

Long-Term Care COVID-19 Commission Meeting

Ministry of Long-Term Care
on Wednesday, February 3, 2021



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7	MEETING OF THE LONG-TERM CARE COVID-19 COMMISSION
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16	Held via Zoom Videoconferencing, with all
17	participants attending remotely, on the 3rd day of
18	February, 2021, 10:00 a.m. to 12:30 p.m.
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1 PRESENTERS:

2 Lynne Haves, Senior Manager, Ministry of Long-Term
3 Care

4 Valerie Johnston, SAO Manager, Central East Service
5 Area, Ministry of Long-Term Care

6 Andrew Wisdom, Manager - Compliance Inspection
7 (Toronto), Ministry of Long-Term Care

8

9 COMMISSIONERS:

10 The Honourable Frank N. Marrocco, Lead commissioner

11 Angela Coke, Commissioner

12 Dr. Jack Kitts, Commissioner

13

14 PARTICIPANTS:

15 John Callaghan, Esq., Co-Lead Commission Counsel

16 Kavi Sivasothy, Esq., Counsel

17 Peter Gross, Esq., Counsel

18 Lynne Mahoney, Esq., Counsel

19 Joshua Shoemaker, Counsel

20 Alison Drummond, Assistant Deputy Minister

21 Derek Lett, Policy Director

22 Jessica Franklin, Policy Lead

23 Angeline Hawthorn, Senior Policy Analyst

24 Angela Walwyn, Senior Policy Analyst

25 Eric Wagner, Esq., Counsel, Crown Law Office -

1 Civil

2 Michele Valentini, Esq., Counsel, Crown Law Office

3 - Civil

4 Kristin Smith, Esq., Counsel, Ministry of the

5 Attorney General - Health and long-term care branch

6 Nelly Farid, Esq., Counsel, Ministry of the

7 Attorney General - Health and long-term care branch

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9 Eveliene Symonds, Stenographer/Transcriptionist

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1 -- Upon commencing at 10:00 a.m.

2 MR. CALLAGHAN: Okay. Good morning,
3 commissioners. Today we have a three-person panel,
4 and the panelists are Ms. Haves, Mr. Wisdom, and
5 Ms. Johnston. And I would ask them to introduce
6 themselves and provide their title and what they
7 do.

8 And I suppose, Lynne, we should start
9 with you, because I believe you're the most senior
10 person.

11 MS. HAVES: Thank you. Good morning,
12 everyone. My name is Lynne Haves. And my
13 permanent position is senior manager with the
14 Ministry of long-term care, the Inspections branch.
15 And in the past two weeks, I am acting assistant
16 director for the Inspections branch.

17 MR. CALLAGHAN: Now, Mr. Wisdom,
18 perhaps you might introduce yourself?

19 MR. WISDOM: Sure, my name is Andrew
20 Wisdom. I am the manager for the Toronto service
21 area office. Over the past month, I've been acting
22 as senior manager for the Toronto and Hamilton
23 service area offices. And, yeah, that's my role.

24 But if I could also add, before we go
25 further, I have a -- a quirky internet connection.

1 So every so often while we're on the call, it may
2 degrade, so I may have to turn off my camera. But
3 I will still be able to speak. So I just wanted to
4 flag that up front.

5 MR. CALLAGHAN: Mr. Wisdom, we're going
6 to review some of these homes between wave 1 and
7 wave 2 that had issues, and you'll be speaking
8 about St. George. Correct?

9 MR. WISDOM: Yes, that's correct.

10 MR. CALLAGHAN: Ms. Johnston?

11 MS. JOHNSTON: Good morning, yes. I'm
12 Valerie Johnston. My permanent position is
13 inspection manager for the central east office.
14 I'm currently acting SAO manager for central east.

15 MR. CALLAGHAN: And you have experience
16 with Orchard Villa, Sunnycrest, and Tender Care?

17 MS. JOHNSTON: That's right.

18 MR. CALLAGHAN: I don't know who to
19 direct this to first to, but, Lynne, since you're
20 the senior person, I'll direct it to you. What I'd
21 like to do now is just go through some of the
22 inspection policy documents so that the
23 commissioners have an understanding of the role and
24 what the responsibilities are.

