things that Dr. Laing would
5 take sole responsibility for and things that
6 you would take sole responsibility for?
7 MS. SMITH:
8 A. Yes, there would be. So Dr. Laing, certainly
9 as the physician lead, she has more
10 responsibilities in terms of any issues
11 relating to credentialing of physicians, and
12 those types of things, whereas I might work
13 more closely with the division managers in
14 specific service delivery issues within the
15 Cancer Centre.
16 THE COMMISSIONER:
17 Q. Okay.
18 MS. SMITH:
19 A. We often run ideas off each other too, to work
20 collaboratively.
21 COFFEY, Q.C.:
22 Q. I take it what you've just described is a
23 state of affairs that has existed since Dr.
24 Laing was appointed clinical chief?
25 MS. SMITH:

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1 A. Yes.
2 COFFEY, Q.C.:
3 Q. Because when you first went into your job, was
4 there a clinical chief?
5 MS. SMITH:
6 A. No, there wasn't.
7 COFFEY, Q.C.:
8 Q. So during the period she was appointed, I
9 gather, Board of Trustees minutes, executive
10 report for January, 2006, notes that she had
11 just been appointed.
12 MS. SMITH:
13 A. That's correct.
14 COFFEY, Q.C.:
15 Q. So then in October, November, and December of
16 2005, there was no clinical chief?
17 MS. SMITH:
18 A. No, there wasn't. There was a medical
19 director at that point in time.
20 COFFEY, Q.C.:
21 Q. In the Cancer Care Program. I'm sorry, there
22 was a medical -
23 MS. SMITH:
24 A. There was a medical director at that point in
25 time.

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1 COFFEY, Q.C.:
2 Q. And who was that?
3 MS. SMITH:
4 A. Dr. Paul Gardiner.
5 COFFEY, Q.C.:
6 Q. And what was the division of responsibilities
7 between yourself and Dr. Gardiner?
8 MS. SMITH:
9 A. At that point in time while we were
10 reorganizing, there was not a--we knew the
11 clinical chief position was coming, and Dr.
12 Gardiner and I really did not have a whole lot
13 of opportunity to work together.
14 COFFEY, Q.C.:
15 Q. So how many people work here in St. John's in
16 that building, the Cancer Care building?
17 MS. SMITH:
18 A. Oh, I guess about 110/120.
19 COFFEY, Q.C.:
20 Q. And in a general way, what are their--what
21 sorts of occupations are there and
22 approximately how many would be in each?
23 MS. SMITH:
24 A. Well, we have nurses and -
25 COFFEY, Q.C.:

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1 Q. About how many nurses?
2 MS. SMITH:
3 A. Oh, 25 perhaps.
4 COFFEY, Q.C.:
5 Q. Do they report to you directly or indirectly?
6 MS. SMITH:
7 A. No, they report through to the division
8 manager, Christine Power.
9 COFFEY, Q.C.:
10 Q. Who reports to?
11 MS. SMITH:
12 A. Me.
13 COFFEY, Q.C.:
14 Q. Okay, well, then as I said, directly or
15 indirectly?
16 MS. SMITH:
17 A. I'm sorry, yes.
18 COFFEY, Q.C.:
19 Q. I appreciate the distinction, they don't
20 report to you directly, but through the
21 division manager, they report to you?
22 MS. SMITH:
23 A. Yes.
24 COFFEY, Q.C.:
25 Q. Okay, about 25 nurses, and I'm sorry, go on.

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1 MS. SMITH:
2 A. And there are radiation therapist, a little
3 over 20.
4 COFFEY, Q.C.:
5 Q. They report to?
6 MS. SMITH:
7 A. They report--again they all report to a
8 manager who reports to me.
9 COFFEY, Q.C.:
10 Q. Okay. About 20 radiation -
11 MS. SMITH:
12 A. Therapists.
13 COFFEY, Q.C.:
14 Q. Therapists.
15 MS. SMITH:
16 A. Medical physicists, we have five of those.
17 Dosimetrists, who are--and these are all staff
18 who are involved in the radiation therapy side
19 of the operation. So dosimetrists are also
20 there, there's five of those. We have a
21 clinical trials division, which is mostly
22 nursing, three nurses and a clerical person.
23 We have our cancer registry, which includes a
24 tumour registry and a cytology registry, so
25 there are two distinct sides to that registry.

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1 COFFEY, Q.C.:
2 Q. Uh-hm. How many people work in the registry
3 approximately?
4 MS. SMITH:
5 A. Within both sides?
6 COFFEY, Q.C.:
7 Q. Yes.
8 MS. SMITH:
9 A. Seven.
10 COFFEY, Q.C.:
11 Q. Seven between them, okay, and -
12 MS. SMITH:
13 A. And the health records--the clerical support
14 staff are also part of the program, and they
15 run--they're certainly responsible for the
16 clerical functions within the clinic, within
17 the chemotherapy area. We have patient
18 registration clerks, we have health records
19 staff there as well that do not report
20 directly through to the program, the report to
21 the health records department of Eastern
22 Health.
23 COFFEY, Q.C.:
24 Q. And so medical records, ones that report to

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1 Eastern Health, approximately how many of them
2 are there?
3 MS. SMITH:
4 A. I can't remember, I'm sorry.
5 COFFEY, Q.C.:
6 Q. How about the non-medical records clerical
7 staff that report through to you?
8 MS. SMITH:
9 A. There would be 10/12.
10 COFFEY, Q.C.:
11 Q. And would these be people, for example, at the
12 reception area?
13 MS. SMITH:
14 A. Uh-hm, yes.
15 COFFEY, Q.C.:
16 Q. Sometimes they would be there.
17 MS. SMITH:
18 A. Yes.
19 COFFEY, Q.C.:
20 Q. They're kind of the first point of contact as
21 you walk in the door, if a patient walks in
22 the door?
23 MS. SMITH:
24 A. Uh-hm.
25 COFFEY, Q.C.:

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1 Q. Those people would report to you.
2 MS. SMITH:
3 A. That first point of contact, actually, that
4 person reports through to Health Records.
5 COFFEY, Q.C.:
6 Q. Health Records, okay, which is through Eastern
7 Health?
8 MS. SMITH:
9 A. Yes.
10 COFFEY, Q.C.:
11 Q. Why is that?
12 MS. SMITH:
13 A. Why is -
14 COFFEY, Q.C.:
15 Q. Why would it be that the first point of
16 contact that a patient might meet -
17 MS. SMITH:
18 A. Well, it's a dual reporting perspective,
19 actually. When I first went there, all the
20 clerical staff reported through to Health
21 Records, and we were still actually working
22 with the health records departments to try to
23 determine the most appropriate reporting
24 structure for the clerical staff. We tried to
25 make a distinction of people who do chart type

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1 of work would be health records person, or as
2 people who are actually patient contact
3 people, they would report through to us.
4 THE COMMISSIONER:
5 Q. I'm sorry, Mr. Coffey, with the recent changes
6 so that the Cancer Care Centre now reports to
7 Eastern Health Board -
8 MS. SMITH:
9 A. Yes.
10 THE COMMISSIONER:
11 Q. What we've been all calling Eastern Health
12 because I can't get my tongue around that very
13 long name, has that made any difference in the
14 on-the-ground working of the Cancer Centre?
15 MS. SMITH:
16 A. It has made some difference. The radiation
17 therapy staff, the nursing staff, the cancer
18 registry staff, they still all report directly
19 through to the program.
20 THE COMMISSIONER:
21 Q. Uh-hm.
22 MS. SMITH:
23 A. But some of the other staff, health records,
24 information management, and pharmacy staff,
25 report through to those functional departments

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1 and not through to the Cancer Centre itself,
2 to our leadership team. So on the ground, it
3 hasn't made a whole lot of difference because
4 the care is still the same, the services are
5 still being provided. The challenges relate
6 to recruitment of staff, they relate to
7 sharing of staff, for example, if a clerk in
8 the clinic is sick, it's harder to get a
9 replacement. One time you could get someone
10 from health records to come out and fulfil
11 that duty.
12 THE COMMISSIONER:
13 Q. Uh-hm.
14 MS. SMITH:
15 A. So it's those types of nuances that have made
16 some difference.
17 THE COMMISSIONER:
18 Q. Well, what about things like, dare I say it,
19 committees, would people within the Cancer
20 Care Centre be expected to be participants in
21 what I would call Eastern Health committees?
22 MS. SMITH:
23 A. Yes.
24 THE COMMISSIONER:
25 Q. So you're integrated, but you're not

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1 integrated with Eastern Health, is that the
2 result?
3 MS. SMITH:
4 A. I guess integration can take some time, as you
5 can appreciate. It took time with the Health
6 Care Corporation of St. John's, and it's
7 certainly taking some time with us within the
8 Cancer Centre.
9 THE COMMISSIONER:
10 Q. Well, is that the plan, though, that you
11 really become part of Eastern Health or are
12 you to have a--still to maintain somewhat of a
13 separate identity?
14 MS. SMITH:
15 A. We are still part of Eastern Health, but we
16 have a provincial program, and in saying that,
17 we still run the cancer centres in Gander,
18 Grand Falls, and Corner Brook, we still have a
19 responsibility for all the chemotherapy that's
20 given across the province. Those drugs come
21 under my budget. We no longer have, for
22 example, our own information management
23 committee. We did have one when I first
24 started there. That's been rolled into an
25 Eastern Health committee. So we have our own

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1 little working group around information
2 management to help us bring some things
3 forward within the program that are of
4 particular concern to us. There is an Eastern
5 Health Pharmacy and Therapeutics Committee
6 that Dr. Laing sits on, there is an Eastern
7 Health Radiation Safety Committee that our
8 medical physics staff sit on, but we also have
9 our own Radiation Safety Committee because of
10 the particular issues from radiation treatment
11 that we would face in the Cancer Centre. So
12 it's a bit of both.
13 THE COMMISSIONER:
14 Q. Okay. Sorry, Mr. Coffey.
15 COFFEY, Q.C.:
16 Q. Thank you, Commissioner. When you first came
17 to work in your new position, I take it in
18 getting yourself settled, would you have
19 looked at the more recent minutes for the
20 senior management team, like, the ones just
21 before you arrived?
22 MS. SMITH:
23 A. Yes. I think I did.
24 COFFEY, Q.C.:
25 Q. If we could look, please, at Exhibit P-0639.

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1 This is a meeting of the senior management of
2 the Newfoundland Cancer Treatment and Research
3 Foundation to be held Thursday, October 13th,
4 2005. This is the agenda--this is the
5 Thursday before you started your job.
6 MS. SMITH:
7 A. Yes.
8 COFFEY, Q.C.:
9 Q. In your current position, and you'll notice
10 here that reports, MAC Eastern Health, and
11 under business arising, "ER/PR testing", see
12 that?
13 MS. SMITH:
14 A. Yes, I do.
15 COFFEY, Q.C.:
16 Q. And then the minutes are noted there. Of
17 course, you wouldn't have been in attendance
18 because you weren't yet formally in your
19 position. The participants are there, and
20 then there's business arising. 3.1, "ER/PR
21 testing. Dr. Laing provided a brief update on
22 the ER/PR testing. Results for the ER/PR
23 testing are coming back and patients are being
24 notified. Dr. Laing, Dr. Ganguly, will be
25 attending a tumour board rounds meeting this

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1 afternoon to review cases and discuss
2 appropriate actions. It was noted that this
3 is not a Cancer Clinic issue, but a lab issue,
4 however, which affects patients. Any calls
5 that staff", presumably that should be
6 "receive" -
7 MS. SMITH:
8 A. I would think.
9 COFFEY, Q.C.:
10 Q. "Regarding ER/PR testing and reporting, should
11 be directed to Nancy Parsons at Quality
12 Initiatives". You would have read this. This
13 is the most recent meeting minutes before you
14 arrived in your new job?
15 MS. SMITH:
16 A. Yes.
17 COFFEY, Q.C.:
18 Q. You certainly would have read this. Upon
19 reading that, what did you take from that?
20 You're the new director. What did you take?
21 MS. SMITH:
22 A. I took that there was a process established to
23 review the ER/PR test results, and that Nancy
24 Parsons would be the contact if people were
25 calling with concerns, that -

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1 COFFEY, Q.C.:
2 Q. Ms. Parsons was down at the old General -
3 MS. SMITH:
4 A. Ms. Parsons was the Patient Relations Officer
5 position that I established when I was
6 Director of Quality Initiatives, so I knew
7 quite well what her role was.
8 COFFEY, Q.C.:
9 Q. So she was down at--physical at -
10 MS. SMITH:
11 A. Southcott Hall at that point in time.
12 COFFEY, Q.C.:
13 Q. Southcott Hall, yes. Go ahead.
14 MS. SMITH:
15 A. So I would have known that, and the sentence
16 that noted, "This is not a Cancer Clinic
17 issue, but a lab issue", I guess was more
18 reflective in that the problem with the ER/PR
19 testing was more associated with the pathology
20 department. That's all I took form that.
21 COFFEY, Q.C.:
22 Q. In contradistinction to being associated with
23 what else?
24 MS. SMITH:
25 A. I guess a direct problem that was only the

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1 responsibility of the Cancer Centre.
2 COFFEY, Q.C.:
3 Q. And i.e. oncology?
4 MS. SMITH:
5 A. Yes.
6 COFFEY, Q.C.:
7 Q. So, in effect, perhaps translated, this would
8 be it was noted that this is not an oncology
9 issue, but a clinical laboratory issue, is
10 that -
11 MS. SMITH:
12 A. No, I wouldn't have put it at that.
13 COFFEY, Q.C.:
14 Q. Okay.
15 MS. SMITH:
16 A. I would have put it at this is an issue that
17 was identified within the lab, the review
18 would be happening within the lab, but
19 certainly all the results of what happened in
20 the lab was going to have an impact on people
21 that were seen in the Cancer Centres.
22 COFFEY, Q.C.:
23 Q. And there's also--the second line says,
24 "Patients are being notified". Did you have
25 any understanding at that point as to how they

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1 were being notified, and notified as to what?
2 MS. SMITH:
3 A. I had been told that there were calls being
4 coordinated through Quality, but I don't
5 exactly remember what that was, Mr. Coffey.
6 COFFEY, Q.C.:
7 Q. Calls to whom?
8 MS. SMITH:
9 A. To the patients who were being retested, as
10 far as I knew.
11 COFFEY, Q.C.:
12 Q. Who were being retested?
13 MS. SMITH:
14 A. Yes.
15 COFFEY, Q.C.:
16 Q. Okay. So you understood that there were--
17 around the time you started, I'm going to
18 suggest perhaps in that first week or so that
19 you were there, you learned that patients were
20 being phoned by Quality Initiatives staff and
21 being told that they were being retested. You
22 understood that?
23 MS. SMITH:
24 A. Yes.
25 COFFEY, Q.C.:

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1 Q. But this says, "Results are coming back and
2 patients are being notified". Did you have an
3 understanding that patients were being
4 notified of the results before or some
5 patients might be told of the results without
6 going through the tumour board?
7 MS. SMITH:
8 A. I don't think I put that together at that--I
9 don't think I looked at it that way at that
10 time, Mr. Coffey.
11 COFFEY, Q.C.:
12 Q. When did you first figure that out?
13 MS. SMITH:
14 A. I don't remember when I figured it out. There
15 have been so many--there's many things
16 happening at this time. I was coming into a
17 Cancer Centre that had been a separate
18 organization, completely on its own, had not
19 ever gone through restructuring within the old
20 Health Care Corporation. I had gone through
21 that. I knew what that was like, and I was
22 trying to be sensitive to the people that I
23 was working with as we tried to establish what
24 our program would look like. So there was
25 many, many things that were happening.

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1 COFFEY, Q.C.:
2 Q. And I'm trying to get for the Commissioner
3 some sense of how involved did you get in this
4 in October, November, and December?
5 MS. SMITH:
6 A. Initially I was not as involved--not very
7 involved.
8 COFFEY, Q.C.:
9 Q. How involved?
10 MS. SMITH:
11 A. I might have been asked for my opinion on some
12 things. I -
13 COFFEY, Q.C.:
14 Q. Do you recall what they were about?
15 MS. SMITH:
16 A. The timelines are very blurry for me, I have
17 to be quite honest. I know that I was
18 involved in some meetings that happened later
19 around some media events that were going to
20 happen, but I think initially it was--I was
21 told that there were processes in place for
22 retesting, that a panel, a review panel had
23 been established, that support for the review
24 panel was going to be through QI and I knew
25 Patricia Pilgrim, who was my chief operating

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1 officer, was very involved in this, as was Dr.
2 Williams and I think they were leaving me to
3 try to get my role as the director of the
4 Cancer Program established and these matters
5 were being run by other people.
6 COFFEY, Q.C.:
7 Q. Did you make any inquiries about how
8 knowledgeable or otherwise the staff in the
9 Cancer Clinic were about this issue?
10 MS. SMITH:
11 A. This issue would have come up again. I can
12 remember staff within the Social Work Program
13 calling, asking how to deal with some of the
14 patients who were calling them who were upset
15 about this whole issue and -
16 COFFEY, Q.C.:
17 Q. Do you recall when that was?
18 MS. SMITH:
19 A. That was probably in November, you know, it
20 was early days. It was when people were
21 waiting for results.
22 COFFEY, Q.C.:
23 Q. And what were they told?
24 MS. SMITH:
25 A. What were?

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1 COFFEY, Q.C.:
2 Q. The social workers told?
3 MS. SMITH:
4 A. The social workers told? So we were told and
5 other staff said, you know, that people are
6 asking about results, those types of things,
7 so again they were told that the hotline down
8 in Quality had been established for people to
9 call if they had specific concerns and they
10 were told that, but some of the social workers
11 also wanted to know would they be able to take
12 some clients on to do some counselling, which
13 was certainly encouraged.
14 COFFEY, Q.C.:
15 Q. So this hotline was the one Ms. Parsons was
16 manning?
17 MS. SMITH:
18 A. Yes.
19 COFFEY, Q.C.:
20 Q. Were the staff told anything other than to
21 refer people to the hotline?
22 MS. SMITH:
23 A. In terms of?
24 COFFEY, Q.C.:
25 Q. About the nature of the problem, what was

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1 known about it and what was being done about
2 it?
3 MS. SMITH:
4 A. There was no formal meeting, to my knowledge.
5 COFFEY, Q.C.:
6 Q. Were they informed in writing as to what was
7 going on?
8 MS. SMITH:
9 A. There may have been a memo from the managers,
10 I don't really recall.
11 COFFEY, Q.C.:
12 Q. And did you understand at the time, beginning
13 the middle of October and continuing on,
14 particularly when the social workers raised
15 the issue in November, that of the hundreds of
16 patients that would go through that building
17 in a week, that this would probably be a
18 matter of discussion amongst a number of them?
19 MS. SMITH:
20 A. Amongst some of the patients?
21 COFFEY, Q.C.:
22 Q. Yes.
23 MS. SMITH:
24 A. Yes, it was.
25 COFFEY, Q.C.:

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1 Q. You understood that.
2 MS. SMITH:
3 A. Yes.
4 COFFEY, Q.C.:
5 Q. And was it understood by yourself as the
6 director that really the staff don't know a
7 whole lot about this, did you understand that?
8 MS. SMITH:
9 A. In terms of, what about it, Mr. Coffey?
10 COFFEY, Q.C.:
11 Q. Well in terms of, well what caused it, how
12 many might be involved, what in fact Eastern
13 Health was even doing about it. All these
14 people, the staff members, quite a number of
15 them, you would agree, would have day-to-day
16 contact with patients.
17 MS. SMITH:
18 A. They would have, yes.
19 COFFEY, Q.C.:
20 Q. And yet the staff members of the Cancer Clinic
21 were never formally in any way notified about
22 what was going on and kept apprised from time
23 to time of what -
24 MS. SMITH:
25 A. They weren't, no.

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1 COFFEY, Q.C.:
2 Q. If you had to do it again, do you think it
3 would have been wise to do so?
4 MS. SMITH:
5 A. Absolutely.
6 COFFEY, Q.C.:
7 Q. Was it ever raised, that subject matter, ever
8 raised with people senior to yourself, such as
9 Ms. Pilgrim or Dr. Williams about look, the
10 situation we're in, we have to deal with these
11 people day to day, they're asking questions
12 and we don't really know a whole lot.
13 MS. SMITH:
14 A. What would have gone forward--what would come
15 to me was that patients, people coming in were
16 concerned and upset and wondering about their
17 treatment. That was the biggest piece, it was
18 more on individuals, it wasn't how many
19 people, it wasn't how did this happen, but it
20 was more of, you know, we have these
21 individuals, today was breast clinic day and
22 there was a number of people that were very
23 concerned.
24 COFFEY, Q.C.:
25 Q. Did you pass that on to Ms. Pilgrim?

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1 MS. SMITH:
2 A. Yes, actually we talked about whether or not
3 we should be looking at some sort of, more
4 availability of counselling sessions from a
5 social work perspective.
6 COFFEY, Q.C.:
7 Q. And where did that go?
8 MS. SMITH:
9 A. Well the people within the Social Work
10 Department knew that they could use overtime
11 if they needed to and that they could
12 accommodate whatever patients, people that
13 needed their services that were necessary.
14 COFFEY, Q.C.:
15 Q. And do you know how much, if anything, the
16 social workers though actually knew about the
17 nitty-gritty of ER/PR?
18 MS. SMITH:
19 A. I don't know.
20 COFFEY, Q.C.:
21 Q. For example, do you think that they would have
22 known, like you did, the ramifications?
23 MS. SMITH:
24 A. Oh they would have know that, I think they
25 would have known that, yes.

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1 COFFEY, Q.C.:
2 Q. And why do you believe they would have known
3 that?
4 MS. SMITH:
5 A. Well they're very much involved in the care
6 teams within the Cancer Centre and they
7 certainly are involved, they've been involved
8 in some of the groups put together. We had
9 multi-disciplinary rounds, they would
10 certainly have been in the room when some of
11 these things would be discussed in terms of
12 treatment plans, et cetera.
13 COFFEY, Q.C.:
14 Q. Now from your perspective as the director, on
15 behalf of the Cancer Care Program in the fall
16 of 2005, who was the main rep in relation to
17 dealing with the matter, who was the person
18 primarily responsible from the Cancer Care
19 Program's perspective?
20 MS. SMITH:
21 A. There were two people really, Dr. Laing was
22 involved and Patricia Pilgrim as chief
23 operating officer.
24 COFFEY, Q.C.:
25 Q. And again, to put this in perspective for the

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1 Commissioner because it is documented, Exhibit
2 P-1077. Now, Ms. Smith, this is two e-mails,
3 one is January 11th--well both of them are
4 January 11th, the first is January 11th, 2006
5 from Ms. Predham to yourself, Ms. Pilgrim, Ms.
6 Elliott and Dr. Williams and she says, "I just
7 wanted to give you a heads up on another facet
8 of the ER/PR crystal." The Commissioner has
9 seen this e-mail, this part of it before and
10 this talks about false positives, if I recall
11 correctly--or the idea of false positives.
12 But then what I wanted to ask you about is
13 this top e-mail, you, the same day, same
14 morning, went back to these individuals, Ms.
15 Predham and the others saying the following,
16 "From what I saw and read at the San Antonio
17 Breast Cancer meeting, this is not an
18 unexpected phenomena but it does add to the
19 confusion. As I am late getting into this
20 issue, I am not sure what my role is. Chris
21 Power has been involved to some degree and
22 Kara has been very much involved, so let me
23 know what you need me to do. Sharon."
24 MS. SMITH:
25 A. Yes.

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1 COFFEY, Q.C.:
2 Q. And in relation to this matter, the San
3 Antonio Breast Conference would have been in
4 December, would I be right on that, December
5 of '05?
6 MS. SMITH:
7 A. Yes.
8 COFFEY, Q.C.:
9 Q. And while we're at it, Exhibit P-2584? This
10 is one from a year later, San Antonio Breast
11 Cancer symposium, but this is February of '06,
12 but this is the sort of conference you went to
13 in late '05?
14 MS. SMITH:
15 A. Well this is not the conference -
16 COFFEY, Q.C.:
17 Q. It's not "the" conference, but it's the sort
18 of conference -
19 MS. SMITH:
20 A. This is basically whenever we have staff who
21 go and attend a major conference of any sort,
22 we have presentations for staff following the
23 conference to share whatever information is
24 available. So this was a post San Antonio
25 review and those were the topics that were

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1 presented by the people who attended.
2 COFFEY, Q.C.:
3 Q. And this would have been, this particular one
4 relates to the conference that occurred a year
5 later.
6 MS. SMITH:
7 A. That's correct.
8 COFFEY, Q.C.:
9 Q. Okay, so if we could go back then to P-1077.
10 Now can you tell the Commissioner, please,
11 then why it was that it was only on January
12 11th, 2006 that you were asking at least some
13 of these other individuals involved what your
14 role should be?
15 MS. SMITH:
16 A. In January?
17 COFFEY, Q.C.:
18 Q. January 11th, I mean, it's there, it's spelled
19 out. Can you tell the Commissioner why it was
20 in October, November, December, January, it's
21 almost three months, why you're asking Ms.
22 Predham, Ms. Pilgrim, Ms. Elliott and Dr.
23 Williams what your role should be?
24 MS. SMITH:
25 A. Well, as I said, when I first started in my

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1 position, I was informed that this issue had
2 happened, given as much information as
3 possible, I guess at that time. I knew that a
4 tumor panel had been established and with
5 clinical support through quality, that
6 retesting was happening, that telephone
7 conversations were being made, those types of
8 things, right.
9 COFFEY, Q.C.:
10 Q. Yes, I appreciate.
11 MS. SMITH:
12 A. I was also then involved, as I said to try and
13 establish a Cancer Care Program and in so
14 doing, I really did not get involved with this
15 as much as other people had. But by January,
16 things were starting, we were starting to
17 develop our structure, we were still very,
18 very busy, but I just wanted people to know
19 I'm still here, I've been on the periphery,
20 Kara has been involved, Kara Laing, Chris
21 Power had been involved, I know when I first
22 went there, there was some meetings held
23 within the Cancer Centre that I didn't go to,
24 but Chris Power, as the manager, was there and
25 staff required.