25 So, Kavi, if you could put up

1 Document 1(b), the inspection policy?

2 And we've already heard, Lynne, about
3 the move in 2018 to do more targeted inspections.
4 So we won't belabour that. But as I understand it,
5 is this the general inspection policy dated
6 September 8th?

7 MS. HAVES: Yes, correct. It's been
8 updated since the date that you have on there, but
9 it is the inspection policy that we follow.

10 MR. CALLAGHAN: And, well, I'll tell
11 you what. If I'm on an area that has been updated,
12 perhaps you might tell me if you can recall. And
13 not sure we know that there was an update in
14 January dealing with the COVID part, but is this
15 the general policy has been updated since
16 September?

17 MS. HAVES: It has been updated. And
18 when I'm looking at it, it's basically just to
19 modernise the look of it. But our recent one,
20 there's nothing substantial that changed in it.

21 MR. CALLAGHAN: Okay. And then if we
22 can go to Objectives and Outcomes? And it says:

23 "In keeping with the framework
24 of the LQIP, the following outcomes
25 are expected to be achieved as

1 described in this policy.

2 A comprehensive applicable
3 preparation plan developed prior to
4 inspection, which directs the
5 inspector to conduct a focussed
6 inspection and then supports the
7 inspector after the inspection is
8 completed, determining actions to
9 take or orders to make if
10 non-compliance with the
11 requirement."

12 I note the word "a focussed
13 inspection." That comes up again. These are
14 generally inspections that are addressing an
15 incident, and the idea is the absence of
16 circumstances -- we'll get to -- they're supposed
17 to focus on the incident on which they're called to
18 do an inspection. Is that correct?

19 MS. HAVES: That's correct. It could
20 be a critical incident or a complaint that's based
21 on risks that brings us to a certain home to
22 address a certain situation.

23 MR. CALLAGHAN: But both are invoked by
24 an event. Correct?

25 MS. HAVES: Correct. The critical

1 incident that's reported by the home or a complaint
2 from another party.

3 MR. CALLAGHAN: And just on the
4 procedure, long-term care home inspectors are
5 required to conduct inspections for the purpose of
6 ensuring compliance with the requirements under the
7 Long-Term Care Home Act. So, essentially, they're
8 applying the regulation that's there and the
9 statutory requirements?

10 MS. HAVES: Correct.

11 MR. CALLAGHAN: And then it says for
12 CIS. What is CIS?

13 MS. HAVES: Critical incident system.
14 And so that --

15 MR. CALLAGHAN: And that -- go ahead,
16 Lynne.

17 MS. HAVES: No, yes. What we call CIs
18 that are reported by the home.

19 MR. CALLAGHAN: Right. We'll see that
20 homes are to report when they're in outbreak.
21 Correct?

22 MS. HAVES: Correct.

23 MR. CALLAGHAN: For ICS and low level 1
24 and 2 follow the requirement policy for CIS
25 complainant and take level 3, 3+ or 4 for

1 inspection policy. And I'll take you there in a
2 minute as to what the difference is. But there are
3 two different routes that inspectors follow, then?

4 MS. HAVES: Correct. Yes.

5 MR. CALLAGHAN: And if we could just
6 move, then, to page 729? And this, I'm addressing
7 is Orders and Follow-Up.

8 Just a little further down, Kavi,
9 please.

10 All right. So if an order is issued,
11 there is time for a response, I take it, by which
12 you do follow-up. So as it says:

13 "Orders require follow-up in a
14 timely manner within 30 business
15 days after the compliant due date is
16 past for high priority orders and
17 within 60 business days for orders
18 that are not high priority."

19 Do you see that?

20 MS. HAVES: Yes, I do.

21 MR. CALLAGHAN: All right. So when you
22 have a complaint that's verified or an incident
23 that's verified, you can categorise it such that
24 they have either 30 days or 60 days? In other
25 words, if it's a high priority, 30 days to respond,

1 and 60 days if it's not a high priority. Correct?

2 MS. HAVES: These are orders that we
3 issued to a home with a compliance due date. So
4 with that compliance due date, then that follow-up
5 inspection that we do -- not the initial inspection
6 but the follow-up inspection for the high priority
7 orders -- and we identify what the high priority
8 orders are -- it's 30 days before orders that are
9 not high priority that we originally left with
10 the -- pardon me -- with the home. Those are 60
11 days.