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1 COFFEY, Q.C.:
2 Q. Manager of?
3 MS. SMITH:
4 A. Well actually her role before reorganization
5 was the director of nursing within the former
6 Newfoundland Cancer Treatment Research
7 Foundation, and then we were reorganized. Now
8 she's a division manager for systemic therapy
9 and support services.
10 THE COMMISSIONER:
11 Q. Can I ask whose job it is to think up all
12 these names? Like who is naming lakes or
13 something like that?
14 MS. SMITH:
15 A. It's a very good question, Commissioner. You
16 can appreciate when we were trying to
17 reorganize the staff, we no longer had the
18 functional department, so we didn't have
19 health records, but we had support staff and
20 we were trying to look at an appropriate
21 manager and Chris has almost become the
22 manager of everything no one else does, so
23 that wasn't as good a title as manager of
24 systemic therapy and support services, so--but
25 it is a challenge and when you do reorganize,

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1 it is a struggle, I have to say.
2 COFFEY, Q.C.:
3 Q. And were you being kept apprised, at least up
4 until January 11th and I appreciate and I'm
5 going to ask you, from time to time you would
6 be copied on e-mails.
7 MS. SMITH:
8 A. Yes, I would be.
9 COFFEY, Q.C.:
10 Q. And, for example, e-mails from Eastern
11 Health's communication's people about media
12 reports.
13 MS. SMITH:
14 A. Yes.
15 COFFEY, Q.C.:
16 Q. Your name would occasionally appear there in
17 the distribution list.
18 MS. SMITH:
19 A. Uh-hm.
20 COFFEY, Q.C.:
21 Q. Were you copied on any of Heather's e-mails
22 from time to time reporting on the progress of
23 the physician review panel? Do you recall?
24 MS. SMITH:
25 A. I don't remember, I really don't remember

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1 that, Mr. Coffey.
2 COFFEY, Q.C.:
3 Q. I'm not suggesting you were, I'm just -
4 MS. SMITH:
5 A. Yeah, I know that the meetings on the review
6 panel would be held within the Cancer Centre,
7 very close to my office. They were held in
8 the evenings and I would just pass the time of
9 day to the group as they were going in and
10 say, you know, you have another late evening
11 ahead of you, have you got many charts to
12 review, those types of things. I was kept
13 apprised of the information as much as
14 possible, I guess, by Patricia Pilgrim at our
15 monthly meetings and I think people knew that
16 I was trying to establish a program that I was
17 there if need be, but it was a very, very busy
18 time for us all. And in terms of the media,
19 being copied on media events or inquiries, I
20 guess, the other thing is if people called
21 into the Cancer Centre because of those media
22 events, it would be just to give me a heads
23 up.
24 COFFEY, Q.C.:
25 Q. It would be unfortunate if you weren't copied,

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1 certainly on the media distributions.
2 MS. SMITH:
3 A. That's true.
4 COFFEY, Q.C.:
5 Q. In relation then to this, when you asked I'm
6 not sure what my role is, do you recall what,
7 if anything, the response to--that's in effect
8 a question, so was there an answer?
9 MS. SMITH:
10 A. I don't think I got an answer and I'm not
11 quite sure if I was asking for an answer. I
12 was just saying I'm here. If you need me, let
13 me know.
14 COFFEY, Q.C.:
15 Q. Well in saying "I am not sure what my role is"
16 I'm going to suggest to you that certainly -
17 MS. SMITH:
18 A. I didn't know what my role was.
19 COFFEY, Q.C.:
20 Q. Yes. If we could look then at P-1346? This
21 is an e-mail of, well actually it's a couple
22 of e-mails. The one below it is the one from
23 Ms. Predham talking about the matter of false
24 positives. Yes, the issue of false
25 positivity, the ones to which you responded in

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1 your e-mail of January 11th that we just
2 looked at, and then there's one here January
3 13th from Ms. Predham. This one is to
4 yourself, Ms. Pilgrim, Pam Elliott and Dr.
5 Williams. "As an update to my e-mail below"--
6 and she talks about clarification of this
7 false positive matter, okay? But the reason
8 I'm bringing it to your attention is that
9 you're on this one, okay?
10 MS. SMITH:
11 A. Yes. And maybe it was because I asked what my
12 role was to be.
13 COFFEY, Q.C.:
14 Q. And if we could go and I'm just going to pick
15 some as we go, I'm not purporting,
16 Commissioner, to be exhaustive at all, P-1351?
17 This is an e-mail of Heather Predham, January
18 30th, 2006 to a number of individuals, senior
19 people, including yourself.
20 MS. SMITH:
21 A. Yes.
22 COFFEY, Q.C.:
23 Q. And she says "I reviewed THE results that we
24 have received from Mount Sinai and here is a
25 summary." And it lists them, okay. So, as

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1 well while I'm at it, P-1352 please? This is
2 an e-mail January 30th again from Ms. Predham,
3 again to the same group as it were, including
4 yourself, she says "I always have to clarify
5 and see if this is clear"--and this is
6 actually a spreadsheet.
7 MS. SMITH:
8 A. Yes.
9 COFFEY, Q.C.:
10 Q. With notes. So beginning then in the middle
11 of January, and you think about it, did you
12 become then more frequently involved in the
13 distribution list concerning substantive
14 information?
15 MS. SMITH:
16 A. I was more informed certainly about what was
17 happening, in terms of the numbers and some of
18 the issues that might fall out of those
19 meetings.
20 COFFEY, Q.C.:
21 Q. Now if we could, please, Exhibit P-3025? This
22 is an e-mail of January 30th to yourself and
23 you alone.
24 MS. SMITH:
25 A. Yes.

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1 COFFEY, Q.C.:
2 Q. From Ms. Predham, ER/PR for Cancer Clinic
3 review. She writes, "Can you give someone the
4 attached file of the out-of-town results and
5 see if they can determine if they are Cancer
6 Clinic patients or not. We will be definitely
7 panelling them if they need to be, but those
8 that aren't, we can't. Western and Central
9 have asked if I could tell them who we are
10 panelling. Thanks, Heather. And, "Of course,
11 if it doesn't make sense, call me." And there
12 is, what is here redacted spreadsheet and I'll
13 just show it to you, involves St. Anthony in
14 fact. Why then, because this actually seems
15 to involve actual involvement by yourself now,
16 something is being asked of you directly.
17 What then happened in terms of your
18 involvement?
19 MS. SMITH:
20 A. So then I would have had someone check the--we
21 do have an oncology patient information system
22 and it is used, it's an ambulatory system,
23 it's used to book patient appointments and
24 capture progress notes, clinic notes, et
25 cetera. I would have had someone check that

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1 system to see whether or not these individuals
2 were patients within the Cancer Centre.
3 COFFEY, Q.C.:
4 Q. Now had you been asked to do any such thing
5 prior to that? Like anything similar to that?
6 MS. SMITH:
7 A. I might not have been asked but Ms. Power may
8 have been asked.
9 COFFEY, Q.C.:
10 Q. Why now was it changing--if she had been
11 asked, why was it now being focused on you, as
12 opposed to Ms. Power?
13 MS. SMITH:
14 A. Well I guess I was more in my role, I had been
15 there--I was developing a relationship within
16 the program and my role was somewhat more
17 clear, I guess, as a brand new program
18 director of a brand new clinical service,
19 clinical program.
20 COFFEY, Q.C.:
21 Q. And I stand to be corrected, I don't believe
22 we've seen any e-mails to Ms. Power, like in
23 that way, that kind of directed way at this
24 point, I stand to be corrected, but I -
25 MS. SMITH:

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1 A. I'm not sure.
2 COFFEY, Q.C.:
3 Q. Okay.
4 MS. SMITH:
5 A. And it might have been the first e-mail that
6 was sent of this nature.
7 COFFEY, Q.C.:
8 Q. And here at--P-2997 please? And this is
9 another e-mail of January 31st to yourself
10 from Ms. Predham. She says "I have no
11 eyeballs left, here are the names of the
12 patients for each region with MCP numbers,
13 except Western. I'll finish that tonight and
14 send it over. It took me longer to do than I
15 expected, it was only one lady left in Grand
16 Falls that I couldn't find a MCP number. I
17 guess I can assume she is not a Cancer Clinic
18 patient." But the attachment is names for
19 Cancer Clinic Check, okay, so what was then
20 the Cancer Clinic doing in relation to this,
21 beginning in late January?
22 MS. SMITH:
23 A. Determining whether or not the patients were
24 actually Cancer Centre patients.
25 COFFEY, Q.C.:

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1 Q. For what purpose?
2 MS. SMITH:
3 A. To determine whether they were still active
4 patients, whether--and that would be the
5 biggest reason, I would think, to see whether
6 or not they were still active patients within
7 the Centre. To see who the most appropriate
8 physician was.
9 COFFEY, Q.C.:
10 Q. So you just checked, I take it, you had your
11 staff check that.
12 MS. SMITH:
13 A. Yes.
14 COFFEY, Q.C.:
15 Q. And reported that to whom?
16 MS. SMITH:
17 A. Heather Predham.
18 COFFEY, Q.C.:
19 Q. And did you have anything further expected of
20 you at that point?
21 MS. SMITH:
22 A. No.
23 COFFEY, Q.C.:
24 Q. Exhibit P-2460? This is an e-mail from Dr.
25 Carter, February 3rd, 2006 to Drs. McCarthy,

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1 Greenland and Tompkins, as well as yourself.
2 The attachment is
3 "yourpathyourbreastcancer'05bc. She says,
4 "Kara brought a patient pamphlet about breast
5 cancer pathology to our ER meeting last night.
6 The attached is an article I wrote for the
7 breast cancer e-publication. I have slowly
8 been editing to a user friendly pamphlet. I
9 think it would be perfect for our patients.
10 Still need some editing, as well as a
11 simplification of language, but if I can get
12 some clerical/graphic support, this is almost
13 ready to go. Can you read please and offer
14 corrections. Can I find someone to provide
15 the clerical/technical support I need." And
16 the Commissioner has seen this before when Dr.
17 Carter was here. This is what she what she
18 sent, your pathologist and your breast cancer.
19 What do you recall about this?
20 MS. SMITH:
21 A. This was a pamphlet that Dr. Carter had
22 developed and presented and we took that
23 information and we put it into a pamphlet
24 format and that pamphlet then was brought to
25 the Breast Site Disease Group for feedback and

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1 review.
2 COFFEY, Q.C.:
3 Q. The breast site disease group was formed when?
4 MS. SMITH:
5 A. I can't remember the exact date, Mr. Coffey.
6 I'm sure that's in the minutes there
7 somewhere.
8 COFFEY, Q.C.:
9 Q. Yes.
10 MS. SMITH:
11 A. But it took a while. Eventually it went to
12 the breast site disease group.
13 COFFEY, Q.C.:
14 Q. Yes.
15 MS. SMITH:
16 A. That's what I should have said, sorry,
17 eventually it went there, but it was back and
18 forth trying to get formatted and -
19 COFFEY, Q.C.:
20 Q. And I appreciate that. Eventually when there
21 was--the Commissioner has seen the actual
22 document.
23 MS. SMITH:
24 A. Yes.
25 COFFEY, Q.C.:

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1 Q. Which was in the spring of 2006 when the
2 breast site disease group, I believe, was
3 formed formally, and it went back and forth,
4 the pamphlet did, and formatting?
5 MS. SMITH:
6 A. We tried to make this a more readable pamphlet
7 because, you know, the readability issue with
8 a lot of patient information material is a bit
9 of a challenge. We tried to make it as reader
10 friendly as we could, explain the information.
11 COFFEY, Q.C.:
12 Q. Reader friendly in terms of reformatting or
13 changing the language?
14 MS. SMITH:
15 A. Changing some of the words around to be
16 smaller words.
17 COFFEY, Q.C.:
18 Q. Okay. On that point -
19 MS. SMITH:
20 A. Without changing the intent.
21 COFFEY, Q.C.:
22 Q. Why did it take as long as it did to do that?
23 MS. SMITH:
24 A. Well, I guess people have many, many jobs to
25 do, and this was just one of them that people

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1 were working on, along with other projects.
2 COFFEY, Q.C.:
3 Q. Prior to this pamphlet in its final form being
4 made available--do you recall when that would
5 have been?
6 MS. SMITH:
7 A. I don't remember the date.
8 COFFEY, Q.C.:
9 Q. Any idea?
10 MS. SMITH:
11 A. It took a long time, I know that much. It
12 took a long time to get agreement in terms of
13 the content as well as some of the
14 readability.
15 COFFEY, Q.C.:
16 Q. Agreement by whom?
17 MS. SMITH:
18 A. By everyone involved; pathologists,
19 oncologists, nurses, all of us on that breast
20 site disease group.
21 COFFEY, Q.C.:
22 Q. And I take it you would be able to determine,
23 it would be able to be determined when this
24 first became available for distribution to
25 patients? That could be done, presumably -

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1 MS. SMITH:
2 A. Yes, well, we agreed that it would be part of
3 the--there's patient information materials
4 that are distributed at time of diagnosis.
5 They're called --I'm struggling with the words
6 here, my tongue is tangled up, the Purple
7 Lupin Kit.
8 COFFEY, Q.C.:
9 Q. Yes.
10 MS. SMITH:
11 A. And we felt that was the best place to have
12 these pamphlets available.
13 COFFEY, Q.C.:
14 Q. Dr. Carter mentioned that.
15 MS. SMITH:
16 A. Yes.
17 COFFEY, Q.C.:
18 Q. But you'd be able to or somebody in your staff
19 today or tomorrow, whatever, or the next day,
20 would be able to determine when that was, the
21 actual date finally it got--it was available
22 for distribution?
23 MS. SMITH:
24 A. Yes.
25 COFFEY, Q.C.:

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1 Q. You think so.
2 MS. SMITH:
3 A. Yeah.
4 COFFEY, Q.C.:
5 Q. If you could do that, please, and pass that on
6 to Mr. Simmons. He could pass it on to
7 ourselves.
8 MS. SMITH:
9 A. I will, and I hope someone will remind me.
10 COFFEY, Q.C.:
11 Q. Mr. Simmons is good about that.
12 THE COMMISSIONER:
13 Q. Mr. Simmons is good at taking notes.
14 COFFEY, Q.C.:
15 Q. He's really good at it.
16 MS. SMITH:
17 A. I kind of know that.
18 COFFEY, Q.C.:
19 Q. Before this pamphlet was made available for
20 distribution, was there anything written that
21 you know about now that was distributed to
22 patients in relation to ER/PR at the clinic?
23 MS. SMITH:
24 A. There might have been information. We use a
25 lot of material that's already printed. We

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1 don't print it in-house. We get material from
2 the Canadian Cancer Society, we get material
3 from the Breast Cancer Foundation. There's
4 many, many organizations there that create
5 very good information for people and we use
6 those commercially available materials, and
7 there may be something in that, but there
8 certainly was nothing developed in-house.
9 COFFEY, Q.C.:
10 Q. And you'll see here on page three in the
11 second paragraph, there is a reference to ER
12 and PR?
13 MS. SMITH:
14 A. Yes.
15 COFFEY, Q.C.:
16 Q. See that?
17 MS. SMITH:
18 A. Yes.
19 COFFEY, Q.C.:
20 Q. So now looking back on it, you're not able to
21 tell the Commissioner, look, as of a
22 particular point in time I know--I, Sharon,
23 know that there was a pamphlet or pamphlets
24 that dealt with ER/PR, explaining what it was
25 in terms that patients could understand

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1 generally, distributed by the clinic? What
2 I'm getting at is this, you knew, everybody
3 knew that this was a problem, '05 people,
4 social workers are talking about it, staff are
5 talking about it in November of '05. Was any
6 thought given to providing something in
7 writing at the front end to address the issue?
8 MS. SMITH:
9 A. Well, I can certainly tell you that there are
10 patient information pamphlets available around
11 treatment. So if a person was given Tamoxifen
12 or aromatase inhibitor, they would be given a
13 little in-house pamphlet on the drug and how
14 that drug works and what are the side effects,
15 and certainly with Tamoxifen, it would be
16 talking about the estrogen and progesterone
17 receptors. There is nothing from a pathology
18 perspective that comes to mind, but in some of
19 these other materials there would be
20 references to that type of information, Mr.
21 Coffey.
22 COFFEY, Q.C.:
23 Q. Was any thought given to creating something in
24 writing for the patients, like, that would be
25 available for distribution in relation to this

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1 problem from time to time? Like, if it had to
2 be updated, fine, you know, as you became
3 aware of more, but was any thought given to
4 creating something in writing that could be
5 distributed to the patients going to the
6 Cancer Clinic from day to day, explaining to
7 them the ER/PR problem?
8 MS. SMITH:
9 A. We did develop an ER/PR question and answer
10 sheet later on in the process.
11 COFFEY, Q.C.:
12 Q. Do you recall when that was?
13 MS. SMITH:
14 A. It would have been--I think there might have
15 been a few drafts that were developed, but I
16 know once we establish the 1-800 line this
17 winter through my office, and I know I'm kind
18 of jumping ahead a little bit -
19 COFFEY, Q.C.:
20 Q. No, no, if it is this winter, then it is.
21 MS. SMITH:
22 A. I know that final form that I have seen, and I
23 know Dr. Laing and Dr. McCarthy had input in,
24 that form was developed and I know I had that
25 available to me in February.

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1 COFFEY, Q.C.:
2 Q. Of 2008?
3 MS. SMITH:
4 A. Yes.
5 COFFEY, Q.C.:
6 Q. So prior to that, as far as you know, there
7 was no written document provided to patients?
8 MS. SMITH:
9 A. There was nothing that was given to me.
10 COFFEY, Q.C.:
11 Q. And I'm going to suggest to you if it was
12 being distributed in the Cancer Clinic that
13 you're responsible for -
14 MS. SMITH:
15 A. Yes.
16 COFFEY, Q.C.:
17 Q. It would have been brought to your attention.
18 MS. SMITH:
19 A. Yes.
20 COFFEY, Q.C.:
21 Q. You would think.
22 MS. SMITH:
23 A. Yes, I would think.
24 COFFEY, Q.C.:
25 Q. If we could, please--actually, if we could

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1 bring up, please, P-2584, 2584, thank you. I
2 want to apologize to you, Ms. Smith, because
3 when I looked at the date of this, I was
4 looking at it as '07, thinking it was an '06
5 conference, but, in fact, this is your
6 presentation locally in '06?
7 MS. SMITH:
8 A. Yes.
9 COFFEY, Q.C.:
10 Q. Right, and let me see. You're there.
11 MS. SMITH:
12 A. I'm there.
13 COFFEY, Q.C.:
14 Q. "Reducing cancer risk through lifestyle
15 changes". In fact, you're reporting on here,
16 as are others, on the San Antonio Conference
17 that you had attended in December of '05?
18 MS. SMITH:
19 A. That's right.
20 COFFEY, Q.C.:
21 Q. This is, in fact, the current one, such as it
22 was, and you're telling the Commissioner there
23 would be another such document somewhere for
24 the following year?
25 MS. SMITH:

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1 A. Actually, we didn't--the problem with the San
2 Antonio Symposium, it's held late in December,
3 and the two years after this one, it was held
4 very late in December and prohibited from
5 people from attending. So this one was--
6 there's representatives from Eastern Health,
7 Cancer Care Program, Pathology, Surgery, as
8 well Pharmacy went. To this one, and
9 unfortunately we haven't been able to attend
10 since--we do get the summary of the
11 presentations, but we haven't been able to go
12 in person.
13 COFFEY, Q.C.:
14 Q. And if we could look at 2584.
15 REGISTRAR:
16 Q. This is 2584.
17 COFFEY, Q.C.:
18 Q. I apologize, at page 30, I apologize. Just
19 again this is referencing--that's that Purple
20 Lupin Kit?
21 MS. SMITH:
22 A. Purple Lupin, yes.
23 COFFEY, Q.C.:
24 Q. That's the one you're--that's the kit you're
25 referring to. The page before indicates this

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1 is January 9th, 2007, breast cancer site group
2 guideline development, and on that, Ms.
3 Ledwell was reporting, and they talk about
4 regarding dissemination of the patient
5 information kit. So it would have been around
6 that time, I take it, that -
7 MS. SMITH:
8 A. Yes.
9 COFFEY, Q.C.:
10 Q. And we can figure it out by looking through
11 the notes/minutes.
12 MS. SMITH:
13 A. Uh-hm.
14 COFFEY, Q.C.:
15 Q. Ms. Smith, could you tell the Commissioner
16 then after January ended in 2006, your
17 involvement in ER/PR, your recollection of
18 what happened then?
19 MS. SMITH:
20 A. In the ER/PR?
21 COFFEY, Q.C.:
22 Q. Yes.
23 MS. SMITH:
24 A. Well, my involvement over the next while was
25 as a support basically to--from the Cancer

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1 Care Program. If there was issues around
2 patients who had questions, I would be there
3 to facilitate connection of the patient to the
4 appropriate oncologist. There were many
5 people who were no longer being followed
6 within the Cancer Care Program, who were
7 affected by ER/PR testing.
8 COFFEY, Q.C.:
9 Q. Uh-hm.
10 MS. SMITH:
11 A. I fielded a number of calls from people about
12 various concerns. I do every day get calls
13 from people who have concerns about various
14 components of care. I continued to do that.
15 Some of it was ER/PR related, some of it was
16 not. I guess I can jump right on up until the
17 late fall really is when I became the most
18 involved, for want of a better word.
19 COFFEY, Q.C.:
20 Q. That would be the fall of 2000 and -
21 MS. SMITH:
22 A. Seven.
23 COFFEY, Q.C.:
24 Q. Seven?
25 MS. SMITH:

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1 A. Yes.
2 COFFEY, Q.C.:
3 Q. So '06, just so we're -
4 MS. SMITH:
5 A. Oh, sorry, I'm jumping ahead.
6 COFFEY, Q.C.:
7 Q. No, no, in terms of asking you about '06, '06
8 was when the media briefing occurred.
9 MS. SMITH:
10 A. Right.
11 COFFEY, Q.C.:
12 Q. You recall that.
13 MS. SMITH:
14 A. Okay, yes.
15 COFFEY, Q.C.:
16 Q. We've heard a lot about it. Were you involved
17 at all in the preparation for that?
18 MS. SMITH:
19 A. So when the media briefing was going to be
20 held, I attended a meeting, along with a
21 number of other individuals, and I wasn't
22 involved in the media briefing, but I was
23 present when the discussion took place about
24 the media briefing and what would happen.
25 COFFEY, Q.C.:

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1 Q. Who was at the meeting, do you recall?
2 MS. SMITH:
3 A. Mr. Tilley was there, Dr. Laing, Dr. Cook, and
4 there was a number of people, Patricia
5 Pilgrim, Stephen Dodge, Susan Bonnell, etc.
6 COFFEY, Q.C.:
7 Q. And they discussed, I take it amongst other
8 things, presumably who would actually be at
9 the meeting in the sense of who would do the
10 briefing?
11 MS. SMITH:
12 A. Yes.
13 COFFEY, Q.C.:
14 Q. How about did they discuss what was going to
15 be said, what could or couldn't be said?
16 MS. SMITH:
17 A. There was discussion around what information
18 to give, yes.
19 COFFEY, Q.C.:
20 Q. And what do you recall about that?
21 MS. SMITH:
22 A. There was a great deal of discussion around
23 what kind of information we could give about
24 the treatment changes and result changes, and
25 that was an area of great discussion. It

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1 still is.
2 COFFEY, Q.C.:
3 Q. In relation to, for example, the numbers -
4 MS. SMITH:
5 A. Yes.
6 COFFEY, Q.C.:
7 Q. How many changed results there were -
8 MS. SMITH:
9 A. Yes.
10 COFFEY, Q.C.:
11 Q. I take it that there were some who were saying
12 or advocating we can't give the number, would
13 I be correct on that?
14 MS. SMITH:
15 A. It was a challenge to get that number, yes.
16 COFFEY, Q.C.:
17 Q. And there were some saying--were there some
18 then saying we should give out the number?
19 MS. SMITH:
20 A. There were, yes.
21 COFFEY, Q.C.:
22 Q. Who do you recall was in that camp, the camp
23 of giving out the numbers, all of the numbers?
24 MS. SMITH:
25 A. The giving of the numbers, all of the numbers,

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1 I can recall that Ms. Bonnell was in favour of
2 giving out all the numbers.
3 COFFEY, Q.C.:
4 Q. Did she explain the rationale?
5 MS. SMITH:
6 A. More or less just to let people know what
7 happened.
8 COFFEY, Q.C.:
9 Q. Did anyone talk about or discuss any downside
10 in not giving out all the numbers?
11 MS. SMITH:
12 A. I think it was more or less to try--I mean, we
13 all recognized that everyone who had an ER/PR
14 test was impacted by this process, but it was
15 trying to quantify the impact that it had, and
16 so when one looked at it, one side of the coin
17 was to say, well, of all those people that
18 were retested and results changed, who had a
19 treatment change because there were people
20 whose results changed from a certain
21 percentage to another percentage. Some of
22 that was because the threshold for treatment
23 had changed over the years and you've all--
24 you've heard that, 30 percent versus the 10
25 percent, and some people were considered by

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1 oncologists if they're PR positive to be
2 positive and were on the appropriate
3 treatment, when the results came back, they
4 were ER positive, so that was a result change,
5 but not a treatment change, and it was--it was
6 just trying to make some sense out of a very
7 complicated matter.
8 COFFEY, Q.C.:
9 Q. Now did you understand that it had all been
10 made sense of, in fact, in a briefing--
11 information for a briefing note that had gone
12 to the Department of Health in August of 2006,
13 all those numbers were in a briefing note that
14 ended up in the Premier's Office?
15 MS. SMITH:
16 A. I wasn't aware of the briefing note.
17 COFFEY, Q.C.:
18 Q. You weren't aware of that?
19 MS. SMITH:
20 A. I am now, but -
21 COFFEY, Q.C.:
22 Q. But were you aware that all those numbers had
23 been spelled out and categorized in the summer
24 of '06?
25 MS. SMITH:

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1 A. I don't think I was at that time.
2 COFFEY, Q.C.:
3 Q. Okay, I'm trying to get some sense for the
4 Commissioner at this meeting that you're
5 attending, and people are talking about how
6 difficult it is about the numbers. Did
7 anybody make you aware that we've done all the
8 numbers, we've got them, we got categories,
9 we've got numbers; in fact, we've got them on
10 a sheet of paper that's a half a page long
11 that's going to the Minister of Health?
12 MS. SMITH:
13 A. And Susan may have said that. I don't--I
14 don't really remember.
15 COFFEY, Q.C.:
16 Q. So the idea that the numbers could be
17 calculated and categorized, you were aware of
18 that at the meeting, the idea, like, number of
19 treatment changes, number of changed results?
20 MS. SMITH:
21 A. I knew that we could get that information,
22 yes.
23 COFFEY, Q.C.:
24 Q. Oh, yes.
25 MS. SMITH:

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1 A. Yes.
2 COFFEY, Q.C.:
3 Q. So who if anyone was in the camp--you said Ms.
4 Bonnell. Was there anyone else in the camp of
5 give out the numbers, all of them?
6 MS. SMITH:
7 A. I don't remember.
8 COFFEY, Q.C.:
9 Q. So -
10 MS. SMITH:
11 A. I really don't remember.
12 COFFEY, Q.C.:
13 Q. So Ms. Bonnell may have been lonely in that -
14 MS. SMITH:
15 A. I don't know if Ms. Bonnell was lonely or not,
16 but I know I can remember Ms. Bonnell's
17 comments, but I don't remember other people.
18 COFFEY, Q.C.:
19 Q. And she was--was she a strong advocate to give
20 out all the numbers?
21 MS. SMITH:
22 A. She was.
23 COFFEY, Q.C.:
24 Q. And I take it that she was in the minority,
25 though?

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1 MS. SMITH:
2 A. Yes.
3 COFFEY, Q.C.:
4 Q. The senior management was -
5 MS. SMITH:
6 A. When you refer to senior management -
7 COFFEY, Q.C.:
8 Q. Well, the CEO, the VPs -
9 MS. SMITH:
10 A. Yes.
11 COFFEY, Q.C.:
12 Q. The COOs, that kind of people, they were all
13 in the other camp?
14 MS. SMITH:
15 A. They were more in--I think some people were
16 there to listen, and some people were in that
17 camp of, well, let's talk about the people who
18 are most impacted by this issue.
19 COFFEY, Q.C.:
20 Q. Was there any vote on it?
21 MS. SMITH:
22 A. I don't recall a vote.
23 COFFEY, Q.C.:
24 Q. Like, how did -
25 MS. SMITH:

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1 A. I think it was more of consensus.
2 COFFEY, Q.C.:
3 Q. Okay.
4 MS. SMITH:
5 A. I know, and my view of it is we deal
6 oftentimes with ranges and results. All my
7 life as a nurse I have dealt with ranges of
8 results, ranges of haemoglobin, blood sugars,
9 etc, but when certain thresholds are met,
10 that's when the treatment change is made, and
11 to me that's the most significant event. Now
12 looking back, sure, we should have in
13 hindsight given it all out.
14 COFFEY, Q.C.:
15 Q. Did anyone articulate what the downside would
16 be of not telling the media all the numbers?
17 I asked you that before. I'm just asking now
18 again. Did anyone say, look, this could cause
19 a problem because it's going to be perceived
20 that we're hiding something?
21 MS. SMITH:
22 A. Ms. Bonnell did say that, yes.
23 COFFEY, Q.C.:
24 Q. She did, she said that, okay, she spelled that
25 right out?

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1 MS. SMITH:
2 A. Yes.
3 COFFEY, Q.C.:
4 Q. Was there any response to that in terms of,
5 well, how are we going to handle this?
6 MS. SMITH:
7 A. There was a lot of discussion at that table
8 that evening, and I don't recall the exact
9 responses to it, but there was many people
10 with many opinions.
11 COFFEY, Q.C.:
12 Q. What Ms. Bonnell's response then, I'm going to
13 suggest to you, in fact, predicted exactly
14 what eventually happened?
15 MS. SMITH:
16 A. She was right on.
17 COFFEY, Q.C.:
18 Q. And at the time, do you recall any rational
19 reason given as to why she wouldn't have been
20 right, did anyone say to her at the time,
21 Susan, you're wrong, for the following
22 reasons?
23 MS. SMITH:
24 A. No, I don't think anyone said Susan, you're
25 wrong. I don't -

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1 COFFEY, Q.C.:
2 Q. Or anything like that in terms of that?
3 MS. SMITH:
4 A. I don't think so.
5 COFFEY, Q.C.:
6 Q. How about the reasons for the change, change
7 in results, anybody talk about whether we're
8 going to give those out?
9 MS. SMITH:
10 A. The reasons -
11 COFFEY, Q.C.:
12 Q. The reasons -
13 MS. SMITH:
14 A. For the change?
15 COFFEY, Q.C.:
16 Q. Yes.
17 MS. SMITH:
18 A. In terms of--I'm sorry, Mr. Coffey, but I
19 really don't understand your question.
20 COFFEY, Q.C.:
21 Q. Okay, did you have any understanding when you
22 went to the meeting as to why the problem had
23 occurred?
24 MS. SMITH:
25 A. Okay. So in terms of identifying what the

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1 whole ER/PR issue, what had led to that?
2 COFFEY, Q.C.:
3 Q. Yes.
4 MS. SMITH:
5 A. To my mind, there was many, many issues that
6 were leading to it.
7 COFFEY, Q.C.:
8 Q. And you had gotten that information from whom?
9 MS. SMITH:
10 A. Just from listening to different people, from
11 reading about it, from my own -
12 COFFEY, Q.C.:
13 Q. And you understood what?
14 MS. SMITH:
15 A. I understood it was a complicated process.
16 COFFEY, Q.C.:
17 Q. Okay.
18 MS. SMITH:
19 A. That the whole process started in the
20 operating room when the tissue was secured,
21 and that many things could impact on the
22 tissue before it actually got to the stage
23 where it could be read.
24 COFFEY, Q.C.:
25 Q. Did you understand anything else about it?

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1 MS. SMITH:
2 A. In terms of?
3 COFFEY, Q.C.:
4 Q. That it was complicated, other than it was
5 complicated?
6 MS. SMITH:
7 A. I knew it was complicated, I knew that it was
8 a matter of interpretation, I knew that it
9 certainly could depend on which piece of a
10 specimen was looked at under the microscope.
11 COFFEY, Q.C.:
12 Q. Did anyone tell you that it could involve
13 issues involving lack of attention to detail
14 in the lab, for example, calibration issues?
15 MS. SMITH:
16 A. I would consider that to be part of it.
17 COFFEY, Q.C.:
18 Q. Okay.
19 MS. SMITH:
20 A. I don't think people told me that. I think I
21 would have just -
22 COFFEY, Q.C.:
23 Q. You had surmised that?
24 MS. SMITH:
25 A. Surmised it.

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1 COFFEY, Q.C.:
2 Q. What about things like absence of internal
3 controls in the tissue, internal controls not
4 staining?
5 MS. SMITH:
6 A. I don't recall anything specifically told to
7 me about that.
8 COFFEY, Q.C.:
9 Q. Did you know about that?
10 MS. SMITH:
11 A. Internal controls?
12 COFFEY, Q.C.:
13 Q. Yes.
14 MS. SMITH:
15 A. No, no.
16 COFFEY, Q.C.:
17 Q. You now know--you would have seen or read
18 about Dr. Banerjee's report and Trish
19 Wegrynowski's report?
20 MS. SMITH:
21 A. I've heard about it since this Commission.
22 COFFEY, Q.C.:
23 Q. Was that information new to you when you heard
24 it?
25 MS. SMITH:

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1 A. I did not know what was contained in those
2 reports.
3 COFFEY, Q.C.:
4 Q. So, therefore, it was new to you?
5 MS. SMITH:
6 A. Yes.
7 COFFEY, Q.C.:
8 Q. So at this meeting then in terms of what we
9 can and can't tell the public about the cause
10 or causes -
11 MS. SMITH:
12 A. Uh-hm.
13 COFFEY, Q.C.:
14 Q. Did anyone say we don't know the causes?
15 MS. SMITH:
16 A. I don't think that was said. It was more that
17 there are many factors in this process.
18 COFFEY, Q.C.:
19 Q. Was there any discussion about whether we
20 should or shouldn't tell those causes to the
21 public?
22 MS. SMITH:
23 A. I don't think so. I can't remember.
24 COFFEY, Q.C.:
25 Q. Was the matter of it being the subject of a

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1 class action lawsuit brought up?
2 MS. SMITH:
3 A. That certainly was brought up, yes.
4 COFFEY, Q.C.:
5 Q. And what was said?
6 MS. SMITH:
7 A. Basically, that this issue is compounded
8 because not only did we have an adverse event,
9 but we had a class action lawsuit that was
10 also to be dealt with.
11 COFFEY, Q.C.:
12 Q. And what was your understanding of the
13 relevance of that to the decision as to what
14 the public should be told?
15 MS. SMITH:
16 A. Well, any time you're involved in a lawsuit,
17 you certainly would be divulging facts; facts
18 are facts, opinions certainly could be a topic
19 of concern.
20 COFFEY, Q.C.:
21 Q. And did you know if there were any facts known
22 about the causes? Did anyone say, well, what
23 do we know about the facts and why don't we
24 tell the public the facts?
25 MS. SMITH:

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1 A. There was no--I don't recall a conscious
2 discussion around let's talk about the facts,
3 let's talk about the opinions. I don't recall
4 that.
5 COFFEY, Q.C.:
6 Q. Did anyone discuss the possible downside of
7 refusing to tell the media what was known
8 about the causes?
9 MS. SMITH:
10 A. I don't think so. I don't remember that,
11 sorry.
12 COFFEY, Q.C.:
13 Q. And what was the concern then about giving all
14 the numbers?
15 MS. SMITH:
16 A. All of the numbers in terms of?
17 COFFEY, Q.C.:
18 Q. Well, the numbers out to the media that were
19 known at the time?
20 MS. SMITH:
21 A. Now that I sit here and I'm looking back on
22 it, I mean, to me thinking--hindsight is
23 always 20/20, and I can't hardly remember what
24 the downside was, to be honest.
25 COFFEY, Q.C.:

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1 Q. Now I'm going to suggest to you looking back
2 on it, it's almost nonsensical?
3 MS. SMITH:
4 A. Well, we certainly--our decision, I think,
5 would be very different.
6 COFFEY, Q.C.:
7 Q. At the time, did anyone make you aware that,
8 or did you become aware that, look, a lot of
9 this factual information numbers, numbers
10 factual information was, in fact, going to get
11 into an affidavit that was going to be filed
12 in the Supreme Court Registry here?
13 MS. SMITH:
14 A. I don't think at that meeting that came up.
15 COFFEY, Q.C.:
16 Q. Oh, it didn't come up.
17 MS. SMITH:
18 A. I don't think. I'm not 100 percent sure.
19 COFFEY, Q.C.:
20 Q. When did you first learn that that had
21 happened?
22 MS. SMITH:
23 A. The affidavit?
24 COFFEY, Q.C.:
25 Q. Or being planned and it was being done?

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1 MS. SMITH:
2 A. I didn't have a lot to do with that class
3 action, the pieces around the class action
4 lawsuit, Mr. Coffey.
5 COFFEY, Q.C.:
6 Q. But when did you first hear about the fact,
7 "look, they filed an affidavit. All the
8 numbers are in it" or "they're going to file
9 an affidavit. All the numbers are in it"?
10 MS. SMITH:
11 A. I don't think I heard it before the affidavit
12 was filed.
13 COFFEY, Q.C.:
14 Q. Okay. Did you know about the affidavit being
15 filed before May 15th, 2007?
16 MS. SMITH:
17 A. Did I know it had been filed?
18 COFFEY, Q.C.:
19 Q. Yes.
20 MS. SMITH:
21 A. I can remember there was discussion about an
22 affidavit that had to be filed, but I was on
23 the periphery. It was not something that -
24 COFFEY, Q.C.:
25 Q. That involved Ms. Predham, the discussion?

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1 MS. SMITH:
2 A. I'm not really sure, and I don't know now if
3 I'm remembering this because I heard it since
4 or if I knew it then.
5 COFFEY, Q.C.:
6 Q. Okay. The media briefing then came and went.
7 Were you--did you realize after the media
8 briefing, and I take it you would have
9 followed somewhat the media coverage
10 afterward? That would be necessary for your
11 job as the director.
12 MS. SMITH:
13 A. Um-hm.
14 COFFEY, Q.C.:
15 Q. Were you aware then, in December 2006, that
16 there was still concerns being expressed in
17 the public about Eastern Health having refused
18 to give out all the numbers?
19 MS. SMITH:
20 A. I did follow the media, yes, and I did hear
21 that.
22 COFFEY, Q.C.:
23 Q. And you knew that?
24 MS. SMITH:
25 A. Yes.

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1 COFFEY, Q.C.:
2 Q. Were you aware that there was expressions of
3 concern about Eastern Health's failure to talk
4 about the causes?
5 MS. SMITH:
6 A. I guess so.
7 COFFEY, Q.C.:
8 Q. Did you have any discussion with anyone about
9 "well, what does that mean for our patients
10 and how they feel about this?" because the
11 patients are still coming through your door on
12 December 12th, 13th, 14th and so on. So in
13 terms of them, their--in the media it
14 suggested that at least some are not happy.
15 MS. SMITH:
16 A. Um-hm.
17 COFFEY, Q.C.:
18 Q. And Mr. Dawe is not happy, and he's saying
19 this publicly, and he's articulating why. I'm
20 asking you, as the director at the time, and
21 you'd been in your job more than a year, did
22 you take it up with anyone about "well, what
23 am I going to do with these patients and their
24 expressions of concern if it arises in the
25 clinic?"

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1 MS. SMITH:
2 A. I didn't take it up with anyone. We just
3 dealt with their concerns as they came
4 forward.
5 COFFEY, Q.C.:
6 Q. And dealt with them, I take it if somebody
7 asked about the causes, they were told what?
8 MS. SMITH:
9 A. That it was a very complicated process, that
10 there was investigations happening within the
11 lab to identify what those problems were, that
12 we were working closely with our pathology
13 colleagues to try to resolve issues.
14 COFFEY, Q.C.:
15 Q. And does that really answer what the causes
16 were?
17 MS. SMITH:
18 A. It might not be a very good one, but that was
19 the answer that was given.
20 COFFEY, Q.C.:
21 Q. Okay, that was the answer that was given. And
22 it was known, I take it--was it known by
23 senior management in Eastern Health that that
24 was the answer that was being given in the
25 clinic?

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1 MS. SMITH:
2 A. I think that from -
3 COFFEY, Q.C.:
4 Q. Do you think that Ms. Pilgrim and company knew
5 that that's the sort of answer that was being
6 given?
7 MS. SMITH:
8 A. Well, if I had issues, I would have brought
9 them forward to Ms. Pilgrim. So if people
10 asked me particular about what were the
11 causes, I was able to tell them as much as I
12 knew and that was it.
13 COFFEY, Q.C.:
14 Q. And bearing in mind what you know now, I'm
15 going to suggest to you you didn't know a lot
16 at the time, did you?
17 MS. SMITH:
18 A. No. Some days I don't think I know a lot now.
19 COFFEY, Q.C.:
20 Q. Okay. How about the numbers issue?
21 MS. SMITH:
22 A. The numbers?
23 COFFEY, Q.C.:
24 Q. Because people were still complaining publicly
25 about the failure to provide numbers, in terms

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1 of total number of changed results. Did you
2 ask the management about that and how did the
3 Cancer Clinic respond to queries about that?
4 MS. SMITH:
5 A. We weren't--were we asked about numbers? Is
6 that what you're asking me?
7 COFFEY, Q.C.:
8 Q. Do you know if any patients ever asked well,
9 how many -
10 MS. SMITH:
11 A. I was never asked that question by a patient
12 or a family member.
13 THE COMMISSIONER:
14 Q. Mr. Coffey, wherever you can find a spot,
15 we'll take the afternoon break.
16 COFFEY, Q.C.:
17 Q. Yes, thank you, Commissioner. This is a good
18 time actually.
19 THE COMMISSIONER:
20 Q. Thank you, afternoon break.
21 (BREAK)
22 THE COMMISSIONER:
23 Q. Please be seated. Mr. Coffey?
24 COFFEY, Q.C.:
25 Q. Thank you, Commissioner. Ms. Smith, we'd

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1 gotten as far as the media, December 2006 -
2 MS. SMITH:
3 A. Yes.
4 COFFEY, Q.C.:
5 Q. - briefing. In terms of your involvement then
6 in this matter, in terms of ER/PR, what, if
7 anything, do you next recall about your
8 involvement?
9 MS. SMITH:
10 A. So over the next number of months, I mean,
11 there's many, many things happening within the
12 Cancer Centre.
13 COFFEY, Q.C.:
14 Q. Sure.
15 MS. SMITH:
16 A. We were constructing bunkers to house two new
17 treatment units for radiation therapy. We
18 were doing many, many, many things and you
19 know, dealing with people who called for
20 retesting results, for information, was one
21 other part of it. One of the bigger concerns,
22 I guess, that I can--I was next involved in,
23 had a major amount of my time, was around
24 discussion of results that would be released
25 to the relatives of deceased people, and those

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1 discussions happened in the late fall of 2007.
2 COFFEY, Q.C.:
3 Q. And how is it that you got involved?
4 MS. SMITH:
5 A. I knew that there had been some discussion
6 around this issue, and I had been at a couple
7 of meetings and whatnot where this had come
8 up, and I was asked to attend a meeting with
9 Patricia Pilgrim and Heather Predham to
10 discuss a process around how we might go
11 forward to do this. We had initially hoped
12 that we would be able to have an oncologist
13 help us with this matter, but we quickly
14 realized that we don't have the resources
15 within our own province to help deal with that
16 because there potentially could be a number of
17 calls. So there was a number of scenarios
18 suggested, and initially it was thought that
19 maybe some of the calls for the results could
20 go to the quality department and some could
21 come to the Cancer Centre, and it was more or
22 less those whose results changed would come to
23 the Cancer Centre. Those whose results didn't
24 change would go to the Quality Department.
25 But that became a bit of a logistical problem.

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1 It would be like if you passed your exam, you
2 getting a registered letter, and if you
3 failed, you won't type thing.
4 COFFEY, Q.C.:
5 Q. Yes.
6 MS. SMITH:
7 A. So that was a bit of a challenge for us all.
8 So we had a number of scenarios put forth and
9 the one we eventually agreed upon was that the
10 1-800 number would be established, that there
11 would be public service announcements to
12 announce that these results were available,
13 that a 1-800 number would be established
14 within my office. When it came to finding a
15 resource to actually answer that line, that
16 was a bigger challenge again, and so it was
17 decided--I agreed that I would try to fulfil
18 that role, and so we established a 1-800 line
19 in my office. We established a couple of
20 public service announcements and some avenues
21 of which to let people know if they wanted
22 their information, they could call this number
23 and it would be given to them, and so that
24 process began.
25 COFFEY, Q.C.:

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1 Q. And when was that?
2 MS. SMITH:
3 A. That was in February of this year.
4 COFFEY, Q.C.:
5 Q. Of 2008?
6 MS. SMITH:
7 A. Yes, yes.
8 COFFEY, Q.C.:
9 Q. And I take it if you'd get a phone call from a
10 deceased, a relative of a deceased, in
11 handling it, you'd make sure, well, first of
12 all, I'm dealing with the actual relative?
13 MS. SMITH:
14 A. So first of all, we--and we told people that
15 in order to get the information, we would be
16 questioning them in terms of their knowledge
17 of the individual they were calling about, and
18 so we would clarify who the individual was
19 they were calling and whether or not they were
20 the rightful person to get this information.
21 COFFEY, Q.C.:
22 Q. And upon your being so satisfied on the phone,
23 as it were, that you were dealing with the
24 right--a legitimate call, how then did you
25 handle it? For example, the results that had

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1 not changed, like they were--they remained
2 negative, how would you handle those?
3 MS. SMITH:
4 A. So I would, first of all, retrieve a chart--if
5 the person had been seen within the Cancer
6 Centre, I would try to retrieve their chart to
7 be able to determine what the results were
8 before, what the results were upon retest,
9 what medications that person was on, what
10 types of treatment they had had, so I was a
11 bit aware of the person's situation, and then
12 I would let the individual know, for example,
13 you know, your wife was diagnosed. This was
14 her ER/PR. I would explain a little bit about
15 what estrogen and progesterone receptors were,
16 because there's still a lot of confusion about
17 what that actually is. Is it a screening
18 test? Does it mean I have cancer? Those
19 types of thing. And then I would indicate
20 what the results, the retest results were, and
21 if the retest--I'm assuming you want me to
22 continue on.
23 COFFEY, Q.C.:
24 Q. Sure. Yes, if you would, please.
25 MS. SMITH:

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1 A. If the retest results had changed and the
2 individual had not received Tamoxifen and the
3 person who was calling needed more
4 information, I would get one of our
5 oncologists to follow up with another phone
6 call to that family.
7 COFFEY, Q.C.:
8 Q. So you would tell the person on the line, I
9 take it, that your, you know, your wife, your
10 sister, your mother -
11 MS. SMITH:
12 A. Yes.
13 COFFEY, Q.C.:
14 Q. - your daughter, for that matter.
15 MS. SMITH:
16 A. Sure.
17 COFFEY, Q.C.:
18 Q. And it would be, in the main, women.
19 MS. SMITH:
20 A. Yes.
21 COFFEY, Q.C.:
22 Q. Very few men.
23 MS. SMITH:
24 A. Yes.
25 COFFEY, Q.C.:

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1 Q. You would tell the person what the results had
2 been, what they were now and they had changed?
3 MS. SMITH:
4 A. If they had changed, yes.
5 COFFEY, Q.C.:
6 Q. If they had changed, and if so, would you
7 speak to them then about--or be able to tell
8 them, "look, yes, Tamoxifen, if the results--
9 the new results had been available back in
10 '02, it's likely that the Tamoxifen would have
11 been prescribed." Would you tell people that?
12 MS. SMITH:
13 A. I didn't tell them that.
14 COFFEY, Q.C.:
15 Q. Okay.
16 MS. SMITH:
17 A. I would arrange for one of the oncologists to
18 follow up with that.
19 COFFEY, Q.C.:
20 Q. I'm just trying to get some sense for the
21 Commissioner -
22 MS. SMITH:
23 A. Sure.
24 COFFEY, Q.C.:
25 Q. - then, a person calls. You've gone through