12 MR. CALLAGHAN: Right. And what is the
13 distinction between high priority and not high
14 priority?

15 MS. HAVES: So high priority order
16 would be a compliance order that we left. So it
17 could be an immediate order. It could be a
18 reissued order, so when we've gone into a home
19 multiple times and issued the same order. It could
20 be an order that's accompanied by a director
21 referral. Or it could be an order associated with
22 a key risk indicator. And the list of key risk
23 indicators -- we have, I believe, 13 of them.

24 And to give you an example of a key
25 risk indicator, so this could be an order that

1 related to abuse, medication, skin and wound.
2 These would be orders that we would consider high
3 risk where we would go in to follow up within 30
4 days.

5 MR. CALLAGHAN: Okay. Let's go to the
6 front then. I didn't read the policy as saying
7 that there's a specific time after a critical
8 incident was reported that you must go into the
9 home. That's dependant on staffing?

10 MS. HAVES: So this area -- you're
11 talking about two different things.

12 MR. CALLAGHAN: I understand.

13 MS. HAVES: So the original CI in
14 complaints, yes, we have specific timeframes that
15 we go into a home to conduct an inspection.

16 The area that you see in this
17 inspection policy is where we did that initial
18 inspection, and now we've -- we've issued an order.
19 So there's a compliance order that was issued. We
20 need to follow up on that compliance due date.

21 So the section that we're referring
22 right here, these orders for follow-up, that's what
23 that is.

24 MR. CALLAGHAN: So maybe I missed it,
25 but perhaps sticking with the initial intake of the

1 critical incident or complaint, what's the timing
2 by which an inspector is to go out? I had thought
3 that was as available. Is it not? Or is it --

4 MS. HAVES: Yes. No. So what happens
5 is when we get a critical incidental or complaint,
6 it is triaged and then we assign it a risk level.
7 So if it's a level 1 or a level 2, and then we have
8 definitions on those levels. So a level 1 would be
9 no harm or no risk. And that one there would be 90
10 days. We would consider that to be reasonable.

11 So -- and if it's a level 2, again,
12 it's minimal harm or minimal risk, and that too is
13 90 days.

14 And then we move on to level 3. Level
15 3+, and a 4. So these too have assigned
16 definitions.

17 So for level 3, it would be 60 days, we
18 would consider reasonable.

19 3+ would be 30 days.

20 And level 4 is serious harm or
21 immediate risk. We would go in right away.

22 MR. CALLAGHAN: Okay. So --

23 MS. HAVES: It's an immediate action.

24 MR. CALLAGHAN: So was there any
25 direction given or to the inspectors or to the

1 triage people as to what level they should take an
2 outbreak?

3 MS. HAVES: So the outbreaks as of
4 January 18th, we are giving them a level 4.

5 MR. CALLAGHAN: Okay. That's
6 January 18th, 2021. We'll come to that.

7 MS. HAVES: Yes.

8 MR. CALLAGHAN: But prior to that, was
9 there any direction from management as to how it
10 would address the notice of an outbreak?

11 MS. HAVES: So it changed between
12 wave 1 and wave 2 on how we were directing our
13 inspections. So it depended on a number of factors
14 of when we would go into an outbreak home.

15 MR. CALLAGHAN: So what was it in
16 wave 1, and how did it change in the middle towards
17 wave 2? And when did that happen?

18 MS. HAVES: Okay. I'm going to try to
19 capture all of the information that's happened in
20 the past year.

21 So for wave 1, we initially did the
22 support and monitoring calls. So we would not go
23 out to inspect when a home was considered an
24 outbreak. So we were doing them via telephone
25 call.

1 There was a time in May, I -- in April
2 and May, we were getting ready for IPAC. So there
3 was the SWAT team that we implemented. So our
4 inspectors were going out to outbreak homes with
5 the additional partners. So that was around May
6 that we were doing that.

7 And then we moved on to -- there was
8 the CAF homes, the Canadian armed forces. Those
9 were a priority for outbreaks also.

10 So there was no direction for initial
11 outbreak on the levels that we were assigning them.
12 But depending on the circumstances is when we would
13 send out the inspectors to go visit the home.

14 MR. CALLAGHAN: So did it change after
15 the May -- I think you said May 25th. Did it
16 change after that, a further change before January
17 of 2021?