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1 it. You've said the results changed.
2 MS. SMITH:
3 A. If they changed, yes.
4 COFFEY, Q.C.:
5 Q. If they changed, and the new results are they
6 went from zero, zero, for example, or
7 negative, negative, to, I'll pick a number, 70
8 and 60.
9 MS. SMITH:
10 A. Okay.
11 COFFEY, Q.C.:
12 Q. How then would the conversation go from there?
13 MS. SMITH:
14 A. And so I would also say that, you know,
15 according to my records, I cannot find a
16 reference to this person having had Tamoxifen
17 or any kind of hormone treatment, and that if
18 the person had further questions about whether
19 or not that would have been a treatment
20 option, I offered to put them in touch with
21 the oncologist, and I didn't get many calls.
22 Actually, that hotline was established in my
23 office. We became inundated with telephone
24 calls, but the majority were not from
25 relatives of deceased patients, and so we had

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1 many, many issues to follow up because of that
2 phone line. So if the results had changed, I
3 did get one of the oncologists, and if it was
4 possible, I would get one of the oncologists
5 who, if they had been treating the individual,
6 to do the follow up. But there were some that
7 the treating oncologist was no longer on staff
8 within the Cancer Centre.
9 COFFEY, Q.C.:
10 Q. So in making--I take it would you take the
11 call live in the sense of as it was incoming,
12 the initial call, or would you -
13 MS. SMITH:
14 A. Some I did. Some, but I -
15 COFFEY, Q.C.:
16 Q. And you'd have to go get the chart and -
17 MS. SMITH:
18 A. Yes.
19 COFFEY, Q.C.:
20 Q. - try and figure it out?
21 MS. SMITH:
22 A. Yes.
23 COFFEY, Q.C.:
24 Q. On the phone.
25 MS. SMITH:

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1 A. Most people would call, I would verify the
2 information that I needed from them and I then
3 I would tell them I would call them back.
4 COFFEY, Q.C.:
5 Q. Yes, and you would -
6 MS. SMITH:
7 A. So I would collect the information I need and
8 sometimes, you know, of those people, the few
9 that did call that had a change in results, I
10 was able to talk to Dr. Laing, who is only
11 across the hall from me, to say "look, I
12 anticipate that this family member might need
13 some more information," and she would offer to
14 phone them.
15 COFFEY, Q.C.:
16 Q. So she might be the one actually making the
17 initial phone call?
18 MS. SMITH:
19 A. No, I tended to do that phone call and then I
20 would get a time that would be conducive for
21 her to call them back. Some people she did
22 call herself, yes.
23 COFFEY, Q.C.:
24 Q. So in relation then to dealing with this
25 matter, you, yourself, it was understood,

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1 would not talk to the patients' relatives
2 about the ramifications of the patient not
3 having received Tamoxifen?
4 MS. SMITH:
5 A. I didn't talk to them about that, no.
6 COFFEY, Q.C.:
7 Q. You wouldn't do that?
8 MS. SMITH:
9 A. That was not within my scope of practice.
10 COFFEY, Q.C.:
11 Q. Okay, and that's--I'll ask you about that. So
12 even in your case, from your perspective, that
13 would not be within your scope of practice and
14 therefore you would not get involved in that
15 conversation? That would be Dr. Laing or
16 whomever else?
17 MS. SMITH:
18 A. It's a treatment decision. I'm not able to
19 make treatment decisions. I might be
20 knowledgeable about the treatment, but I'm not
21 the one to make those decisions.
22 COFFEY, Q.C.:
23 Q. And was it understood then by the management
24 of Eastern Health that in making--in manning
25 the hotline, such as you were, in taking that

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1 role on, that in terms of this was going to be
2 your approach to the--I'm sorry, the phrase is
3 your range -
4 MS. SMITH:
5 A. Scope.
6 COFFEY, Q.C.:
7 Q. - scope, I apologize, scope of practice -
8 MS. SMITH:
9 A. Yes.
10 COFFEY, Q.C.:
11 Q. - Ms. Pilgrim would have understood -
12 MS. SMITH:
13 A. Yes.
14 COFFEY, Q.C.:
15 Q. - that "I, Sharon, will not be telling
16 patients' relatives whether they should or
17 shouldn't have had Tamoxifen or what the
18 effect might or might not have been"?
19 MS. SMITH:
20 A. That's right.
21 COFFEY, Q.C.:
22 Q. She understood that?
23 MS. SMITH:
24 A. Oh yes.
25 COFFEY, Q.C.:

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1 Q. And as it turns out, Ms. Smith, were there any
2 instances in taking such phone calls that
3 there was any discomfort about the fact, over
4 the fact that you could not go that extra step
5 or did the phone calls go fairly smoothly, in
6 the sense of you'd go so far and then say
7 "well, I'll have to get Dr. Laing or whomever
8 to call you back"?
9 MS. SMITH:
10 A. They went fairly smoothly. I think people
11 were understanding. I told them what my job
12 was and what my background was and that I was
13 not a physician.
14 COFFEY, Q.C.:
15 Q. Okay.
16 MS. SMITH:
17 A. And that I would give them as much information
18 as I could, and that I would help them get
19 further information if need be.
20 COFFEY, Q.C.:
21 Q. And did you, with respect to that, let them
22 know then that you couldn't discuss the
23 ramifications of not having had Tamoxifen
24 because it was outside your scope of practice?
25 Would you tell the relative?

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1 MS. SMITH:
2 A. If that -
3 COFFEY, Q.C.:
4 Q. As to why it was necessary for Dr. Laing to
5 call?
6 MS. SMITH:
7 A. I think they understood that quite -
8 COFFEY, Q.C.:
9 Q. Okay.
10 MS. SMITH:
11 A. I think they understood that. I think they
12 knew my limitations.
13 COFFEY, Q.C.:
14 Q. If we could, please, Exhibit C-0277, page 29?
15 Did you ever speak to any living patients?
16 MS. SMITH:
17 A. Oh yes, I spoke to many living patients.
18 COFFEY, Q.C.:
19 Q. Okay, and that's in relation to this, the
20 hotline issue?
21 MS. SMITH:
22 A. Yes.
23 COFFEY, Q.C.:
24 Q. Okay.
25 MS. SMITH:

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1 A. And I should just say that this hotline was
2 established in my office. It quickly became
3 an overwhelming task that I could not
4 maintain, and maintain my job as the director
5 of the Cancer Care Program, and so we -
6 COFFEY, Q.C.:
7 Q. I take it it gave you a new appreciation for
8 Ms. Parsons?
9 MS. SMITH:
10 A. I always appreciated Ms. Parsons.
11 COFFEY, Q.C.:
12 Q. But even a newer one still.
13 MS. SMITH:
14 A. Oh, certainly. It certainly did. But it was
15 an unmanageable situation that I could not
16 get--I just felt like I couldn't do anything
17 right. I couldn't get anything done well. So
18 we were able to get Janet Laidley from the
19 Quality Initiatives department to relocate to
20 the Cancer Centre and assist us with that
21 hotline.
22 COFFEY, Q.C.:
23 Q. Now if I could, please, perhaps it's better,
24 I'll go to -
25 REGISTRAR:

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1 Q. (Inaudible).
2 COFFEY, Q.C.:
3 Q. Okay, that's fine.
4 REGISTRAR:
5 Q. That's the same thing.
6 COFFEY, Q.C.:
7 Q. I know, appreciate that. Just a moment,
8 please, Commissioner. That exhibit, I'm not
9 going to pursue that right now. If I could,
10 please, Exhibit P-0731? And just before we
11 leave the topic though entirely, I would ask
12 you, can you make any estimate as to how many
13 relatives of deceased patients you ended up
14 dealing with?
15 MS. SMITH:
16 A. I'd say 12 to 14.
17 COFFEY, Q.C.:
18 Q. Okay.
19 MS. SMITH:
20 A. Something like that, and some of these people
21 might have been people who called--who I
22 called back on behalf of either Janet Laidley
23 or Nancy Parsons. So some of these people
24 might have been a follow-up phone call.
25 COFFEY, Q.C.:

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1 Q. Who had contacted QI before that?
2 MS. SMITH:
3 A. Or contacted Janet since.
4 COFFEY, Q.C.:
5 Q. Janet directly?
6 MS. SMITH:
7 A. Yes, yes.
8 COFFEY, Q.C.:
9 Q. What's the current situation in relation to
10 the hotline?
11 MS. SMITH:
12 A. The hotline now has still gone through to the
13 regular--I'm sure you've gleaned from now that
14 in order to have a process to deal with
15 concerns and patient feedback that we had
16 established a hotline back when I was a
17 director of the quality department and that
18 Ms. Nancy Parsons was assigned that role of
19 patient relations officer. So that function
20 is still remaining within the Quality
21 department, although Ms. Parsons has retired
22 and she'll never be replaced, but we
23 certainly--what we did with that phone line,
24 Janet Laidley was in our Cancer Centre for a
25 number of months. When the phone calls

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1 started to decrease, that line then was
2 transferred to the regular patient relations
3 line down at Quality. So even though someone
4 might call the 1-866 line that used to come
5 through to us, it will be rerouted down to
6 Quality.
7 COFFEY, Q.C.:
8 Q. So whose responsibility is it right now if a
9 relative of a deceased patient calls looking
10 for information?
11 MS. SMITH:
12 A. So some of those calls will go down there and
13 Janet Laidley will deal with them, or if Janet
14 is away, as she was last week, those calls
15 would come to me.
16 COFFEY, Q.C.:
17 Q. And is it your understanding that her approach
18 to responding to such inquiries has been and
19 is to be the same as the one you described to
20 the Commissioner?
21 MS. SMITH:
22 A. Yes.
23 COFFEY, Q.C.:
24 Q. In terms of she'll go so far. If the results
25 are showing, the retest results are negative,

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1 then patients are told that and referred on if
2 they need more information?
3 MS. SMITH:
4 A. And when Ms. Laidley was put in that position
5 initially, she was within the Cancer Centre,
6 and if a call came in that she didn't feel
7 comfortable to deal with, she would call me
8 and I would take that file.
9 COFFEY, Q.C.:
10 Q. Here, this is a letter of October 11th, 2007.
11 It's to a number of doctors care of the Cancer
12 Care Program. It's a Dear Physicians Court
13 ordered letter sent to patients and families,
14 August 17th, 2007 regarding ER/PR retesting.
15 It's from Ms. Crowley, the quality and risk
16 information coordinator. It's copied to a
17 number of individuals and you're there, number
18 three.
19 MS. SMITH:
20 A. Yes.
21 COFFEY, Q.C.:
22 Q. What can you tell the Commissioner about this
23 matter?
24 MS. SMITH:
25 A. I'm sure you're all aware that--I think it's

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1 been presented here before that there was a
2 Court ordered letter that was sent out in
3 2007, in August, and it went to people.
4 However, and while the letter was meant to
5 inform patients and families that they could
6 be part of a class action lawsuit, there were
7 some issues with the letter, and it caused
8 some stress from some of the patients who were
9 coming into the Cancer Centre. The letter
10 talked about a breast screening test. As we
11 all know, this is not a breast screening test.
12 And it caused some distress amongst the
13 oncologists within the Cancer Program.
14 COFFEY, Q.C.:
15 Q. And had you been aware that the letter was
16 going to be sent out or was being sent out?
17 MS. SMITH:
18 A. I knew there was a letter sent and -
19 COFFEY, Q.C.:
20 Q. Did you see the letter before it went into the
21 envelopes?
22 MS. SMITH:
23 A. No, I didn't, and I was informed that the
24 letter was--the content of the letter was as
25 per the Court decision and was not to be

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1 altered.
2 COFFEY, Q.C.:
3 Q. So you had understood that before though the
4 letter went into the envelopes?
5 MS. SMITH:
6 A. I didn't see the letter.
7 COFFEY, Q.C.:
8 Q. No, no, I appreciate that, but this
9 stipulation that we can't change it, we,
10 Eastern Health, can't change any part of it -
11 MS. SMITH:
12 A. I was told that we had to facilitate a mail-
13 out of a Court ordered letter and that the
14 letter itself was the subject of the class
15 action and as such, I don't know if anyone
16 told me or if I just took it for granted that
17 something ordered by the Court was not able to
18 be changed.
19 COFFEY, Q.C.:
20 Q. And then, so you understood that, the letter
21 went out and then you heard that the
22 oncologists were upset?
23 MS. SMITH:
24 A. Yes, I did.
25 COFFEY, Q.C.:

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1 Q. And from your perspective, as the Director of
2 the Cancer Care Program, how was that handled,
3 like the fact that the oncologists were upset?
4 MS. SMITH:
5 A. Well, they phoned me to express what was
6 happening.
7 COFFEY, Q.C.:
8 Q. Their displeasure.
9 MS. SMITH:
10 A. And wanted to tell me what was happening from
11 the patients who were coming into the Cancer
12 Centre, and how they were--the people with the
13 letter in hand were feeling, and I tried to
14 explain to them that the letter, as I
15 understood, was ordered by the Court and we
16 really were the mailer of the document. They
17 were upset enough to write a letter, which
18 they did.
19 COFFEY, Q.C.:
20 Q. And we've seen the letter.
21 MS. SMITH:
22 A. Yes.
23 COFFEY, Q.C.:
24 Q. Any other involvement, as the director?
25 MS. SMITH:

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1 A. In terms of the letter?
2 COFFEY, Q.C.:
3 Q. Yes, or responding to it. I mean, Ms. Crowley
4 responds here in her response of October 11th.
5 MS. SMITH:
6 A. Again, I just tried to reenforce why Ms.
7 Crowley had to do what she did.
8 COFFEY, Q.C.:
9 Q. And from your perspective, were they
10 understanding of that?
11 MS. SMITH:
12 A. I think they understood it, but it didn't make
13 it any easier, especially the fact that it
14 talked about a breast screening test, which
15 was not the correct terminology.
16 COFFEY, Q.C.:
17 Q. Now I did ask you about this hotline. How
18 about the patients outside St. John's, the
19 relatives of the deceased patients from
20 outside St. John's, were they also -
21 MS. SMITH:
22 A. There was a toll free number.
23 COFFEY, Q.C.:
24 Q. Toll free, this is a province wide hotline.
25 MS. SMITH:

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1 A. Yes, so the public service announcement was
2 made through a number of media outlets,
3 telephone--sorry, radio, newspaper, etcetera.
4 COFFEY, Q.C.:
5 Q. Okay, and I just wanted to clarify that. It
6 was a province wide initiative.
7 MS. SMITH:
8 A. Yes, it was.
9 COFFEY, Q.C.:
10 Q. And you understood that the other boards were
11 in agreement that you would respond in respect
12 of their patients?
13 MS. SMITH:
14 A. Yes.
15 COFFEY, Q.C.:
16 Q. Now the matter of the Cancer Registry has come
17 up here a number of times.
18 MS. SMITH:
19 A. Yes.
20 COFFEY, Q.C.:
21 Q. And I understand that you have some knowledge
22 about it.
23 MS. SMITH:
24 A. Yes, I do.
25 COFFEY, Q.C.:

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1 Q. And you've prepared or taken the trouble, and
2 I thank you for it, to prepare a slide
3 presentation.
4 MS. SMITH:
5 A. Yes.
6 COFFEY, Q.C.:
7 Q. To explain it to the Commissioner.
8 MS. SMITH:
9 A. Yes.
10 COFFEY, Q.C.:
11 Q. If we could then, please, Registrar, it's
12 Exhibit P-3567?
13 REGISTRAR:
14 Q. Would you like that in PowerPoint?
15 MS. SMITH:
16 A. If I could, please? And so to advance slides-
17 -I don't want to sound like a dummy, but -
18 REGISTRAR:
19 Q. Down on the corner. You have a mouse there.
20 MS. SMITH:
21 A. Oh, the mouse there.
22 REGISTRAR:
23 Q. Which you can control.
24 THE COMMISSIONER:
25 Q. You have your very own mouse.

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1 COFFEY, Q.C.:
2 Q. There you go.
3 MS. SMITH:
4 A. Thank you.
5 COFFEY, Q.C.:
6 Q. You go ahead at your own pace, because you
7 know the-
8 MS. SMITH:
9 A. It's fancier than I'm used to.
10 THE COMMISSIONER:
11 Q. Yes, we've had that complaint. It's noticed
12 recently.
13 COFFEY, Q.C.:
14 Q. Ms. Smith, you go ahead at your own--it's
15 entitled, just so people, you know -
16 REGISTRAR:
17 Q. Just click on that arrow.
18 COFFEY, Q.C.:
19 Q. - are aware of this. It's entitled
20 "Newfoundland and Labrador Cancer -
21 MS. SMITH:
22 A. How do I click? One click? I got it, sorry.
23 COFFEY, Q.C.:
24 Q. - Registry" and the purpose is collect data
25 for use in -

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1 MS. SMITH:
2 A. Okay.
3 COFFEY, Q.C.:
4 Q. So you take it up. You go ahead.
5 MS. SMITH:
6 A. Yes, thank you, Mr. Coffey, and Commissioner,
7 I wanted to do this presentation because
8 certainly the Cancer Registry has been the
9 topic of some discussion here, and I felt it
10 might be helpful if I could try to put things
11 in perspective.
12 THE COMMISSIONER:
13 Q. Well, it would be great if you could even
14 explain it for me. I've gotten confused by
15 what I'm been told so far, put it that way.
16 I'm trusting you here.
17 MS. SMITH:
18 A. Well, it is confusing, and I hope to set that-
19 -give you some information that might help.
20 So basically, the purpose of the Cancer
21 Registry is to collect data for use in
22 surveillance, cancer control, research, policy
23 making, policy development, decision making,
24 and this Cancer Registry has been established
25 since 1969, as much as I--as far as I

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1 understand. And my arrow is gone again.
2 REGISTRAR:
3 Q. It's still there.
4 MS. SMITH:
5 A. There it is. This is a very sensitive mouse.
6 I don't know if it's me.
7 THE COMMISSIONER:
8 Q. Madam Registrar, can you help? There you go.
9 MS. SMITH:
10 A. If you can just--I'll give you the nod, if you
11 don't mind, sorry. I'm usually very good at
12 these things. So within the Registry, we do
13 have a coordinator who's a full-time position
14 and we have three full-time Cancer Registrars,
15 one temporary Cancer Registrar, a position
16 that we have for a year. We don't have any
17 dedicated information technology staff, but we
18 do have one individual analyst who has a
19 number of responsibilities, and he tends to be
20 the most knowledgeable about Registry
21 activities. So we use him. I'm not going to
22 focus today on the cytology, the PAP smear
23 registry. I'm only going to talk about the
24 tumor registry.
25 THE COMMISSIONER:

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1 Q. Okay.
2 MS. SMITH:
3 A. Okay. Next slide, please? So the staff
4 within the Registry are all health records
5 technicians. They come from a health records
6 background. They've completed a program
7 there, and when they're hired to the Registry,
8 they have to become a certified Cancer
9 Registrar through a process that is Council on
10 Certification, which is U.S. based at this
11 point in time. We're hoping to get a Canadian
12 certification, but as it is right now, it is a
13 U.S. based certification, and our permanent
14 staff within the Registry are all certified.
15 All the registrars now attend a technical
16 workshop, which is coordinated with the Public
17 Health Agency of Canada and Stats Canada and
18 they also attend collaborative stage training,
19 which I'll get into now in a few minutes, and
20 our health records coordinator in the Registry
21 is a trainer and because she's assumed that
22 role, we were able to get some funding from
23 the Public Health Agency, which we've used to
24 hire the temporary person and get the staff
25 education for all staff.

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1 Next slide, please. So the process that
2 happens within the Registry is now electronic
3 with all labs except for one. In the past, it
4 used to be a paper record was sent into the
5 Registry and the information was captured that
6 way, but now, every Monday, the pathology
7 reports come across the system electronically
8 into the Cancer Registry. The only lab that
9 doesn't do that is St. Anthony, and I think
10 you heard from Dr. Dankwa here. We're trying
11 to work with him to alleviate his concerns
12 around privacy in that area.
13 So the Cancer Registrars review the
14 information that's in the pathology report and
15 they begin the process to register the
16 patients. Now many of the patients who we
17 see, who the pathology reports come through,
18 many of those are also seen in the Cancer
19 Centre, so we're able to get further
20 information from the chart. The data elements
21 that are collected are identified through a
22 national organization known as the Canadian
23 Council of Cancer Registries, and the data
24 elements that are collected are dictated by
25 that organization. So we collect demographic

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1 information, name, date of birth, sex, the
2 health number, address, telephone number and
3 the next of kin, and we collect the case
4 identification, the site of the cancer,
5 histology, the date of diagnosis, the hospital
6 they came from, attending physician and
7 attending oncologist, and the stage at
8 diagnosis. The other field that is collected
9 is the date of first initial treatment and if
10 the first initial treatment was surgery, that
11 would be put there. If the first initial
12 treatment was chemo, that would be recorded.
13 In the past couple of years, it's been
14 recognized that the information in the Cancer
15 Registry has been limited and there's been a
16 move at the national front to develop a
17 collaborative stage data collection. So we
18 are in the process of doing that for four
19 major sites at this moment in time, lung,
20 colorectal, prostate and breast cancer. This
21 process, as I said, began a couple of years
22 ago and it's an ongoing evolution. We're
23 learning many things as we go, and the fields
24 within collaborative stage are probably going
25 to change over the years.

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1 At the present time, the elements that
2 are collected, I'm only going to focus on
3 breast cancer because that's where your
4 concern and interest is. We collected tumor
5 size, whether the tumor extends, the number of
6 nodes examined, how many are positive, whether
7 or not there's metastases, the ER/PR and
8 HER2/neu status, as per the pathology report.
9 In the past, those ER/PR results were only
10 collected as positive or negative, but now we
11 have the fields changed so that we can put in
12 what the actual percent was and whether that
13 was considered a positive or negative result.
14 The data then, once we collect it, it's
15 submitted to Statistics Canada. Statistics
16 Canada conduct a national death clearance
17 process which enables us to get our mortality
18 information, survival data. Statistics Canada
19 then submits our data to the North American
20 Association of Central Cancer Registries and
21 our data is used then in the annual
22 publication in Canada, the Cancer Statistics
23 in Canada, which I'm sure some of you have
24 seen.
25 In terms of data quality, there are edits

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1 run by Statistics Canada and if necessary, the
2 files come back to each province for
3 correction, and these indicators are sent to
4 each province for review. The topics are
5 timeliness of data submission, coverage,
6 accuracy, completeness of data, those types of
7 things. We do recognize we have an issue with
8 case ascertainment and I'll talk about that
9 now in a second. We have--when we had some
10 new staff start in the Registry, our accuracy
11 of data wasn't where it needed to be, but we
12 have noted improvement in that statistic over
13 the past year, couple of years. And the other
14 thing that we have an issue with, of course,
15 is local death clearance and linkage to a
16 death registration number, which I'll just
17 tell you about now in a second.
18 Some of the data quality that we've tried
19 to look at is within the collaborative stage
20 process. Once we did that initial
21 abstraction, it was reabstracted and we did
22 more or less interrelate our reliability
23 process on the data to make sure all the
24 registrars were collecting the same types of
25 information. And the other thing that happens

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1 is when Stats Canada submits our information
2 to NAACCR, we get our indicators back from
3 them.
4 NAACCR also certifies Cancer Registries.
5 We would love to get certification from that
6 process, and are working towards it. We
7 haven't received any level of certification at
8 this point in time for two basic reasons. One
9 is our case ascertainment. We don't have--we
10 don't get as many cases as they think we
11 should get, and as I understand it, there's a
12 process used by the number of deaths you have
13 in your province, there should be then equal
14 to the number of cases you should be reporting
15 on, and ours is lower. So we report--we get
16 about 80-82 percent of our cases, and that is-
17 -we would rather get a higher number than
18 that.
19 THE COMMISSIONER:
20 Q. Is that problem because you're not getting
21 into the Registry cases which have been
22 diagnosed as cancer or because on the other
23 end, the information that you get out of the
24 death registry is a bit iffy?
25 MS. SMITH:

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1 A. There's two reasons, Commissioner. One is
2 that if a person is diagnosed but doesn't come
3 to the Cancer Centre and doesn't have a
4 pathology associated with their diagnosis, we
5 don't get that information. We will get it,
6 and some of these cases are the hematology
7 patients.
8 THE COMMISSIONER:
9 Q. Uh-hm.
10 MS. SMITH:
11 A. So--and we have put some processes in place
12 which I'll allude to now in a minute to try to
13 improve that. The other one is with death
14 clearance. So I think it's on my next slide,
15 if I could, please. So with the death
16 clearance process, as I told you, Stats Canada
17 does a clearance nationally on our
18 information. All that does is it gives is a
19 date of death, not necessarily really good
20 information about people that we might have
21 missed. With us doing a local death clearance
22 process, we will be able to identify people
23 who were diagnosed and had a cancer death who
24 might not have been seen within the Cancer
25 Centre, and we'd be able to follow that to get

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1 that information and record it. So doing this
2 death clearance process is a very onerous
3 task. We had to buy software, which actually
4 came from Australia. We worked--we do not
5 have epidemiologists associated with our
6 Cancer Registry, which is something we have
7 been trying to obtain. We collaborated with
8 the epidemiologists from Cancer Care Nova
9 Scotia to help us work on that process and
10 we're now in the final stages of
11 implementation. It's a complicated process.
12 We need to be able to match individuals in the
13 Cancer Registry with the Vital Statistics
14 file. There's two ways to do it. One is
15 deterministic, the other one is probabilistic.
16 Deterministic is a method used to say that
17 this person is Sharon Smith and this is when
18 she died. Probabilistic is a method of saying
19 this person matches on A, B, C, or D, so it's
20 most likely Sharon Smith. At the present, 70
21 percent of data has been matched using a
22 determinalistic process, and we're working on
23 the other 30 percent. The remaining cases are
24 under review. Some of the issues are
25 duplicate MCP numbers with the re-registration

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1 of the MCP number in the past few years, and
2 we can't match the cases, and we can't match
3 the cause of death. I should let you know
4 that although we do have a file from the
5 Newfoundland and Labrador Centre for Health
6 Information that gives us date of death, we
7 might not necessarily have the right cause of
8 death. So the information goes from NLCHI to
9 Stats Canada. That information at Stats Canada
10 is then reviewed by a specialist who
11 identifies the most probable cause of death.
12 We're two years behind getting that
13 information back from Stats Canada, but what
14 we want to be able to do is match date of
15 death and the death registration number to do
16 the process within our registry, which will
17 tell us that the person is no longer alive,
18 and then when we get that remaining fields
19 back from Stats Canada, we will then match up
20 that process.
21 THE COMMISSIONER:
22 Q. What goes to the person at Stats Canada?
23 MS. SMITH:
24 A. The whole file from the Newfoundland and
25 Labrador Centre for Health Information. Vital

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1 Stats file goes to Stats Canada.
2 THE COMMISSIONER:
3 Q. I'm just wondering how somebody in Ottawa
4 getting a notice that said somebody died can
5 figure out why they died?
6 MS. SMITH:
7 A. They have a specialist whose job is only that.
8 I don't know what exactly their title is, but
9 that's their job to look at that.
10 THE COMMISSIONER:
11 Q. Okay, and it comes with a crystal ball maybe?
12 MS. SMITH:
13 A. Yeah, perhaps, and they certainly have--
14 they're two years behind in getting us our
15 information back. It's complicated. We have-
16 -we've had people down actually this week to
17 try to help us look at that, and we ran stats
18 for the 2005, 2006, and 2007 years. The
19 people running the data identified a number of
20 people whose date of death preceded visits to
21 the Cancer Centre. So it might have been that
22 the person passed away on the 1st of July '07,
23 but the date got registered as the 7th of
24 January, '07. So, you know, trying to match
25 up those numbers, it's not as easy as it

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1 sounds. They tell me that the hardest part is
2 the first time around, and that it will get
3 easier as time goes. So I only hope that
4 they're right. So once this death clearance
5 process is in place, we will be able to
6 capture cases that we haven't picked up. So
7 once we get our information back from the
8 local Vital Statistics group, and we identify
9 people who had a cancer death that we don't
10 have in our registry, we'll be able to do some
11 investigation to determine whether or not that
12 person needs to be added and we'll get the
13 case registered. We're also working with the
14 hematology oncology group to capture the
15 malignancies that may not have had a pathology
16 examination, and there's a new hematology
17 oncologists who's quite interested in working
18 with us in the registry, so we're very
19 grateful for that. We also have to work with
20 diagnostic imaging because there are some
21 people who are diagnosed on a diagnostic
22 imaging report that we also--they might not be
23 seen in the Centre. Some of the data that we
24 use--our registry is used for, we are part of
25 a wait time alliance, and we report wait time

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1 data across the province, and the cases are
2 obtained from the registry to determine wait
3 time. Research is certainly a proponent of
4 the registry following human (phonetic)
5 investigation committee approval. The
6 information from the registry from a breast
7 screening perspective is used, for example, if
8 a person is diagnosed through the breast
9 screening program and has the breast cancer,
10 the stage information then is obtained from
11 the registry and helps formulate some
12 indicators that are reported nationally, and
13 again as you are all aware, we have the
14 Canadian Cancer Statistics Publication and we
15 try to use our data for program planning. We
16 don't have analytic capacity. We certainly
17 have identified that as a budget aspect. Our
18 future plans, because we're a small province
19 and we do not have the resources here, and
20 even if we had the money, I don't know if we
21 would get the right people, it's a people
22 problem. We have established a partnership
23 with the other provinces in Atlantic Canada to
24 facilitate education in ongoing quality
25 improvement. We had talked about developing

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1 or redeveloping a Cancer Registry Advisory
2 Committee. We have the terms of reference
3 established and we're hoping to meet on that
4 next month. It's been a busy fall, so we just
5 haven't had the time to get that meeting
6 going. We have a proposal to implement an
7 electronic synoptic reporting process. You've
8 heard some initiatives from Dr. Denic, Dr.
9 Carter, etc, around synoptic reporting. So
10 we've partnered with Dr. Denic and Dr.
11 Gallagher from Gander to put in a proposal to
12 implement this process, and we should hear
13 this month. We're very hopeful that we will
14 be approved to go that way. There's some
15 analytical workshops that are being held. We
16 missed the one in February because we were
17 very, very busy with the 1-800 line, etc, but
18 there is another workshop in January that
19 we've arranged for staff to go to, but we do
20 recognize that we have a ways to go. We'd
21 like to make things a whole lot better, but
22 the end of the capacity is one of our biggest
23 challenges. So I don't know if you had any
24 further questions on that because that is the
25 end of the presentation, and thank you for the

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1 help with the mouse.
2 THE COMMISSIONER:
3 Q. Mr. Coffey.
4 COFFEY, Q.C.:
5 Q. Thank you, Commissioner. In relation to the
6 Cancer Registry, Ms. Smith, in your world,
7 would there be any such registry in Canada
8 that might be considered the gold standard
9 registry?
10 MS. SMITH:
11 A. Well, I--the cancer registries themselves have
12 all similar issues, you know. Cancer Care
13 Nova Scotia Registry has NAACCR certification.
14 I would think any registry in Canada that has
15 NAACCR certification, that would be a gold
16 certification. That would be the standard we
17 would want to be at. You have to recognize
18 that the registry would be different from a
19 site specific database, which is another
20 challenge and another issue that we'd like to
21 see.
22 COFFEY, Q.C.:
23 Q. Do you have any sense, or can you give the
24 Commissioner any sense of--in terms of based
25 upon what's planned for the registry, when

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1 that might be implemented?
2 MS. SMITH:
3 A. The -
4 COFFEY, Q.C.:
5 Q. The various initiatives you've indicated.
6 MS. SMITH:
7 A. The NAACCR certification?
8 COFFEY, Q.C.:
9 Q. Yes.
10 MS. SMITH:
11 A. Well, once we get our death clearance
12 finished, then I think we will stand a very
13 good chance of becoming certified with NAACCR,
14 and considering we have 70 percent of the data
15 now cleared, the remaining 30, we're hoping
16 that they'll be able to do that for us in the
17 next six to eight weeks.
18 COFFEY, Q.C.:
19 Q. So -
20 MS. SMITH:
21 A. So we might not receive it for this year's
22 publication, but for next year's submission,
23 we should be able to do so. We hope, anyway.
24 COFFEY, Q.C.:
25 Q. And is this--this most recent effort, is this

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1 the first time, to your knowledge, that an
2 effort to get that certification has occurred
3 locally?
4 MS. SMITH:
5 A. I can only speak to the three years that I've
6 been there.
7 COFFEY, Q.C.:
8 Q. In your time?
9 MS. SMITH:
10 A. In my time, yes. This is one of the--this is
11 an issue that we identified when I first went
12 to work in the Cancer Care Program, the staff
13 within the registry had these concerns, so
14 we've been working together to try to resolve
15 them.
16 COFFEY, Q.C.:
17 Q. Now the Cancer Care Program itself, okay, I
18 want to ask you about that first of all,
19 generally. Do you know if any studies were
20 ever conducted in relation to what was then
21 the NCTRF?
22 MS. SMITH:
23 A. Previous organization?
24 COFFEY, Q.C.:
25 Q. Previous organization, in terms of the

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1 structure of the organization and where it
2 might go in the future?
3 MS. SMITH:
4 A. I know there was an operational review
5 conducted before my time in 2001.
6 COFFEY, Q.C.:
7 Q. And if we could bring up, please, Exhibit P-
8 3576. I take it, that's the document you're
9 referring to?
10 MS. SMITH:
11 A. Yes, it is.
12 COFFEY, Q.C.:
13 Q. Okay, and you would have first seen this when?
14 MS. SMITH:
15 A. Well, I--it was in the Cancer Centre when I
16 first went there. It was a document that was
17 in existence.
18 COFFEY, Q.C.:
19 Q. When did you first see it?
20 MS. SMITH:
21 A. I saw it on the shelf when I first went into
22 the Cancer Centre in 2005.
23 COFFEY, Q.C.:
24 Q. When did you first read it?
25 MS. SMITH:

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1 A. First read it? Well, I was aware of the
2 contents because we had a planning day
3 shortly--well, I guess, it was after Christmas
4 when I first went to the Cancer Centre. So I
5 knew there had been an operational review at
6 that point in time, and I knew that there was-
7 -it was an older document and that
8 recommendations had been made and certainly a
9 great deal of them had been carried out.
10 COFFEY, Q.C.:
11 Q. And in relation to that, the same exhibit,
12 page 37, please, under the heading,
13 "Governance, all reviewers", and I take it all
14 reviewers if one reads through the
15 documentation, I believe some of the reviewers
16 had specific recommendations and there were
17 some that all took part in, all the reviewers
18 did, and the reviewers are listed in the
19 beginning of the document, and there's a
20 history here of the foundation having been
21 created, and it's in the budget and so on. If
22 we could go to--there's an acknowledgement
23 here, "The Ministry of Health is currently
24 considering the restructuring of the health
25 care system in Newfoundland and Labrador.

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1 Minimizing the number of boards accountable
2 for various functions, and so on. In light of
3 those current initiatives, to review
4 opportunities for improved standards,
5 communication and fiscal management, the
6 reviewing team was asked to comment on models
7 of governance for cancer care in Newfoundland.
8 There are four possibilities which merit
9 consideration", and they go through options 1
10 through 4. They talk about, I believe, the
11 strengths and weaknesses, advantages,
12 disadvantages.
13 MS. SMITH:
14 A. Uh-hm.
15 COFFEY, Q.C.:
16 Q. Are the words used, concerns, and so on. Do
17 you know which of the options was chosen, if
18 either of them? Do you happen to know -
19 MS. SMITH:
20 A. Which option was chosen?
21 COFFEY, Q.C.:
22 Q. Which option was chosen, do you know?
23 MS. SMITH:
24 A. We became a provincial program under regional
25 health authority with specific provincial

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1 responsibilities with an integrated board, so
2 we don't have our separate board.
3 COFFEY, Q.C.:
4 Q. And now there was as well, if I could ask,
5 please, again to give the Commissioner--just
6 to identify a couple of documents to give the
7 Commissioner some sense of this. This would
8 be going back to '01/'02, that time frame?
9 MS. SMITH:
10 A. That's correct.
11 COFFEY, Q.C.:
12 Q. Exhibit P-3569. This is a document, "Canadian
13 Health Services Research Foundation". It's
14 entitled, "The impact of restructuring on
15 acute care hospitals in Newfoundland, March,
16 2003".
17 MS. SMITH:
18 A. Yes.
19 COFFEY, Q.C.:
20 Q. And there's a list of names, I take it, of the
21 participants in this report, and you're the
22 second last one down there. Pat Parfrey is
23 the final one. There are a number of--quite a
24 number, long list of names. If we could go
25 just to the second page--I apologize, the

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1 third page. This is another list of the same
2 names, but the association or who the
3 individual is associated with is listed there
4 with a footnote. You're listed as being a
5 representative of Quality Initiatives
6 Department.
7 MS. SMITH:
8 A. That's correct.
9 COFFEY, Q.C.:
10 Q. And I take it that this was a study conducted
11 or published in March, 2003, to compare what?
12 MS. SMITH:
13 A. There's many components to this study. It was
14 a massive undertaking. People call it the
15 Parfrey Study, but we reminded him that there
16 was more than just him involved. It was
17 trying to look at the impact of restructuring
18 within the organizations that were
19 restructured under the Health Care Corporation
20 of St. John's.
21 COFFEY, Q.C.:
22 Q. Okay.
23 MS. SMITH:
24 A. There were a number of individuals used this
25 opportunity to complete thesis. It was an

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1 excellent, excellent opportunity for that type
2 of work. My role--when we first met to talk
3 about the potential for such a study, we were
4 talking about what kind of parameters we would
5 look at and we wanted to look at efficiencies,
6 we wanted to look at the impact on the quality
7 of care, and so I was there as the person
8 responsible for quality, and we had some
9 specific roles to play in conducting that
10 study.
11 COFFEY, Q.C.:
12 Q. Do you recall if any attention in terms of the
13 report itself, anyway, was given to the
14 laboratory services?
15 MS. SMITH:
16 A. I don't recall.
17 COFFEY, Q.C.:
18 Q. If one looks through the headings here, I
19 don't believe there is. I stand to be
20 corrected, but I don't believe there's any
21 heading that deals in particular with the lab.
22 MS. SMITH:
23 A. I don't think there was.
24 COFFEY, Q.C.:
25 Q. And -

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1 MS. SMITH:
2 A. It might have been--we might have looked at
3 some of the quality audits. I know we looked
4 at neutrapenia, we looked at--there was
5 nothing in terms of the quality functioning
6 within the lab.
7 COFFEY, Q.C.:
8 Q. And do you recall what if any problems of some
9 significance were identified at the time in
10 relation to the consolidation that had
11 occurred? I take it this is the consolidation
12 from '95 onward?
13 MS. SMITH:
14 A. Yes.
15 COFFEY, Q.C.:
16 Q. Into the Health Care Corporation, a study of
17 that, a snapshot comparing the earlier--in the
18 early stages and later stages of that
19 reorganization. I'm correct on that, aren't
20 I?
21 MS. SMITH:
22 A. You are.
23 COFFEY, Q.C.:
24 Q. And what if any were the chief concerns
25 identified?

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1 MS. SMITH:
2 A. We talked about regionalization itself was not
3 necessarily a cost saving measure.
4 COFFEY, Q.C.:
5 Q. Yes.
6 MS. SMITH:
7 A. There were some good things that came out of
8 it. There was--particularly within the Mental
9 Health Program, if I can remember--I haven't
10 looked at this document for quite some time,
11 but within the Mental Health Program, access
12 to some of the atypical medications for
13 schizophrenia was identified as a quality
14 issue that we were able to implement across
15 all sectors there. Access to beds was an
16 issue. Efforts to look at human resources
17 again, you know, cost, those types of things
18 were still issues.
19 COFFEY, Q.C.:
20 Q. And the--did it make any--draw any conclusions
21 about the effect on morale, employee morale?
22 MS. SMITH:
23 A. There was a component of this study that was
24 done on morale, and a lot of the--actually,
25 I'm trying to recall now if it was Christine

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1 Way was the person who was leading that piece
2 of information and looking at commitment,
3 employee commitment, and the emotional climate
4 within the workforce--workplace.
5 COFFEY, Q.C.:
6 Q. And there was a study of that in relation to
7 the organization as time went on from the mid
8 '90s, just beyond the point where the
9 organization was formed, into the early 2000s,
10 that's the timeframe?
11 MS. SMITH:
12 A. Yes.
13 COFFEY, Q.C.:
14 Q. Okay, I'm not--it's there for reading, and,
15 but there was, the point being that there was
16 such a study and there were arguably lessons
17 that could be learned or drawn from it.
18 MS. SMITH:
19 A. Yes.
20 COFFEY, Q.C.:
21 Q. That was certainly stated in it, in relation
22 to reorganization.
23 MS. SMITH:
24 A. That was the purpose of the study, yes.
25 COFFEY, Q.C.:

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1 Q. And do you know at the time of the 2004, '05
2 reorganization, like it was planned and then
3 Eastern Health came into force, April 1, 2005,
4 do you recall if there was any discussion of
5 what yourself and Dr. Parfrey and your co-
6 authors found, did that come up in '04?
7 MS. SMITH:
8 A. Not in any of the circles that I was in, but
9 it certainly had been presented and we did
10 make a good effort in the, when the study was
11 published, to educate a number of people
12 around what the findings were.
13 COFFEY, Q.C.:
14 Q. Okay, then if I could look again at P-3576, in
15 particular page 5? Thank you. This is the
16 document, The Operational Review of the,
17 foundation, as it then was, "Summary of
18 Radiation Oncology Review".
19 MS. SMITH:
20 A. Uh-hm.
21 COFFEY, Q.C.:
22 Q. Recommendation No. 10 is "A serious effort
23 should be made to create a discipline of
24 oncology in the Faculty of Medicine.
25 Radiation oncology and medical physics would

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1 have primary academic appointments in this
2 discipline at the maximum part-time level.
3 Further pay increases should be channelled
4 through the university to fund this." Now, so
5 the idea of establishing a discipline of
6 oncology in the Faculty of Medicine dates back
7 to this report?
8 MS. SMITH:
9 A. Yes.
10 COFFEY, Q.C.:
11 Q. And it may even pre date it, but it certainly,
12 it existed at that time?
13 MS. SMITH:
14 A. Uh-hm.
15 COFFEY, Q.C.:
16 Q. When you took over as the director, was there
17 a discipline of oncology?
18 MS. SMITH:
19 A. No, there was not.
20 COFFEY, Q.C.:
21 Q. Okay, how did that evolve?
22 MS. SMITH:
23 A. So when I took over as director, there's
24 active recruitment for the program--the
25 clinical chief, sorry, and the discipline

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1 chair of oncology, those two positions were
2 being recruited, separate positions.
3 COFFEY, Q.C.:
4 Q. Okay, so the idea of having a discipline chair
5 of oncology existed at the time you arrived?
6 MS. SMITH:
7 A. That's correct.
8 COFFEY, Q.C.:
9 Q. When you signed on, you realized there's going
10 to be a clinical chief.
11 MS. SMITH:
12 A. Yes.
13 COFFEY, Q.C.:
14 Q. And there's going to be a discipline chair?
15 MS. SMITH:
16 A. Yes, we were very supportive of that.
17 COFFEY, Q.C.:
18 Q. Had there ever been a discipline of oncology
19 before that?
20 MS. SMITH:
21 A. No.
22 COFFEY, Q.C.:
23 Q. Okay. Do you know when it was that the idea
24 was first floated? Like the idea of creating
25 a separate discipline of oncology?

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1 MS. SMITH:
2 A. I don't know when exactly it was floated, but
3 it certainly--it probably happened around the
4 time of the recruitment of the new oncologist
5 to the Newfoundland Cancer and Treatment
6 Research Foundation back at those days.
7 COFFEY, Q.C.:
8 Q. So had there been a chief of, a clinical chief
9 of oncology before Dr. Laing?
10 MS. SMITH:
11 A. No, the program--the position at that time was
12 the medical director.
13 COFFEY, Q.C.:
14 Q. Okay.
15 MS. SMITH:
16 A. So that was Dr. Gardiner.
17 COFFEY, Q.C.:
18 Q. So in the switch over from the foundation to
19 the Cancer Care Program that occurred in '05,
20 that in the course of doing that, it was
21 decided that, look, rather than have a medical
22 director, there will be a discipline of
23 oncology and we will recruit -
24 MS. SMITH:
25 A. No, there's two separate things. So the

1 discipline of oncology is some thing that
2 would be established within Memorial
3 University Medical School.
4 COFFEY, Q.C.:
5 Q. Yes.
6 MS. SMITH:
7 A. The clinical chief process is part of the
8 program managed approach to care within
9 Eastern Health that would support the Cancer
10 Care Program; two separate entities, two
11 separate roles.
12 COFFEY, Q.C.:
13 Q. But had there been any such, to your
14 knowledge, either one of those before this,
15 before '05?
16 MS. SMITH:
17 A. No, there was not.
18 COFFEY, Q.C.:
19 Q. So Dr. Laing was coming into a new position in
20 the sense of being created.
21 MS. SMITH:
22 A. Yes.
23 COFFEY, Q.C.:
24 Q. As was, as it turns out Dr. Saltman.
25 MS. SMITH:

1 A. That's right.
2 COFFEY, Q.C.:
3 Q. So Dr. Laing, we've seen the recruiting--she's
4 certainly on board by January of '06.
5 MS. SMITH:
6 A. Yes.
7 COFFEY, Q.C.:
8 Q. The Cancer Care Program has what type of
9 physicians working for it?
10 MS. SMITH:
11 A. Medical oncologists, radiation oncologists,
12 gyneoncol--well we have other physicians who
13 worked within our program that don't report
14 directly to Dr. Laing, but they would be the
15 gyneoncology group and the palliative medicine
16 physicians. We also have general -
17 COFFEY, Q.C.:
18 Q. Who do they report to?
19 MS. SMITH:
20 A. The gyneoncology physicians report right now
21 through to the Women's Health Program and Dr.
22 Kum is the clinical chief there. Surgeons
23 report through to the Surgery Program.
24 COFFEY, Q.C.:
25 Q. And the GPs?

1 MS. SMITH:
2 A. The GPs report to, the GPs for radiation
3 oncology report through to Dr. Ganguly, as
4 division chief of radiation oncology. And we
5 have one GP right now in medical oncology who
6 reports through to Dr. Siddiqui and we are
7 actively recruiting other physicians for GP in
8 medical oncology.
9 COFFEY, Q.C.:
10 Q. So is that all the types of doctors then that
11 work for the cancer--or how does a doctor get
12 classified as part of the Cancer Care Program?
13 MS. SMITH:
14 A. They would be credentialed through MAC and the
15 lines of service that we provide. So right
16 now our program consists of the systemic
17 therapy program, radiation therapy, supportive
18 care. So credentialing is done through our
19 program in terms of through Dr. Laing through
20 MAC and the credentials committee.
21 COFFEY, Q.C.:
22 Q. Now I noticed that there are no pathologists.
23 MS. SMITH:
24 A. No, there are no pathologists.
25 COFFEY, Q.C.:

1 Q. And why is that?
2 MS. SMITH:
3 A. We had some discussion with Dr. Denic and Dr.
4 Carter before she left last spring about
5 creating a pathology position responsible
6 through to the Cancer Care Program. I think
7 the resources being what they are that it
8 didn't get off the ground, but certainly
9 that's recognized that there is an opportunity
10 to look that way. Having said that, there are
11 cross appointments, so that there are surgeons
12 who work within our program who are cross-
13 appointed through the Cancer Care Program and
14 Surgery Program and the same kind of an
15 arrangement could be made with pathologists.
16 COFFEY, Q.C.:
17 Q. Well who wanted--whose idea was it to have
18 pathologists become part of the program?
19 MS. SMITH:
20 A. I think it had been floated for awhile, but
21 Dr. Saltman when he came certainly had brought
22 that idea forward as well as an initiative
23 that was happening within British Columbia.
24 COFFEY, Q.C.:
25 Q. Had it already been brought forward by Dr.

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1 Carter?
2 MS. SMITH:
3 A. Mr. Coffey, I can't remember if she did or
4 not. I know she may have talked about that
5 because she certainly was a big part of our
6 Centre, a big part of the Breast Site Disease
7 Group and was involved in a number of
8 education activities. I know that Dr. Laing
9 arranged for Dr. Carter to go to Central
10 Newfoundland, one of the regional clinics.
11 When Dr. Laing went out to do her clinic in
12 Gander and Grand Falls, Dr. Carter went as
13 well to do some education, so there's
14 certainly been very close linkages.
15 COFFEY, Q.C.:
16 Q. What was the problem, I'm sorry, with respect
17 to the proposal to have Dr. Laing become a
18 pathological oncologist or oncological
19 pathologist I suppose is what it would be.
20 MS. SMITH:
21 A. Not Dr. Laing, Dr. Carter.
22 COFFEY, Q.C.:
23 Q. Dr. Carter, what was the problem?
24 MS. SMITH:
25 A. Resources, trying to sort it out, I mean, Dr.