18 MS. HAVES: So if we're talking about
19 triaging of intakes --

20 MR. CALLAGHAN: Right.

21 MS. HAVES: -- for an outbreak intake,
22 the levels didn't change until January 2021.
23 January 18th.

24 MR. CALLAGHAN: So let me -- and I take
25 it that just so I'm clear, if we go to page 10 of

1 this document, it says "conduct an offsite
2 inspection." Is that intended to be a phone
3 inspection?

4 MS. HAVES: Yes. An offsite inspection
5 is when an inspector will reach out to the home.
6 And if it's something that is at a level or a
7 situation where we can request evidence from them
8 or do our interviews via telephone, we consider
9 that to be an offsite inspection.

10 MR. CALLAGHAN: Okay. And am I to read
11 this that an offsite inspection would not be
12 appropriate for level 4 or --

13 MS. HAVES: Correct. Yeah.

14 MR. CALLAGHAN: -- anything to do
15 with -- okay.

16 If we could go then to Document 1(c)?
17 This is Critical Incident Inspection Policy. And
18 if we go to the definition, it says:

19 "An occurrence is outlined in
20 the Ontario regulation that relies
21 on results from harm or risk of harm
22 to the safety and security and/or
23 health of the resident staff member
24 and/or to the safety and security of
25 the long-term care home. The

1 licensee of a long-term care home
2 must complete and submit the CI --
3 critical incident -- report to the
4 director within the specified
5 timeframe using the critical
6 incident system and after-hours
7 emergency contact number as
8 applicable."

9 And as we go down and look, you'll see
10 that includes an outbreak of a reportable disease
11 or communicable disease as defined on the HPPA. So
12 a critical incident by definition would include an
13 outbreak of COVID. Correct?

14 MS. HAVES: Correct.

15 MR. CALLAGHAN: And if we then go over
16 to page 9 of 36 on Inspection Process, and it says:

17 "A CIS report --"

18 that's a critical incident -- is that
19 submission?

20 "-- reports are received by the
21 central intake assessment and triage
22 team where they are assessed the
23 triaged. A CIAATT triage inspector
24 initiates an intake form in IQS to
25 record the highest risk CIS item and

1 the assessed overall risk level.
2 The intakes are forwarded to the
3 appropriate service area office at
4 the end of each business day or
5 immediately if the CIS report is an
6 immediate jeopardy situation, risk
7 level 4. This policy begins when
8 the SAO manager/inspection manager
9 assigns the CIS inspection to the
10 inspector."

11 And then if you go to Inspection Notes:

12 "If at any time throughout the
13 inspection the inspector identifies
14 an immediate jeopardy situation, the
15 inspector/primary inspector will
16 follow the immediate jeopardy policy
17 including notifying the licensee and
18 the SAO manager."

19 So I take it that this is what you're
20 saying, that if it's a risk level 4, you're
21 required to attend on site, and it's defined as an
22 immediate jeopardy. Correct?

23 MS. HAVES: Correct. It's an immediate
24 risk.

25 MR. CALLAGHAN: All right. Okay. It

1 says immediate jeopardy, but, anyway.

2 The immediate risk or immediate
3 jeopardy can also be brought into play during an
4 inspection if an inspector sees something that
5 reaches a level 4. Right?

6 MS. HAVES: Correct.

7 MR. CALLAGHAN: All right. So if we go
8 into -- this provides for a whole chart of the
9 inspection process. I won't take you through it
10 all. But if you go to page 19 of 36? And there's
11 a requirement that when the inspector receives the
12 intake form and has an appreciation for the
13 critical incidents, they prepare an inspection
14 plan. Correct?

15 MS. HAVES: Correct.

16 MR. CALLAGHAN: Is that reviewed by
17 anybody, or is that just by the inspector?

18 MS. HAVES: By the lead inspector. So
19 there may be a team of inspectors, and then there's
20 also a lead inspector.

21 MR. CALLAGHAN: So the lead inspector
22 would approve the inspection plan. Is that it?

23 MS. HAVES: Correct. Yes.

24 MR. CALLAGHAN: So these are steps. So
25 I didn't take you through them all, but one of the

1 steps is:

2 "Refer to the inspection plan
3 to ensure all applicable information
4 is gathered related to the CIS
5 inspection prior to leaving the
6 long-term care home site. Plan may
7 be adjusted throughout the
8 inspection as necessary.