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1 Carter had her own reasons for leaving, I'm
2 sure, but you know, I don't know if she would
3 have stayed if we had been able to identify a
4 way to bring this forward or not, but
5 resources in the pathology department was
6 certainly an issue.
7 COFFEY, Q.C.:
8 Q. What do you mean by resources?
9 MS. SMITH:
10 A. Number of physicians that they were short over
11 there, so even though the pathological--
12 oncology pathologists, how about I say that,
13 it's easier to say, would be part of a Cancer
14 Care Program, that there would be also a
15 requirement for them to do some service within
16 the pathology department because the numbers
17 aren't there, staff wise.
18 COFFEY, Q.C.:
19 Q. So the resources issue was not a money issue.
20 MS. SMITH:
21 A. I think there might have been money issue as
22 well, I'm not really sure. I know those
23 discussions were happening with Dr. Guy, Dr.
24 John Guy and Dr. Howell over within Medical
25 Services just to try and facilitate some of

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1 this work.
2 COFFEY, Q.C.:
3 Q. So I take it, Ms. Smith, as there was a
4 shortage of pathologists at the time, this
5 would be in the winter of '08, spring of '08
6 MS. SMITH:
7 A. Spring of '08.
8 COFFEY, Q.C.:
9 Q. As there was a shortage of pathologists, there
10 was certainly a lot of money available to pay
11 pathologists--if they were available, there
12 was money to pay them because there was a
13 shortage of them.
14 MS. SMITH:
15 A. I would assume.
16 COFFEY, Q.C.:
17 Q. So it wouldn't have been money per se.
18 MS. SMITH:
19 A. Salary would be -
20 COFFEY, Q.C.:
21 Q. Yes, would be available.
22 MS. SMITH:
23 A. A salary would be a salary.
24 COFFEY, Q.C.:
25 Q. Yes, but there was salary money available to

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1 pay a pathologist who went into that program
2 or was there?
3 MS. SMITH:
4 A. There was no money in my budget for that.
5 COFFEY, Q.C.:
6 Q. Okay, so the money had to come from someone
7 else's budget?
8 MS. SMITH:
9 A. Yes.
10 COFFEY, Q.C.:
11 Q. If Dr. Carter was going to work for your
12 program -
13 MS. SMITH:
14 A. I would have had to have a transfer of funds
15 from somewhere to help to pay her.
16 COFFEY, Q.C.:
17 Q. Were you ever told that the money could not or
18 would not be transferred?
19 MS. SMITH:
20 A. No, I was never told that. I called Dr.
21 Carter myself and asked her what it would take
22 to get her to stay and come work with us, but
23 I failed.
24 COFFEY, Q.C.:
25 Q. And when was that?

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1 MS. SMITH:
2 A. I guess that would have been in June.
3 COFFEY, Q.C.:
4 Q. In June, okay, I'm going back earlier to the
5 spring now, okay.
6 MS. SMITH:
7 A. Uh-hm.
8 COFFEY, Q.C.:
9 Q. When this idea was first brought forward by--
10 your memory of it is by Dr. Saltman?
11 MS. SMITH:
12 A. Yes.
13 COFFEY, Q.C.:
14 Q. So this would have been what timeframe?
15 MS. SMITH:
16 A. Might have been May.
17 COFFEY, Q.C.:
18 Q. And might it have been before that?
19 MS. SMITH:
20 A. It could have been.
21 COFFEY, Q.C.:
22 Q. Is it possible it was back in March, early
23 April?
24 MS. SMITH:
25 A. I'm not quite sure. Dr. Saltman didn't join

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1 us until March, it could have been in April.
2 COFFEY, Q.C.:
3 Q. And in relation then to--what's then your
4 understanding as the director of the Cancer
5 Care Program as to what Dr. Carter was told
6 about why she could not be an oncological
7 pathologist in your program?
8 MS. SMITH:
9 A. I don't know what she was told from our
10 program's perspective because we certainly
11 were encouraging that type of an arrangement.
12 COFFEY, Q.C.:
13 Q. And from your perspective that was left with
14 whom?
15 MS. SMITH:
16 A. The physicians. It would have been with Dr.
17 Guy. Dr. John Guy, who is the medical
18 director, was trying to facilitate this
19 arrangement.
20 COFFEY, Q.C.:
21 Q. And so that's Dr. Howell, Dr. Guy -
22 MS. SMITH:
23 A. Dr. Denic.
24 COFFEY, Q.C.:
25 Q. And Dr. Denic.

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1 MS. SMITH:
2 A. Yes.
3 COFFEY, Q.C.:
4 Q. And your understanding is at the time Dr.
5 Denic's position was, I can't let her go
6 because I don't have enough people to do the
7 pathology work that I have to get done, is
8 that -
9 MS. SMITH:
10 A. I think something like that, I'm not really a
11 hundred percent sure.
12 COFFEY, Q.C.:
13 Q. Is there enough work to your understanding in
14 the Cancer Care Program to have such a
15 pathologist on staff?
16 MS. SMITH:
17 A. I would say so, yes.
18 COFFEY, Q.C.:
19 Q. Just so I'm clear on that, that there is more
20 than enough work for an oncological
21 pathologist in the Cancer Care Program should
22 he or she be so appointed?
23 MS. SMITH:
24 A. I would think so.
25 COFFEY, Q.C.:

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1 Q. So the issue about this, the concern about
2 coverage or there wouldn't be enough work -
3 MS. SMITH:
4 A. I think the issue was the on-call coverage and
5 I'm really not a hundred percent sure of what
6 that was.
7 COFFEY, Q.C.:
8 Q. But this was a coverage that Dr. Denic in his
9 shop needed done, as a pathologist in Eastern
10 Health.
11 MS. SMITH:
12 A. Yes.
13 COFFEY, Q.C.:
14 Q. He didn't want to let her go.
15 MS. SMITH:
16 A. You'd have to ask Dr. Denic about that, Mr.
17 Coffey, I really -
18 COFFEY, Q.C.:
19 Q. Okay, and I'm just trying to get some sense as
20 the director -
21 MS. SMITH:
22 A. I certainly was hoping and really tried hard
23 to talk Dr. Carter into staying here, but -
24 COFFEY, Q.C.:
25 Q. From your perspective, would there be a

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1 patient care benefit, an advantage to having
2 an oncological pathologist on staff at the
3 Cancer Care Program, particularly such as one
4 such as a specialist in breast pathology?
5 MS. SMITH:
6 A. Oh certainly.
7 COFFEY, Q.C.:
8 Q. You've just indicated that Dr. Saltman was
9 appointed discipline chair and arrived in
10 March of this year. What happened in relation
11 then to Dr. Saltman in terms of--because this
12 is a new position, Dr. Laing is the clinical
13 chief, he's the discipline chair.
14 THE COMMISSIONER:
15 Q. Excuse me, I think we have to decide where
16 we're going for the rest of the day since it's
17 now 5:00. Do you want to give me an
18 guestimate as to how much longer you need with
19 this witness, Mr. Coffey?
20 COFFEY, Q.C.:
21 Q. I would say, Commissioner, another 20 to 30
22 minutes to cover the topics.
23 THE COMMISSIONER:
24 Q. Mr. Pritchard?
25 MR. PRITCHARD:

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1 Q. At this point I don't have any questions,
2 Commissioner.
3 THE COMMISSIONER:
4 Q. Mr. Browne?
5 BROWNE, Q.C.:
6 Q. At this point I have no questions.
7 THE COMMISSIONER:
8 Q. Mr. Pritchett?
9 MR. PRITCHETT:
10 Q. I have no questions.
11 THE COMMISSIONER:
12 Q. Ms. Newbury?
13 MS. NEWBURY:
14 Q. Twenty to twenty-five minutes.
15 THE COMMISSIONER:
16 Q. Okay. Mr. Simmons?
17 MR. SIMMONS:
18 Q. Probably twenty to thirty minutes.
19 THE COMMISSIONER:
20 Q. So we're looking at another hour and a half.
21 Have you consulted your client on whether
22 she'd prefer to press on or go -
23 MR. SIMMONS:
24 Q. I haven't, but I'm she would -
25 THE COMMISSIONER:

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1 Q. Would you like to talk to Mr. Simmons about
2 your choices or do you want to tell me whether
3 you'd prefer to press on or -
4 MS. SMITH:
5 A. It doesn't matter to me, Commissioner.
6 THE COMMISSIONER:
7 Q. What's the sense in the room?
8 MS. SMITH:
9 A. I wouldn't mind a little break, just the same.
10 THE COMMISSIONER:
11 Q. That can be easily arranged. I'm just
12 wondering whether the solicitors involved are
13 prepared to press on to complete -
14 MS. SMITH:
15 A. And I don't mind coming back in the morning if
16 that suits your purposes.
17 THE COMMISSIONER:
18 Q. Our problem is we have a witness scheduled in
19 the morning who we have to get on a flight.
20 BROWNE, Q.C.:
21 Q. Take the higher court.
22 THE COMMISSIONER:
23 Q. I'm glad you recognize there is a higher
24 authority, Mr. Browne. Why don't we take five
25 minutes and we'll resolve these things.

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1 (RECESS)
2 THE COMMISSIONER:
3 Q. Please be seated. Now, Mr. Coffey, a plan?
4 COFFEY, Q.C.:
5 Q. The plan, Commissioner, around the room is to
6 press on until 6:00, Mr. Simmons?
7 MR. SIMMONS:
8 Q. Yes.
9 COFFEY, Q.C.:
10 Q. And then come back at 9:00 a.m. in the
11 morning, bearing in mind the estimates, that
12 will be necessary, so if we could
13 Commissioner?
14 THE COMMISSIONER:
15 Q. Okay, then.
16 COFFEY, Q.C.:
17 Q. Thank you. Ms. Smith, I had been asking you
18 about the arrival of Dr. Saltman as the
19 discipline chair.
20 MS. SMITH:
21 A. Yes.
22 COFFEY, Q.C.:
23 Q. And your memory is he arrived in March of this
24 year?
25 MS. SMITH:

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1 A. Yes, he did.
2 COFFEY, Q.C.:
3 Q. And what then happened, I mean, he shows up,
4 is he a member of the--as a discipline chair,
5 I take it he's a member of the Faculty of
6 Medicine?
7 MS. SMITH:
8 A. Yes.
9 COFFEY, Q.C.:
10 Q. How about is he a member of the Cancer Care
11 Program?
12 MS. SMITH:
13 A. This was a new position. It had been talked
14 about for a long time. It was identified as a
15 way to develop the academic side of the
16 discipline of oncology and it had been talked
17 about even in the provincial cancer control
18 strategy, so it was certainly recognized as a
19 way to move the oncology discipline along.
20 The discipline chairs within the medical
21 school usually are part of the leadership
22 teams of the program, so surgery program,
23 medicine, women's health, et cetera. And
24 they're there to link with the clinical side
25 to identify research opportunities, to

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1 identify learning opportunities and basically
2 to move the discipline of, whatever it is they
3 are responsible for, along. So the discipline
4 of oncology sort of was a brand new position.
5 COFFEY, Q.C.:
6 Q. To encourage best practices.
7 MS. SMITH:
8 A. Absolutely, well we're all about best
9 practices.
10 COFFEY, Q.C.:
11 Q. And in particular from an academic
12 perspective?
13 MS. SMITH:
14 A. Yes, and certainly to help us, you know, my
15 involvement with discipline chairs in the
16 past, I had been involved with the discipline
17 of medicine, diagnostic imaging, surgery, et
18 cetera in my years in my various capacities,
19 was to certainly look to see whether or not we
20 could work together on a number of initiatives
21 and we did so. We did work with Dr. Ben van
22 Gramer (phonetic) in diagnostic imaging around
23 wait times and developing a critical values
24 policy, so you know, identifying what kind of
25 critical results would need to be followed up

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1 with right away, those types of things. So
2 when Dr. Saltman came, he has a role in the
3 Cancer Centre as .2 of an oncologist, so his
4 service on the books, in my budgeted
5 positions, Dr. Saltman appears as .02. Within
6 the medical school, he is considered .8 of an
7 academic appointment. So, his role was to
8 come here and to develop the discipline of
9 oncology within the medical school, identify
10 what particular physician groups might be
11 involved in that discipline. It obviously
12 would be medical oncologists and radiation
13 oncologists, but it might include pathologists
14 as we've talked about. It could include
15 surgeons, it could include pediatric
16 oncologists, hematology oncologists, those
17 types of physician groups and practices.
18 So, in order to create some linkage
19 between the programs, we invited Dr. Saltman
20 to become a member of our leadership team.
21 The leadership team within the Cancer Care
22 Program is comprised of myself as program
23 director; Dr. Laing as clinical chief; Dr.
24 Ganguly as a discipline--not a discipline,
25 it's been a long day--the division chief of

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1 radiation oncology; Dr. Siddiqui is there as a
2 division chief of medical oncology; and the
3 managers within the Cancer Care Program are
4 also there; Chris Power as the systemic
5 therapy manager; Sheila Crawford from
6 radiation therapy; Maria Corsten from medical
7 physics and Gregory Doyle from the breast
8 screening program. So, all of us that have
9 operational responsibilities sit at that
10 leadership team. It was felt having Dr.
11 Saltman part of the leadership team would
12 enable us to identify mutual goals and
13 objectives that we would like to see achieved.
14 COFFEY, Q.C.:
15 Q. Okay. So, he was invited to join the
16 leadership team.
17 MS. SMITH:
18 A. Which he did.
19 COFFEY, Q.C.:
20 Q. And what does that, in practice, mean, being
21 part of the leadership team? How often does
22 the leadership team meet?
23 MS. SMITH:
24 A. Monthly.
25 COFFEY, Q.C.:

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1 Q. Monthly. And I take it, is there an agenda?
2 MS. SMITH:
3 A. There's an agenda, yes.
4 COFFEY, Q.C.:
5 Q. Minutes?
6 MS. SMITH:
7 A. And there's minutes kept and actual items.
8 COFFEY, Q.C.:
9 Q. Okay. And so he joined the leadership team
10 and then what happened in terms of the
11 discipline chair?
12 MS. SMITH:
13 A. Well, his work has--I have no idea of what he
14 has done to develop the discipline of
15 oncology. I have no knowledge of work that's
16 happened there.
17 COFFEY, Q.C.:
18 Q. And that involves Memorial's medical school?
19 MS. SMITH:
20 A. Yes, it does.
21 COFFEY, Q.C.:
22 Q. So, that would be--you wouldn't necessarily at
23 all be involved in that?
24 MS. SMITH:
25 A. Well, no, I would not necessarily be involved,

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1 but I would expect to have some input into
2 that. We did talk to the--myself and Dr.
3 Laing talked to the Dean of Medicine, Dr.
4 Rorke, because we felt that there needed to be
5 some mentoring with other disciplines were
6 established when we did recruit the chair of
7 the discipline. We've been trying to do this
8 recruitment of a discipline chair since I
9 became the program director and we had
10 interviewed a number of candidates before we
11 were able to recruit someone. So, we talked
12 to the Dean to see if perhaps there could be
13 some mentoring activities so that Dr. Saltman
14 would be able to work with the other
15 disciplines to determine what his role would
16 be within the medical school.
17 COFFEY, Q.C.:
18 Q. And what does that have to do with mentoring?
19 MS. SMITH:
20 A. Helping him develop the discipline. It's a
21 brand new discipline.
22 COFFEY, Q.C.:
23 Q. I appreciate that, but mentoring whom? I'm
24 just trying to -
25 MS. SMITH:

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1 A. The other discipline chairs. We asked that
2 the other discipline chairs would spend time
3 with Dr. Saltman -
4 COFFEY, Q.C.:
5 Q. Oh, with Dr. Saltman, he would be mentored as
6 opposed to he would mentor others.
7 MS. SMITH:
8 A. He would be mentored, yes.
9 COFFEY, Q.C.:
10 Q. Okay. Now, in relation to the discipline
11 chair, I take it, he attended--you said he was
12 invited to the leadership team meetings. Do
13 you recall the first one he went to?
14 MS. SMITH:
15 A. I don't know the exact date, but if he arrived
16 in March, it would have been earliest
17 opportunity. It might have been in March; it
18 might have been in April.
19 COFFEY, Q.C.:
20 Q. And did he participate in the meeting?
21 MS. SMITH:
22 A. Yes.
23 COFFEY, Q.C.:
24 Q. And has he participated in any subsequent
25 meetings?

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1 MS. SMITH:
2 A. We had--I think he's probably attended three
3 leadership meetings.
4 COFFEY, Q.C.:
5 Q. And do you have such meetings over the summer?
6 MS. SMITH:
7 A. We did, yes.
8 COFFEY, Q.C.:
9 Q. And so what, in particular, time of the week
10 these meetings are?
11 MS. SMITH:
12 A. They're held Thursday at lunch time which is
13 the most conducive time for the oncologists to
14 attend.
15 COFFEY, Q.C.:
16 Q. And at these leadership team meetings, has he
17 participated in them?
18 MS. SMITH:
19 A. Yes.
20 COFFEY, Q.C.:
21 Q. Has he--and what has the nature of his
22 participation been?
23 MS. SMITH:
24 A. Well, we did identify we were having some
25 issues with access to beds and we talked about

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1 some particular guidelines that we could look
2 at developing and one of them was, in fact,
3 the neutrapenia guidelines which is a
4 guideline for people whose bloodcounts drop
5 because of chemotherapy.
6 COFFEY, Q.C.:
7 Q. And anything else?
8 MS. SMITH:
9 A. We've had some discussion at that table
10 certainly around--well, we've had a tele-
11 oncology program in existence at the cancer
12 centre that was supported with Dr. Howse and
13 Dr. Laing and we certainly have talked about
14 initiatives around that and perhaps some home
15 infusion. We have a number of topics at the
16 table that are discussed.
17 COFFEY, Q.C.:
18 Q. And for example, the tele-oncology
19 initiatives, I take it, did Dr. Saltman have
20 some ideas for advancing that?
21 MS. SMITH:
22 A. I think by the time Dr. Saltman came here, our
23 service was pretty well advanced.
24 COFFEY, Q.C.:
25 Q. Well, for improving it.

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1 MS. SMITH:
2 A. I think his discussions were using it for some
3 of the--to clear some of the backlog in the
4 regional centres basically. We had
5 established those processes. We had bought--
6 we able to purchase a couple of new video
7 units from health Infoway money. So, we're
8 well on the way with tele-health, tele-
9 oncology.
10 COFFEY, Q.C.:
11 Q. So, I take it the idea of clearing the backlog
12 though would be a good thing.
13 MS. SMITH:
14 A. Absolutely.
15 COFFEY, Q.C.:
16 Q. And he had some ideas and put those forward.
17 MS. SMITH:
18 A. Um-hm.
19 COFFEY, Q.C.:
20 Q. And were they adopted?
21 MS. SMITH:
22 A. Oh yes.
23 COFFEY, Q.C.:
24 Q. Anything else?
25 MS. SMITH:

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1 A. I don't recall anything specifically at those
2 meetings. I know there were some, I'm sorry,
3 there were some discussion around the pre-
4 printed chemo orders which we put on the
5 agenda, but Dr. Saltman hasn't been back to a
6 meeting to finish off that discussion. We did
7 have some issues that we wanted to follow up
8 on, but he hasn't been present to talk to us
9 about it.
10 COFFEY, Q.C.:
11 Q. And those such issues is what? What is it
12 about a pre-printed form?
13 MS. SMITH:
14 A. In terms of educating people on how to use
15 them, having some involvement from the
16 pharmacists, some of the protocols that would
17 need to be developed, et cetera. We are
18 responsible for the outpatient services within
19 the oncology program. We do not have--the in-
20 patient beds report through to a different
21 program. All of the--that is the medicine
22 program--and all of our orders are already
23 sorted out through our OPIS system. The pre-
24 printed orders would have to be worked through
25 with some of the other services from an

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1 implementation perspective. So, we've asked
2 Dr. Siddiqui to have a look at that as well.
3 COFFEY, Q.C.:
4 Q. Now, Ma'am, with respect to the idea of order
5 forms, okay, forms, we have heard evidence
6 concerning forms and changing them that it can
7 take two to three years in the Health Care
8 Corporation to have a form changed.
9 MS. SMITH:
10 A. Um-hm.
11 COFFEY, Q.C.:
12 Q. Okay.
13 MS. SMITH:
14 A. Um-hm.
15 COFFEY, Q.C.:
16 Q. Would that be your experience?
17 MS. SMITH:
18 A. I've had various experiences with form
19 changes. It depends on the complexity of
20 them. Some of them can take a long time, yes.
21 COFFEY, Q.C.:
22 Q. And could it be at times, for examples, just
23 to put a warning onto doctors in terms of if
24 you don't fill out the form properly, we're
25 not going to do the test, like the lab. We've

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1 heard about the surgical pathology review
2 committee and spent a long, long time in my
3 world anyway, frankly in terms of changing a
4 form, that to get a particular form changed.
5 Now, have you--and you got many years
6 experience with that organization, is there a
7 time, a considerable delay in getting a form
8 changed?
9 MS. SMITH:
10 A. There can be, yes.
11 COFFEY, Q.C.:
12 Q. And why is that?
13 MS. SMITH:
14 A. I don't really know; I don't have a good
15 answer for that. It could be that there's so
16 many people that have to have input into it.
17 I can tell you we're trying to implement a
18 colposcopy form within our PAP smear registry.
19 We've been doing that for three years. We
20 piloted it, didn't work; we piloted another
21 one. Those are the kinds of issues that
22 sometimes happen.
23 COFFEY, Q.C.:
24 Q. And at the time the pre-printed chemo order
25 forms was raised, I take it, it was raised by

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1 Dr. Saltman?
2 MS. SMITH:
3 A. Yes.
4 COFFEY, Q.C.:
5 Q. Was it only discussed on the one occasion?
6 MS. SMITH:
7 A. I don't know if it was discussed at the
8 meeting or if it came up because the pre-
9 printed order form had appeared. And I'm
10 trying to recall, I think it might have been
11 that the form appeared and we weren't really
12 sure -
13 COFFEY, Q.C.:
14 Q. What do you mean appeared?
15 MS. SMITH:
16 A. It was just used, it was put in use without
17 discussion.
18 COFFEY, Q.C.:
19 Q. Okay. And did you make any inquiries or how
20 did that first some to your attention?
21 MS. SMITH:
22 A. It was brought forward to me by one of the
23 pharmacists, I believe.
24 COFFEY, Q.C.:
25 Q. Okay. And the pharmacist, does he or she work

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1 in the Cancer Care Program?
2 MS. SMITH:
3 A. The pharmacist provides service within the
4 Cancer Care Program, but report through to the
5 pharmacy department.
6 COFFEY, Q.C.:
7 Q. So, do you recall the circumstances under
8 which you became aware of the pre-printed
9 chemo form?
10 MS. SMITH:
11 A. It was used as an order and people weren't
12 quite sure what to do with it.
13 COFFEY, Q.C.:
14 Q. So, the pharmacist came along to you -
15 MS. SMITH:
16 A. It was brought to Chris Power's attention and
17 she brought it to me and she followed up with
18 Dr. Saltman about that particular form.
19 COFFEY, Q.C.:
20 Q. And so what happened in relation to the form?
21 MS. SMITH:
22 A. So, we asked then to have meeting to talk
23 about it because pre-printed forms were more
24 or an issue on the in-patient unit than they
25 are within the Cancer Care Program and I set

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1 up a meeting.
2 COFFEY, Q.C.:
3 Q. Okay, just so I'm clear on this because I
4 wanted to ask you about the in-patients.
5 MS. SMITH:
6 A. Um-hm.
7 COFFEY, Q.C.:
8 Q. The in-patients, are they actually patients of
9 the Cancer Care Program?
10 MS. SMITH:
11 A. Yes, 4 North A has a number of services.
12 COFFEY, Q.C.:
13 Q. Yes.
14 MS. SMITH:
15 A. Right now they are--the reporting structure is
16 through the medicine program and the clinical
17 chief for the medicine program is Dr. Edstrom.
18 The program director is Janet Templeton.
19 She's recently assumed that role because the
20 previous director retired. On 4 North A there
21 are hematology oncology patients as well as
22 medical oncology patients and radiation
23 oncology patients and there could be general
24 medicine patients, people from the internal
25 medicine population, pneumonia, you know, just

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1 heart--whatever, those types of diagnoses as
2 well. So, our physicians admit their cancer
3 patients to that in-patient unit, but I have
4 no jurisdiction over that area.
5 COFFEY, Q.C.:
6 Q. Okay. So, that's what I wanted to ask you
7 about. So, you have no--your jurisdiction as
8 director of the Cancer Care Program does not
9 extend out to or up to 4 -
10 MS. SMITH:
11 A. North A.
12 COFFEY, Q.C.:
13 Q. So, what forms they use up there--do you have
14 any jurisdiction over that?
15 MS. SMITH:
16 A. No.
17 COFFEY, Q.C.:
18 Q. Okay. You learned, I take it, that a form was
19 being or had been used up there somewhere, up
20 on that floor, a pre-printed chemo form.
21 MS. SMITH:
22 A. I knew there was a pre-printed chemo form that
23 had been presented and I'm not sure if it was
24 up on the floor or where it was.
25 COFFEY, Q.C.:

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1 Q. But it was in an area of the hospital that you
2 were not responsible for. Would I have that
3 correct?
4 MS. SMITH:
5 A. I think so.
6 COFFEY, Q.C.:
7 Q. Yes.
8 MS. SMITH:
9 A. The other issue was the oncology patient
10 information system which another--that's
11 another issue.
12 COFFEY, Q.C.:
13 Q. And I'll to that in a moment. So, the form,
14 in relation to the form then, when you learned
15 about the form, its existence, what did you do
16 or caused to be done.
17 MS. SMITH:
18 A. So, I asked that people review the process and
19 get a group together to talk about it.
20 COFFEY, Q.C.:
21 Q. Who's people?
22 MS. SMITH:
23 A. Pharmacy, nursing, and Dr. Saltman and Dr.
24 Siddiqui as the Division Chief of Medical
25 Oncology.

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1 COFFEY, Q.C.:
2 Q. Why did you ask that it be reviewed?
3 MS. SMITH:
4 A. Why did I ask?
5 COFFEY, Q.C.:
6 Q. Yes.
7 MS. SMITH:
8 A. To ensure that the proper processes could be
9 followed, that the pharmacy would be involved,
10 that people on the in-patient unit would be
11 involved and that everyone would know of a
12 practice change that was going to happen,
13 rather than it just suddenly appearing in
14 front of people with no knowledge.
15 COFFEY, Q.C.:
16 Q. Who is responsible for 4 North A?
17 MS. SMITH:
18 A. The manager up there is Helen Byrne.
19 COFFEY, Q.C.:
20 Q. Yes.
21 MS. SMITH:
22 A. And the program director is, as I said, Janet
23 Templeton.
24 COFFEY, Q.C.:
25 Q. And the program itself is medicine?

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1 MS. SMITH:
2 A. Yes.
3 COFFEY, Q.C.:
4 Q. Okay. Did they raise any concerns about the
5 form?
6 MS. SMITH:
7 A. Yes, they did.
8 COFFEY, Q.C.:
9 Q. And who, up there is responsible--who is your
10 counterpart up there?
11 MS. SMITH:
12 A. Janet Templeton.
13 COFFEY, Q.C.:
14 Q. Okay.
15 MS. SMITH:
16 A. She's just assumed that role. Prior to that
17 it was Louanne Kinsella.
18 COFFEY, Q.C.:
19 Q. Do you know if Ms. Kinsella took it up with
20 Dr. Saltman?
21 MS. SMITH:
22 A. Ms. Kinsella was not informed of it until we
23 called her.
24 COFFEY, Q.C.:
25 Q. Okay, well, do you know if she took it up with

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1 him?
2 MS. SMITH:
3 A. I arranged a meeting, but Dr. Saltman didn't
4 attend.
5 COFFEY, Q.C.:
6 Q. Okay. So, you asked whom to contact Dr.
7 Saltman?
8 MS. SMITH:
9 A. Initially I asked Chris Power to contact, but
10 we did have--so we decided we would the pre-
11 printed order forms on the leadership agenda
12 so we could identify whatever issues needed to
13 be identified, work through the process and
14 get on with it, basically.
15 COFFEY, Q.C.:
16 Q. And did it come up at the leadership -
17 MS. SMITH:
18 A. It did, but as I said, it was Dr. Saltman who
19 had brought it forward and he wasn't present
20 to address it and he hasn't been present at
21 that leadership team since.
22 COFFEY, Q.C.:
23 Q. Okay. Do you recall when that was?
24 MS. SMITH:
25 A. It probably was April/May.

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1 COFFEY, Q.C.:
2 Q. This was--so if he attended three meetings--
3 we'll just the arithmetic.
4 MS. SMITH:
5 A. It probably was May. I'd have to check the
6 minutes.
7 COFFEY, Q.C.:
8 Q. Okay. And in relation to that then, Ma'am, so
9 why is it necessary for him to be present to
10 deal with the issue of, is, apparently already
11 exists, a pre-printed chemo form?
12 MS. SMITH:
13 A. He developed the pre-printed form. It had not
14 gone through the approval processes. Any form
15 with a medication on it has to go through P &
16 T to be approved. That is a process that's
17 been established forever.
18 THE COMMISSIONER:
19 Q. Sorry, has to go through?
20 MS. SMITH:
21 A. Pharmacy and Therapeutic Committee.
22 THE COMMISSIONER:
23 Q. Okay.
24 MS. SMITH:
25 A. That's another reason why things get delayed,

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1 but once you have these central committees
2 looking at and reviewing forms, then they can
3 do some standardization, they can do the
4 education and that's the purpose of it. It's
5 been like that for a long time.
6 COFFEY, Q.C.:
7 Q. Why hasn't that moved forward since May?
8 MS. SMITH:
9 A. I don't know. It hasn't been an issue that
10 we--I need to explain to you, we're also
11 trying to replace our oncology/patient
12 information system. We have had -
13 COFFEY, Q.C.:
14 Q. If I could, just before you go and I'll
15 certainly have you--I'll certainly have you do
16 that. I have no -
17 MR. SIMMONS:
18 Q. It is (inaudible).
19 MS. SMITH:
20 A. It is related, Mr. Coffey.
21 COFFEY, Q.C.:
22 Q. It is related, but -
23 MS. SMITH:
24 A. Very much so.
25 COFFEY, Q.C.:

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1 Q. Okay, so it's because of what you're about to
2 explain now that it hasn't gotten away from
3 the leadership team, in terms of pursuing this
4 -
5 MS. SMITH:
6 A. The leadership team, the group at the
7 leadership team, the clinicians involved in
8 the clinical program, the division chief would
9 be Dr. Siddiqui and Dr. Laing as the clinical
10 chief. They're the people who are responsible
11 for the clinical services, and as such, we
12 have--we recognize that we only have a limited
13 number of resources. The purpose of the
14 leadership team is to try to put resources to
15 resolve issues and come up with solutions. So
16 sometimes--we recognize we might have ten
17 things on our agenda that we want to
18 accomplish. We got to pick five.
19 COFFEY, Q.C.:
20 Q. So can you tell me then why the pre-printed
21 chemo order form is still on the agenda and
22 what, if anything, has been done about it?
23 MS. SMITH:
24 A. Well, since that was put on the agenda,
25 pharmacy had some concerns around the safety

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1 of pre-printed forms. They don't consider
2 them to be as safe, and you'd have to take
3 that up with them. And the other thing is, we
4 do have some funding to replace our oncology
5 patient information system, because we
6 recognize that our system is only an
7 outpatient system. We do not use it for the--
8 and it's only an outpatient system for the
9 Cancer Centre. It's not used as an outpatient
10 in the ambulatory treatment unit that they use
11 in medicine to treat hematology oncology
12 patients. It's also not used on the inpatient
13 unit. It doesn't talk to Meditech. There are
14 many, many issues with the oncology patient
15 information system. So we have been trying--
16 we've had a working group together of
17 physicians within the Cancer Program, nurses,
18 pharmacists within the Cancer Program, and
19 from 4 North A and ambulatory treatment, to
20 try to come up with what we want from a
21 comprehensive information system. We've had
22 some demos. We're working through that
23 process, and we're hoping to obliviate (sic.)
24 the whole need for pre-printed orders.
25 COFFEY, Q.C.:

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1 Q. How long has that effort been ongoing?
2 MS. SMITH:
3 A. The effort has been--we found out we had
4 funding, oh, about eight months ago. But it's
5 one of these things that we're all trying to
6 work and do many, many activities in the run
7 of a day.
8 COFFEY, Q.C.:
9 Q. Is there any estimated time which -
10 MS. SMITH:
11 A. We had hoped actually, Mr. Coffey, to go on a
12 site visit last week, but we cancelled because
13 of the Commission.
14 COFFEY, Q.C.:
15 Q. A site visit means what?
16 MS. SMITH:
17 A. It means to go to a cancer centre that's using
18 a system to be able to see how it works and
19 whether or not it would meet our needs.
20 COFFEY, Q.C.:
21 Q. Oh, somewhere else outside the province?
22 MS. SMITH:
23 A. Yes.
24 COFFEY, Q.C.:
25 Q. Okay. So, and this would be, I take it, an

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1 off-the-shelf computer -
2 MS. SMITH:
3 A. Yes, a vendor generated system that we would
4 then be able to benefit from their ongoing
5 research and development and those types of
6 things, because that's one of the challenges
7 with OPIS, it was purchased from Cancer Care
8 Ontario. It was a home-grown system that they
9 developed for their own use and it certainly
10 hasn't been kept up.
11 COFFEY, Q.C.:
12 Q. Are you aware of whether or not, or did
13 Doctor--do you know if Dr. Saltman ever raised
14 any concerns about the current OPIS system, in
15 relation to drug orders?
16 MS. SMITH:
17 A. In relation to drugs orders?
18 COFFEY, Q.C.:
19 Q. Or the inability to utilize it for drug
20 ordering?
21 MS. SMITH:
22 A. We used -
23 COFFEY, Q.C.:
24 Q. Chemo ordering. Do you know if he ever raised
25 any concerns about the fact that--well, he

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1 wants or wanted, I'm going to ask you--did he
2 ever ask or raise the idea, "look, we should
3 have a computerized system, because it'll -
4 MS. SMITH:
5 A. Well, we do have a computerized system. We
6 want to extent it so that we have it on the
7 inpatient units.
8 COFFEY, Q.C.:
9 Q. Yes.
10 MS. SMITH:
11 A. And then we have it everywhere where
12 chemotherapy is ordered in this province.
13 That's what we all want.
14 THE COMMISSIONER:
15 Q. Extend it or replace it?
16 MS. SMITH:
17 A. Replace it. Replace it with a system that
18 will allow us to have that electronic ordering
19 system everywhere.
20 COFFEY, Q.C.:
21 Q. Did Dr. Saltman ever raise with you or did you
22 ever become aware of any efforts in relation
23 to in the meantime addressing the need until
24 the new system can come into place?
25 MS. SMITH:

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1 A. We had some discussion around Corner Brook
2 clinic.
3 COFFEY, Q.C.:
4 Q. Yes.
5 MS. SMITH:
6 A. And he had been working with the pharmacy
7 group to look at some kind of a process around
8 that, and that was the pre-printed forms, and
9 you know, we were waiting to get that through
10 P and T and make sure all hands were on board
11 with it, including the pharmacists in Corner
12 Brook hospital.
13 COFFEY, Q.C.:
14 Q. So let me see there, so it's pre-printed
15 forms. The idea of, for example, cell phone
16 usage, electronic communication amongst
17 physicians and other staff within the
18 hospital, did Dr. Saltman ever raise that?
19 MS. SMITH:
20 A. I first heard of that when Dr. Saltman did an
21 interview or published something in the paper.
22 It had not come up at the leadership team. It
23 hadn't been identified as an issue. Certainly
24 cell phone use within hospitals has been a
25 subject of controversy for a long time. Some

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1 of the issues were related to interference
2 with equipment and other issues are related
3 with confidentiality and control of the use of
4 cell phones. I know I had a conversation with
5 Dr. Saltman and with Dr. Howse, because Dr.
6 Howse does drop by to see us and try to move
7 some things forward, but I know that they were
8 going to look at using Blackberrys within the
9 Cancer Centre as a vehicle for communications
10 and the research proposal, I know I had paged
11 him one day to ask him about that, and the
12 research proposal was not quite ready, because
13 I wanted to know what resource implication
14 that would have for us within the Cancer
15 Centre, recognizing that we only have two
16 clinical pharmacists. If they're both busy
17 with patients, who's manning the cell phone or
18 the Blackberry? What would be the use of it?
19 Those types of things.
20 COFFEY, Q.C.:
21 Q. Well -
22 MS. SMITH:
23 A. It hasn't been a priority for us within the--
24 it hasn't been one of our objectives or goals.
25 COFFEY, Q.C.:

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1 Q. Now in relation to that, you are going to go
2 to another centre. You had planned to go to
3 another centre to look at -
4 MS. SMITH:
5 A. Patient information system.
6 COFFEY, Q.C.:
7 Q. - patient information system. Had you made
8 any inquiries in relation to the usage of
9 Blackberry or Blackberry type devices
10 elsewhere in this country in hospitals?
11 MS. SMITH:
12 A. I haven't, no.
13 COFFEY, Q.C.:
14 Q. Can you tell the Commissioner why you haven't?
15 MS. SMITH:
16 A. It hasn't come to us as an issue. I know that
17 Dr. Saltman has had discussion with Mr.
18 Stephen Dodge, who is Vice-President of People
19 and Human--I can't even remember the title,
20 another one of those titles, Commissioner.
21 THE COMMISSIONER:
22 Q. I've heard his name.
23 MS. SMITH:
24 A. Yes, thank you. I know that Dr. Saltman has
25 had conversation with him and with others

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1 around the use of Blackberrys, but it hasn't
2 been one of our priorities that we've really
3 talked about, and I think Dr. Saltman and Dr.
4 Howse hope to use it to be able to look at the
5 technology piece of it, from what I can
6 gather.
7 THE COMMISSIONER:
8 Q. I'm sorry, I didn't quite understand that.
9 MS. SMITH:
10 A. They're hoping to look at it to determine what
11 is the impact of the technology in the
12 clinical setting. So will that Blackberry
13 work where it says it's going to work? Will
14 it actually have any impact on some of the
15 equipment? And some people think it might
16 impact on pumps and those kinds of things.
17 COFFEY, Q.C.:
18 Q. Who have you heard that from?
19 MS. SMITH:
20 A. Dr. Saltman.
21 COFFEY, Q.C.:
22 Q. Dr. Saltman, in terms of--have you ever
23 actually checked? Do you know if anyone has
24 actually checked with the major institutions
25 in this country as to whether or not

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1 Blackberrys would interfere or do interfere?
2 MS. SMITH:
3 A. There are many studies about that, Mr. Coffey,
4 many studies.
5 COFFEY, Q.C.:
6 Q. Do you know if they're utilized? Do you know
7 if Blackberrys are utilized in other
8 institutions?
9 MS. SMITH:
10 A. They are used in some places, yes.
11 COFFEY, Q.C.:
12 Q. Okay, major institutions in the country?
13 MS. SMITH:
14 A. They are used by some major institutions, yes.
15 COFFEY, Q.C.:
16 Q. Do you know--have you checked with those
17 institutions, you, Eastern Health?
18 MS. SMITH:
19 A. I haven't personally.
20 COFFEY, Q.C.:
21 Q. Do you know if Eastern Health has?
22 MS. SMITH:
23 A. I think so. I think that there has been some
24 checking from other people in other
25 departments, but it's certainly--it hasn't

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1 been an issue or a priority for me.
2 THE COMMISSIONER:
3 Q. So your understanding is that the hope of Dr.
4 Howse and Dr. Saltman was to test out whether
5 there's interference, as opposed to test out
6 whether or not there are advantages to be
7 gained from the use of the Blackberry within
8 the clinical setting?
9 MS. SMITH:
10 A. I guess it's a bit of both, really it would be
11 a bit of both. To determine whether or not
12 this technology will work and in what kinds of
13 applications there would be.
14 COFFEY, Q.C.:
15 Q. And did you understand or do you have any
16 understanding about what the perceived
17 advantages might be to physicians of being
18 able to utilize them?
19 MS. SMITH:
20 A. Quicker communications, convenience.
21 COFFEY, Q.C.:
22 Q. And might that have advantages for patient
23 care?
24 MS. SMITH:
25 A. If the person was able to communicate more

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1 quickly, yes, it would.
2 COFFEY, Q.C.:
3 Q. And perhaps more widely as well?
4 MS. SMITH:
5 A. More widely?
6 COFFEY, Q.C.:
7 Q. Widely, amongst your fellow physicians?
8 MS. SMITH:
9 A. Perhaps so.
10 COFFEY, Q.C.:
11 Q. An oncologist has a particular question about,
12 for example, invasive lobular cancer, ER/PR
13 negative, you know, well, I can ask my
14 colleagues questions about that. I mean, that
15 kind of context here, you could ask all of
16 your colleagues as opposed to waiting around
17 for people to meet in the corridor?
18 MS. SMITH:
19 A. Using a list serve or something like that?
20 COFFEY, Q.C.:
21 Q. Yes.
22 MS. SMITH:
23 A. Well, I mean, I think they can do that without
24 a Blackberry anyway, but you know, that's
25 certainly something that they could look to,

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1 yeah.
2 COFFEY, Q.C.:
3 Q. And it might have--might it have advantages in
4 terms of drug reactions, adverse drug
5 reactions?
6 MS. SMITH:
7 A. Well, it might. It might. We tend to have
8 the adverse drug reaction software on the
9 local computers as well and our clinical
10 pharmacists use that a lot. Our clinical
11 pharmacists use a laptop in the computer which
12 is--they use wireless technology, but they use
13 it for doing adverse drug checking and those
14 types of things.
15 COFFEY, Q.C.:
16 Q. And is it your understanding that the study
17 that Dr. Howse and Dr. Saltman are involved in
18 undertaking in relation to obtaining evidence
19 about whether or not Blackberrys will
20 interfere with a pump or whatever equipment
21 might be involved, do you have any
22 understanding--is it to determine whether
23 that's so or is it to prove to the
24 satisfaction of Eastern Health that it's -
25 MS. SMITH:

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1 A. Well, I haven't seen the research proposal
2 yet, and I don't know if it's quite done, but
3 Dr. Howse did drop by and talk to me about
4 this, and I did call Dr. Saltman at one point
5 in time to ask him as well, and so whatever
6 research proposal is developed, it would have
7 to go through human investigation committee
8 and approvals would be sought.
9 COFFEY, Q.C.:
10 Q. Okay, and when was that you had the discussion
11 with Dr. Howse, do you recall?
12 MS. SMITH:
13 A. Oh, I don't--he just dropped by one day.
14 COFFEY, Q.C.:
15 Q. Do you remember was it like -
16 MS. SMITH:
17 A. Early summer perhaps.
18 COFFEY, Q.C.:
19 Q. Okay. Is that all the interaction you've had
20 with Dr. Saltman concerning the usage of cell
21 phones or data devices such as Blackberrys?
22 MS. SMITH:
23 A. Yes.
24 COFFEY, Q.C.:
25 Q. That's it. Now with respect to the Cancer

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1 Care Program, does it have a website?
2 MS. SMITH:
3 A. Not on its own. The Newfoundland Cancer
4 Treatment Research Foundation had a separate
5 website. When Eastern Health was formed, the
6 Cancer Care Program was given a piece of that
7 website basically, just some basic information
8 about the Cancer Care Program. However, you
9 know, we've all recognized that that's an
10 issue for us. We have established the need
11 and, I guess, gotten approval to go forward
12 with our own website again, and we've had a
13 number of ongoing meetings about that with our
14 staff and people within communications and IT
15 to help us move that forward. So we have a
16 site map, I think is the term that you use,
17 developed and the various programs and
18 services are reviewing the information and
19 updating the information that they'd like to
20 see there.
21 COFFEY, Q.C.:
22 Q. And when did that start?
23 MS. SMITH:
24 A. That started in the winter months sometime,
25 Mr. Coffey. I don't know the exact date, but

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1 it's been ongoing and certainly with people on
2 vacation and whatnot, it's been--I can't tell
3 you the exact date. I'd have to go and check
4 my notes.
5 COFFEY, Q.C.:
6 Q. Did Dr. Saltman, to your knowledge, ever raise
7 the issue of the Cancer Care Program not
8 having its own website?
9 MS. SMITH:
10 A. It's been brought up at our leadership team by
11 all of us, yeah.
12 COFFEY, Q.C.:
13 Q. Did Dr. Saltman raise it?
14 MS. SMITH:
15 A. And Dr. Saltman concurred with our concerns
16 that we don't have one. It's also been
17 brought up at our Breast site disease group.
18 It's a recognized issue within the Cancer Care
19 Program.
20 COFFEY, Q.C.:
21 Q. And if it was brought up in the winter, let me
22 see, so we're--winter here would be February,
23 March, January, February, March.
24 MS. SMITH:
25 A. April, May, June.

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1 COFFEY, Q.C.:
2 Q. Possibly. Hopefully not. It's coming again.
3 MS. SMITH:
4 A. I don't know exactly what - I mean, we've been
5 meeting about this for a few months, a number
6 of months. I don't know exactly what date,
7 and if you need me to get that information, I
8 would have to go and check.
9 COFFEY, Q.C.:
10 Q. Pass that on to Mr. Simmons, please, because
11 again this is now October, the end of October,
12 and -
13 MS. SMITH:
14 A. Mr. Coffey, we have been extremely busy, we
15 have implemented two new treatment units for
16 radiation therapy, the construction of that
17 building caused a major challenge for us. We
18 had the 1-800 line. The people that are doing
19 that work are the people who we need to help
20 us do the website. So, you know, there's only
21 so many hours in day, and I make no apologies
22 that it's taken so long, but, you know, it is
23 taking long.
24 COFFEY, Q.C.:
25 Q. And what is the - in relation to patient

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1 safety issues, what is the policy within
2 Eastern Health concerning whether or not staff
3 can speak about patient safety issues?
4 MS. SMITH:
5 A. Staff bring patient safety issues forward
6 every day.
7 COFFEY, Q.C.:
8 Q. How about outside the organization?
9 MS. SMITH:
10 A. Outside the organization, they have to go
11 through Communications. They have to go
12 through a proper process to ensure that people
13 are aware of the issue, and then if there's
14 challenges, there's a process to follow.
15 COFFEY, Q.C.:
16 Q. Okay, perhaps you could explain that process
17 to the Commissioner?
18 MS. SMITH:
19 A. So, for example, if one of my - one of the
20 nurses in the chemotherapy unit, for example,
21 identified that there's a patient safety
22 issue, and we have what we call medication
23 huddles down there every Wednesday, the
24 clinical pharmacy specialist meet with all the
25 nurses and identifies were there any issues

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1 here on chemotherapy delivery this week.
2 Those issues that are brought up, and we
3 attempt to resolve them. If there are major
4 issues, they'll bring them forward through
5 Christine Power to my attention, and sometimes
6 we have to get a group together to try to come
7 up with a process to resolve it. The
8 spokespeople for those types of issues would
9 be - if there was an issue to be made public,
10 it would go through Corporate Communications
11 and the appropriate people would speak to it.
12 COFFEY, Q.C.:
13 Q. How about if from the perspective of the
14 person who was raising the concern, it was not
15 being appropriately addressed internally, can
16 a person then speak publicly about it?
17 MS. SMITH:
18 A. Well, I guess that would have to be a matter
19 of discussion right up to the CEO level if the
20 person had challenges that they wanted to
21 bring forward.
22 COFFEY, Q.C.:
23 Q. So someone would have to have - an employee of
24 Eastern Health would have to have Louise
25 Jones' permission to speak publicly?

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1 MS. SMITH:
2 A. Pretty well.
3 COFFEY, Q.C.:
4 Q. If he or she did not have that permission and
5 did so, what would be the likely ramifications
6 for them?
7 MS. SMITH:
8 A. I guess - I don't really know. It would have
9 to depend on what the situation was.
10 COFFEY, Q.C.:
11 Q. Now Dr. Saltman is 80 percent on paper of his
12 time, services are devoted to Memorial
13 University School of Medicine?
14 MS. SMITH:
15 A. That's correct.
16 COFFEY, Q.C.:
17 Q. Does Eastern Health have any authority over
18 the School of Medicine that you're aware of?
19 MS. SMITH:
20 A. Not that there would be authority, but there
21 would be hopefully an understanding that if
22 there's issues that are being identified from
23 the discipline side of things, that the
24 program service that is responsible for that
25 would be aware of what the issues were.

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1 COFFEY, Q.C.:
2 Q. Okay, but -
3 MS. SMITH:
4 A. In order to resolve them.
5 COFFEY, Q.C.:
6 Q. Is there any policy in place that if someone,
7 he or she, is a member of the Faculty of
8 Medicine and in that capacity makes public a
9 concern that they feel is related to patient
10 safety, is there any policy of Eastern Health
11 that you're aware of that would prevent a
12 faculty member from doing so?
13 MS. SMITH:
14 A. I don't think so. Dr. Saltman already
15 published an article in the Evening Telegram
16 about the cell phone use, which is where I
17 found out that he was interested in this.
18 COFFEY, Q.C.:
19 Q. So would there be any concern then about a
20 member of the Faculty of Medicine acting in
21 their capacity as a member of that Faculty, or
22 for that matter, as discipline chair -
23 MS. SMITH:
24 A. I think it would be expected that out of
25 common courtesy if there was issues identified

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1 by the discipline chair, and I've worked with
2 many discipline chairs and worked on many
3 processes, improvements, over the years, I
4 think it would be common courtesy that if a
5 discipline chair has identified issues, that
6 the program - the clinical side be informed of
7 what the issues are, and have the opportunity
8 to sit down and resolve them.
9 COFFEY, Q.C.:
10 Q. And, okay, if they weren't resolved then?
11 MS. SMITH:
12 A. I don't know what would happen because I
13 haven't been in a situation that things don't
14 get resolved.
15 COFFEY, Q.C.:
16 Q. And if they weren't resolved, do you know of
17 any prohibition or authority that Eastern
18 Health would have to prevent a faculty member?
19 MS. SMITH:
20 A. I don't know.
21 COFFEY, Q.C.:
22 Q. You don't know.
23 MS. SMITH:
24 A. I really don't know.
25 COFFEY, Q.C.:

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1 Q. Certainly would you have any?
2 MS. SMITH:
3 A. Would I have any? Not likely.
4 COFFEY, Q.C.:
5 Q. The usage of Blackberrys, before I forget
6 about it entirely, was that going to be
7 confined to the Cancer Program Clinic or was
8 that throughout the hospital?
9 MS. SMITH:
10 A. I don't know if their decision has been made
11 around that. I haven't seen the proposal, so
12 I really don't know what the extent of it is.
13 COFFEY, Q.C.:
14 Q. Now what aspect - what's your understanding of
15 what part, if any, of Dr. Saltman's position
16 or positions that involves him as a member of
17 the Cancer Care Program? Is it his membership
18 in the faculty, is it -
19 MS. SMITH:
20 A. He's a medical oncologist.
21 COFFEY, Q.C.:
22 Q. Yes, as a medical oncologist.
23 MS. SMITH:
24 A. So he's there as a medical oncologist .2 of
25 the time.

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1 COFFEY, Q.C.:
2 Q. Okay.
3 MS. SMITH:
4 A. His role then is - you would see it as a
5 collaborative role to build a discipline, to
6 identify opportunities for research, to - you
7 know, as the program identifies goals and
8 objectives, to say, you know, we can help that
9 within the discipline of oncology by doing X,
10 Y, and Z. For example, there's work done with
11 the Medicine Program around bed utilization, a
12 topic very dear to many people's hearts. One
13 of the issues was around discharging patients
14 in a timely fashion and ensuring family
15 doctors get the information they need for
16 follow-up care. A lot of the work that was
17 done on that was with the discipline of
18 medicine with students, with the residents and
19 the interns, developing processes for that, so
20 that's the way that things work together in a
21 collaborative manner.
22 COFFEY, Q.C.:
23 Q. Do you know if oncologists of whatever sort -
24 MS. SMITH:
25 A. Uh-hm.

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1 COFFEY, Q.C.:
2 Q. The prohibition on speaking publicly about
3 patient safety issues that applies within
4 Eastern Health on employees of Eastern Health,
5 does that apply to oncologists?
6 MS. SMITH:
7 A. I wouldn't consider it a prohibition, Mr.
8 Coffey. I would consider it due process, and
9 we have had our oncologists speak publicly on
10 issues in the past.
11 COFFEY, Q.C.:
12 Q. Could you answer the question, please. Do you
13 know - is it your understanding that it would
14 apply? It certainly would apply to you?
15 MS. SMITH:
16 A. Yes, and it would apply to any staff within
17 the Cancer Care Program.
18 COFFEY, Q.C.:
19 Q. And that would include the oncologists?
20 MS. SMITH:
21 A. Yes.
22 COFFEY, Q.C.:
23 Q. Okay. That's because they are appointed as
24 part of the staff?
25 MS. SMITH:

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1 A. They're on staff. So we would have to
2 identify who the official spokesperson would
3 be for that particular issue. We do that
4 many, many times.
5 COFFEY, Q.C.:
6 Q. And if they felt strongly about it, they would
7 have to have Louise Jones' permission
8 ultimately?
9 MS. SMITH:
10 A. I can't think of situations where that has
11 happened.
12 COFFEY, Q.C.:
13 Q. I'm not asking you whether it has happened.
14 MS. SMITH:
15 A. But I will say if -
16 COFFEY, Q.C.:
17 Q. I'm asking you with any of this.
18 MS. SMITH:
19 A. If it got to that extreme situation, I guess
20 so.
21 COFFEY, Q.C.:
22 Q. Okay.
23 THE COMMISSIONER:
24 Q. So do I take it when I hear, as one has over
25 the years, doctors in particular specialties

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1 coming out and talking about cardiac care,
2 urology, etc, etc, that they have been through
3 a process whereby what is proposed to have -
4 what they propose to speak about has been
5 through some kind of a process, and then on to
6 Communications before they speak?
7 MS. SMITH:
8 A. In many cases, yes, Commissioner.
9 COFFEY, Q.C.:
10 Q. And now in relation to Dr. Saltman, he spoke -
11 he testified yesterday. You're aware of that?
12 MS. SMITH:
13 A. Yes, I am.
14 COFFEY, Q.C.:
15 Q. He spoke about a remark he made, in fact, he
16 apologized for it, he apologized for having
17 made it at the time, in terms of a remark he
18 apparently made amongst a group of physicians.
19 MS. SMITH:
20 A. Yes.
21 COFFEY, Q.C.:
22 Q. And I understand that that remark came to your
23 attention?
24 MS. SMITH:
25 A. Yes, it did.

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1 COFFEY, Q.C.:
2 Q. Because you were copied by a physician sending
3 an e-mail to him, and you happened to be
4 copied on it?
5 MS. SMITH:
6 A. Right.
7 COFFEY, Q.C.:
8 Q. Do you know why you were copied on it?
9 MS. SMITH:
10 A. Because I'm the program director of the
11 program, and I think it was to be able to talk
12 about what these issues might be and perhaps
13 we can resolve them.
14 COFFEY, Q.C.:
15 Q. And what then happened?
16 MS. SMITH:
17 A. I was copied on the e-mail. I wasn't in the
18 province at the time, and I wasn't even aware
19 that a meeting had been held, so the e-mail
20 was sent to me and I responded back to say I'm
21 not sure - I replied to everyone who was on
22 the e-mail, I think, and I just said I'm not
23 sure what meeting was held, but I obviously
24 wasn't there, but if there are concerns about
25 the Cancer Care Program I would like to meet

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1 with you, Dr. Saltman, to identify what the
2 concerns are and potential resolution.
3 COFFEY, Q.C.:
4 Q. And what then happened?
5 MS. SMITH:
6 A. He replied that he would meet with me with his
7 lawyer.
8 COFFEY, Q.C.:
9 Q. And do you know what - do you have any
10 knowledge of what might have occasioned that?
11 MS. SMITH:
12 A. I have no idea. It really surprised me.
13 COFFEY, Q.C.:
14 Q. Now this reply to Dr. Saltman, was it just to
15 him?
16 MS. SMITH:
17 A. I don't think so. I think I replied to all.
18 COFFEY, Q.C.:
19 Q. Okay.
20 MS. SMITH:
21 A. But I'd have to check. I'm not really 100
22 percent sure.
23 COFFEY, Q.C.:
24 Q. I'm going to suggest to you that the e-mail
25 that you were copied on involved a

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1 disagreement between physicians?
2 MS. SMITH:
3 A. It could have been, yes.
4 COFFEY, Q.C.:
5 Q. Well -
6 MS. SMITH:
7 A. It seems to have been, yes.
8 COFFEY, Q.C.:
9 Q. Yes.
10 MS. SMITH:
11 A. Uh-hm.
12 COFFEY, Q.C.:
13 Q. And in terms of whatever might be the
14 disagreements between the physicians, leaving
15 aside the Cancer Care Program aspect of it,
16 and I appreciate you're the director, but
17 whatever might go on between physicians, I
18 take it, is not really a concern of yours?
19 MS. SMITH:
20 A. If it talks about the quality of care and
21 service, it is a big concern of mine.
22 COFFEY, Q.C.:
23 Q. Okay, and the physicians in question, were
24 some of them, in fact, involved in the Cancer
25 Care Program?

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1 MS. SMITH:
2 A. Yes, they were.
3 COFFEY, Q.C.:
4 Q. They were talking amongst themselves?
5 MS. SMITH:
6 A. I guess they were.
7 COFFEY, Q.C.:
8 Q. Okay. Where does that matter now stand?
9 MS. SMITH:
10 A. I asked to have a meeting with Dr. Saltman,
11 Dr. Laing, and myself, and that meeting just
12 didn't happen. I then asked my boss, Ms.
13 Pilgrim, would she follow up on this issue to
14 see if we could try to meet in some format, in
15 which an attempt was made - the other thing
16 that I should say is from a discipline chair
17 perspective, there tends to be a senior
18 leadership committee or team - I won't call it
19 a committee, a team, which involves the
20 executive lead for that particular program,
21 the clinical chief program director, the
22 discipline chair, to basically be the link to
23 executive. Say, for example, in the program
24 we identified that we would like to conduct
25 research using particular resources, then we

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1 would have the person who is the executive
2 lead, such as Ms. Pilgrim, to be able to bring
3 that information forward. Ms. Pilgrim was in
4 the process of trying to establish that
5 committee and asked that Dr. Saltman meet with
6 us, but she wasn't successful in achieving
7 that.
8 COFFEY, Q.C.:
9 Q. And this particular e-mail, the one you were
10 copied on, is the one involving the remark
11 about the, well Dr. Saltman told us it was the
12 worse managed Cancer Care Program he had ever
13 been involved in.
14 MS. SMITH:
15 A. Yes.
16 COFFEY, Q.C.:
17 Q. The e-mail that refers to, it says, I believe
18 the worse Cancer Care Program is the -
19 MS. SMITH:
20 A. The worse-well, and I wasn't at the meeting.
21 COFFEY, Q.C.:
22 Q. And we haven't heard from Dr--you don't know
23 and Dr. McCarthy -
24 MS. SMITH:
25 A. I don't know what was said.

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1 COFFEY, Q.C.:
2 Q. It was Dr. McCarthy who sent the e-mail.
3 MS. SMITH:
4 A. Yes.
5 COFFEY, Q.C.:
6 Q. And what exactly was said, we have the
7 evidence of Dr. Saltman, but whatever, he has
8 apologized for it. Have there been any other
9 disagreements between yourself and Dr.
10 Saltman?
11 MS. SMITH:
12 A. Well the other one that Dr. Saltman referenced
13 was the issue with the Pharmacy Association.
14 And again, I just need to preface that within
15 our program and any other area I've worked
16 with, we've always tried to identify ways to
17 look at improving the service, so we have
18 indicators, we have information, we tried to
19 identify issues, whatever it is we can do. We
20 have program planning days where we identify
21 our objectives, our priorities, things that
22 we're going to work on. We recognize that we
23 have limited resources. I was copied on an e-
24 mail from Dr. Saltman where he said that, if I
25 can remember correctly, he sent an original e-

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1 mail to Mr. Rowe in April, I believe and then
2 he sent another e-mail in July, to Mr. Rowe
3 asking why he hadn't replied and telling him
4 that if he didn't get a reply, he'd plan to go
5 to the media to talk about this issue and
6 other issues facing cancer care in the
7 province.
8 COFFEY, Q.C.:
9 Q. And who is Mr. Rowe?
10 MS. SMITH:
11 A. Don Rowe is the registrar of the Pharmacy
12 Association. And so as far as I could
13 understand, when I read the e-mail that was
14 around changing the Pharmacy Act to enable
15 distribution of oral cancer agents in the
16 cancer centres across the province. We had
17 not had any discussion around that. It had a
18 particular resource implications for us and I
19 e-mailed Dr. Saltman and told him that I
20 really was disappointed to find this message
21 had been sent without any discussion with
22 myself or Dr. Laing and I had concerns as he
23 was planning to talk to the media and I didn't
24 know what he was talking about. And I wanted,
25 if he was to talk to the media, I wanted to be

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1 able to respond. And so I asked to meet with
2 him.
3 COFFEY, Q.C.:
4 Q. And what then happened?
5 MS. SMITH:
6 A. He wouldn't meet with me.
7 COFFEY, Q.C.:
8 Q. And is that the extent, the full extent?
9 MS. SMITH:
10 A. No, so I--I mean, it's very hard to run a
11 program, so I asked that, I think I asked Mrs.
12 Pilgrim again to intervene again with Dr.
13 Howell to ask could we please have a meeting
14 with the senior leadership team to identify
15 what are these issues, you know, and to be
16 able to put our priorities on the table,
17 because it wasn't our priority to establish
18 pharmacies within the cancer centres across
19 the province. We need many, many other things
20 before we can do that and so I know that there
21 has been correspondence between Ms. Pilgrim to
22 Mrs. Jones, Mrs. Jones to Dean Rorke and
23 that's where it sits to my knowledge right
24 now.
25 COFFEY, Q.C.:

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1 Q. And just so we can try to put some of this in
2 context for the Commissioner, to finish, is
3 there anything else? I just want to make sure
4 -
5 MS. SMITH:
6 A. The other thing that I think was mentioned was
7 the implementation of the oncology patient
8 information system up on 4 North A.
9 COFFEY, Q.C.:
10 Q. Yes, and did briefly speak about that earlier.
11 MS. SMITH:
12 A. Right and so that happened, Dr. Saltman asked
13 the guys in information management to go and
14 put that system up on the floor and then he
15 told the oncologists to go ahead and use it to
16 order chemo.
17 COFFEY, Q.C.:
18 Q. Up on the floor.
19 MS. SMITH:
20 A. Which is an impossible thing, you can't do
21 that. That would be like going to the Bank of
22 Nova Scotia and saying get me my money out of
23 the Bank of Montreal, the two systems--the in-
24 patients on 4 North A are not registered in
25 that system. The protocols, for example for

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1 hematology are not in that system, so we had
2 to stop it and we tried to organize a meeting,
3 myself and Ms. Kinsella, who was the program
4 director at the time, she is now retired, and
5 we tried to set up a meeting to talk about it
6 and Dr. Saltman didn't come to that meeting
7 either, so I have had many attempts to meet,
8 but I've been unsuccessful.
9 COFFEY, Q.C.:
10 Q. Now, who told you that the computer system
11 couldn't do what -
12 MS. SMITH:
13 A. Mr. Coffey, you cannot implement the computer
14 system--no one had to tell me, I knew that
15 myself.
16 COFFEY, Q.C.:
17 Q. Okay. And do you know what, if anything, Dr.
18 Saltman might have been told about it?
19 MS. SMITH:
20 A. I don't know what he was told about it.
21 COFFEY, Q.C.:
22 Q. By the computer people themselves?
23 MS. SMITH:
24 A. I had no idea this was happening until all of
25 a sudden it was done and there had been, when

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1 I called Ms. Kinsella, she had no knowledge of
2 it either.
3 COFFEY, Q.C.:
4 Q. And I appreciate that, but I'm asking you
5 about whether or not the computer system could
6 be utilized as apparently Dr. Saltman wanted
7 it to.
8 MS. SMITH:
9 A. It could not.
10 COFFEY, Q.C.:
11 Q. And who told you that?
12 MS. SMITH:
13 A. I know it can't. I know its capacity, I know
14 its limitations and I know--that's why we want
15 to replace it.
16 COFFEY, Q.C.:
17 Q. And if I could then, in relation to the
18 relationship between yourself and Dr. Saltman
19 and I think Dr. Laing is the other member of
20 the Cancer Care Program Leadership Team. You
21 would have known Dr. Saltman was going to, I
22 take it you were involved in interviewing him.
23 MS. SMITH:
24 A. I was.
25 COFFEY, Q.C.:

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1 Q. Was going to arrive in March of 2008.
2 MS. SMITH:
3 A. He was scheduled to come in February but there
4 was some issues, as I understand with some
5 registration process, so -
6 COFFEY, Q.C.:
7 Q. And he arrived in March.
8 MS. SMITH:
9 A. Yes.
10 COFFEY, Q.C.:
11 Q. You knew he was coming.
12 MS. SMITH:
13 A. I did.
14 COFFEY, Q.C.:
15 Q. Was there any meeting in the beginning -
16 MS. SMITH:
17 A. Yes, there was.
18 COFFEY, Q.C.:
19 Q. - to discuss the roles of various people?
20 MS. SMITH:
21 A. There was, there was an orientation in March.
22 COFFEY, Q.C.:
23 Q. In March.
24 MS. SMITH:
25 A. There was an orientation, there was a meeting

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1 between myself and Dr. Laing and Dr. Saltman
2 around this. There's recognition that this
3 was a new role and that we had to try and
4 figure out how we would implement that role.
5 COFFEY, Q.C.:
6 Q. Okay, and how long did that meeting last?
7 MS. SMITH:
8 A. Oh gosh, I can't remember. We were in Dr.
9 Laing's office, but I can't remember how long
10 it lasted.
11 COFFEY, Q.C.:
12 Q. And in relation then to--has there been any
13 subsequent meeting between the three of you?
14 MS. SMITH:
15 A. We have met at the leadership table, but no,
16 we have not met subsequently, just the three
17 of us.
18 COFFEY, Q.C.:
19 Q. With the leadership team, there's a bunch of
20 managers and others there, I'm talking about
21 between the three of your, the three senior
22 people.
23 MS. SMITH:
24 A. We haven't met, we've tried to establish at
25 the senior leadership with myself, Dr. Laing,

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1 Dr. Saltman and Ms. Pilgrim.
2 COFFEY, Q.C.:
3 Q. So there hasn't been -
4 MS. SMITH:
5 A. And Dr. Saltman would not come to that
6 meeting, so that, to me, is the forum for
7 that.
8 COFFEY, Q.C.:
9 Q. When was that?
10 MS. SMITH:
11 A. May perhaps.
12 COFFEY, Q.C.:
13 Q. So in May you wanted a meeting with the three
14 of you again?
15 MS. SMITH:
16 A. Yes.
17 COFFEY, Q.C.:
18 Q. And Dr. Saltman didn't come.
19 MS. SMITH:
20 A. No.
21 COFFEY, Q.C.:
22 Q. And did you have any reason to understand as
23 to why he didn't come at that time?
24 MS. SMITH:
25 A. I don't know.

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1 COFFEY, Q.C.:
2 Q. And one final point, at the leadership team
3 meetings that Dr. Saltman did attend, was
4 there any discussion at those meetings, do you
5 recall, about Peter Dawe?
6 MS. SMITH:
7 A. There may have been discussions around things
8 in the media, might have been reactions to
9 some of the things that were coming forth,
10 those types of things.
11 COFFEY, Q.C.:
12 Q. Were there any negative comments made about
13 Mr. Dawe at those meetings?
14 MS. SMITH:
15 A. Not Mr. Dawe personally but maybe some of the
16 things that he said, perhaps things such as -
17 COFFEY, Q.C.:
18 Q. Okay, if I could just on that point.
19 MS. SMITH:
20 A. Sure, uh-hm.
21 COFFEY, Q.C.:
22 Q. So you distinguished between not him
23 personally and things that he said publicly,
24 is that what you're -
25 MS. SMITH:

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1 A. Uh-hm.
2 MR. SIMMONS:
3 Q. I think Ms. Smith should at least get to
4 finish the answer to the question -
5 COFFEY, Q.C.:
6 Q. Okay.
7 MR. SIMMONS:
8 Q. - when she was going to give the example of
9 what it was before.
10 THE COMMISSIONER:
11 Q. She said "not Mr. Dawe personally."
12 MR. SIMMONS:
13 Q. (Inaudible) what the answer was, yes, and she
14 was in the process -
15 MS. SMITH:
16 A. Interactions -
17 MR. SIMMONS:
18 Q. - of giving an example of what it would be.
19 COFFEY, Q.C.:
20 Q. Fine.
21 MS. SMITH:
22 A. Thanks.
23 THE COMMISSIONER:
24 Q. Okay. It's been a long day.
25 COFFEY, Q.C.:

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1 Q. Yes.
2 THE COMMISSIONER:
3 Q. Give your answer, please.
4 MS. SMITH:
5 A. Thank you.
6 THE COMMISSIONER:
7 Q. Then we'll see where we go from there.
8 MS. SMITH:
9 A. Right. It might have been things in the media
10 around particular events. It could have been
11 just said out of frustration, people sitting
12 around, busy people.
13 COFFEY, Q.C.:
14 Q. Yes, and perhaps you could tell the
15 Commissioner what sort of remarks do you
16 recall?
17 MS. SMITH:
18 A. I'm trying to recall now. It has been a long
19 day. There have been--I know there was some
20 initial discussion around the planning for
21 Daffodil Place, because we certainly
22 acknowledge, recognize that Daffodil Place is
23 a very good thing. It was part of the
24 Provincial Cancer Control Strategy that we
25 recommended that we should be looking at

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1 cancer specific lodging. However, the
2 planning for Daffodil Place didn't happen with
3 us involved. We basically were sent a
4 proposal from the Department of Health to give
5 input on after the fact. So there might have
6 been discussion around how come that process
7 happened where we had said we'd like to have
8 some input into the location and those types
9 of things.
10 COFFEY, Q.C.:
11 Q. What's that got to do with making comments,
12 negative comments about Mr. Dawe?
13 MS. SMITH:
14 A. It's around the process.
15 COFFEY, Q.C.:
16 Q. Pardon me?
17 MS. SMITH:
18 A. It's around the process, not necessarily
19 around Mr. Dawe, but around the process that
20 was followed.
21 COFFEY, Q.C.:
22 Q. Okay, you've referred to the fact -
23 THE COMMISSIONER:
24 Q. The failure to include you?
25 MS. SMITH:

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1 A. Yes, or the failure to include whomever, and I
2 don't--you know, I can't recall a specific
3 incident.
4 THE COMMISSIONER:
5 Q. I don't mean you personally.
6 MS. SMITH:
7 A. No.
8 THE COMMISSIONER:
9 Q. I mean you, the institution.
10 MS. SMITH:
11 A. I know, I know, Commissioner, yes, yeah.
12 COFFEY, Q.C.:
13 Q. So you do acknowledge that certainly a person
14 new to the scene, such as Dr. Saltman was at
15 the time, in these meetings, may very well
16 have heard what he could interpret as negative
17 comments by members of the leadership team
18 about Mr. Dawe and the Canadian Cancer
19 Society, Newfoundland Branch?
20 MS. SMITH:
21 A. He could have.
22 COFFEY, Q.C.:
23 Q. Do you know if any other negative comments
24 were made?
25 MS. SMITH:

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1 A. About?
2 COFFEY, Q.C.:
3 Q. Well, by that point in time, well--and so,
4 I'll just go back. Your only recollection is
5 in relation to the Canadian Cancer Society and
6 Daffodil Place?
7 MS. SMITH:
8 A. That's--you know, that comes to mind.
9 COFFEY, Q.C.:
10 Q. Well, the Canadian Cancer Society, Mr. Dawe,
11 and anything else, in particular, ER/PR?
12 MS. SMITH:
13 A. I don't recall, at that point, no.
14 COFFEY, Q.C.:
15 Q. They're the questions I have, Commissioner.
16 Thank you.
17 THE COMMISSIONER:
18 Q. Thank you. In light of the hour, I suggest we
19 adjourn until morning, but now that this
20 evidence is complete, I'll run the room again
21 and see how many people are going to require
22 questioning in the morning. Has your position
23 changed at all, Mr. Pritchard?
24 MR. PRITCHARD:
25 Q. No, Commissioner, although we certainly might

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1 (inaudible).
2 THE COMMISSIONER:
3 Q. Mr. Browne?
4 BROWNE, Q.C.:
5 Q. No, around the same, five minutes or so.
6 THE COMMISSIONER:
7 Q. Okay. Mr. Pritchett?
8 MR. PRITCHETT:
9 Q. Still none for me, Commissioner.
10 THE COMMISSIONER:
11 Q. Ms. Newbury, has your -
12 MS. NEWBURY:
13 Q. About the same.
14 THE COMMISSIONER:
15 Q. About the same?
16 MS. NEWBURY:
17 Q. Yes.
18 THE COMMISSIONER:
19 Q. Okay, and Mr. Simmons?
20 MR. SIMMONS:
21 Q. About the same.
22 THE COMMISSIONER:
23 Q. I'm just thinking in terms of scheduling the
24 next witness.
25 MR. SIMMONS:

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1 Q. Probably 20 minutes, Commissioner.
2 THE COMMISSIONER:
3 Q. Okay. I will suggest that we keep to the plan
4 of beginning at nine. As I indicated earlier,
5 there is an undertaking on our part to allow
6 the witness that we have tomorrow to get her
7 flight in the afternoon. Thank you. We'll
8 adjourn until nine in the morning.

1 CERTIFICATE
2 I, Judy Moss, hereby certify that the foregoing is
3 a true and correct transcript in the matter of the
4 Commission of Inquiry on Hormone Receptor Testing,
5 heard on the 30th day of October, A.D., 2008 before
6 the Honourable Justice Margaret A. Cameron,
7 Commissioner, at the Commission of Inquiry, St.
8 John's, Newfoundland and Labrador and was
9 transcribed by me to the best of my ability by
10 means of a sound apparatus.
11 Dated at St. John's, Newfoundland and Labrador
12 this 30th day of October, A.D., 2008
13 Judy Moss

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