9 Then it says, and it's pretty emphatic:

10 "Stay focussed. However, if
11 additional potential non-compliance
12 is identified which poses a risk to
13 one or more residents, risk level 3
14 or greater, other related
15 information will need to be gathered
16 to ensure compliance. If a
17 potential non-compliance is at risk
18 level 4, refer to the immediate
19 jeopardy policy."

20 So when you changed over the policy
21 system in 2018 and we were dealing with critical
22 incidents, the concept of stay focussed was a
23 primary concern. Right? You want to -- unless
24 it's a level 3 or 4.

25 MS. HAVES: So what we mean by this is

1 that when a complaint or a critical incident is
2 received based on a certain topic -- for example if
3 it's falls, we will open an inspection protocol for
4 those falls. That's what they mean by staying
5 focussed. So you're not looking at absolutely
6 everything in the home. You're looking at what
7 pertains to that complaint or that critical
8 incident.

9 MR. CALLAGHAN: So I ask -- and we'll
10 get to the levels in a minute, but I ask, because
11 we've heard evidence from the hospitals that went
12 into some of these homes and described them in
13 deplorable condition, including cockroaches and
14 mold. If that occurred, I'm assuming that wouldn't
15 be a level 3 or 4. Like, if that were seen by your
16 inspector, would you expect them to have addressed
17 it?

18 MS. HAVES: So we have a definition for
19 our inspectors. So if it's a level 4, they need to
20 take a look at the situation. If it places the
21 residents or the group of residents in an immediate
22 jeopardy/risk, and if it has caused or likely to
23 cause serious consequences, injury, harm,
24 impairment, or could result in death. So we're
25 very specific on our definition of what is serious

1 risk or harm and risk.

2 MR. CALLAGHAN: So mold in bathrooms,
3 mold in kitchens, cockroaches on the floor, was
4 that perceived to be immediate risk?

5 MS. HAVES: I don't know all the
6 circumstances or what exactly was seen by the
7 inspector. But depending on the severity of it and
8 what impact it had structurally or to the residents
9 that were there if the residents were on that
10 floor, I would need more details to be able to
11 answer if we could change that to a level 4 or not.

12 MR. CALLAGHAN: All right. Well, let's
13 go take a look at the levels. So let's go at
14 page 32. So here are the levels. Let's just go
15 over them.

16 "Level 1, no harm or no risk.
17 A situation that has caused no
18 negative impact on the residents, it
19 poses no risk of harm to the
20 residents. An inquiry within 90
21 days is considered reasonable."

22 That's what you're saying?

23 MS. HAVES: Yes. Reviewing that, yes.

24 MR. CALLAGHAN: And the second is:

25 "Level 2, minimal harm or

1 minimal risk, a situation that
2 results in minimal discomfort to the
3 residents and/or minimal risk of
4 harm. An inquiry within 90 days is
5 considered reasonable."

6 That's the second thing you talked
7 about. Correct?

8 MS. HAVES: Correct.

9 MR. CALLAGHAN: And then:

10 "Level 3, actual harm or actual
11 risk, a situation that results in
12 actual harm to residents, which will
13 not resolve without further
14 intervention or actual risk of harm
15 or where there is a pattern of
16 incidents contributing to the
17 harm/risk. This may include a
18 situation involving actual harm/risk
19 where action was taken by the
20 licensee or long-term care staff to
21 minimise the risk or prevent the
22 situation from recurring or
23 escalating. An inspection within
24 that 60 business days is considered
25 reasonable."

1 And that's level 3. Right?

2 MS. HAVES: Correct.

3 MR. CALLAGHAN: So I'm a little
4 confused about the wording. Like, we have minimal
5 harm and minimal risk at level 2, and then we have
6 actual harm. So that's actual harm having happened
7 to the residents?

8 MS. HAVES: Based on that definition,
9 yes.

10 MR. CALLAGHAN: And was there any
11 guidance given to you as to when a home had an IPAC
12 issue as to whether or not it was actual harm or
13 minimal harm or risk of harm to the residents
14 contracting COVID? Was there any guidance given to
15 you on that prior to January of 2021?

16 MS. HAVES: Not that I can recall. So
17 every situation would be different in every home on
18 the circumstances, whose involved, what actions are
19 taking place. And then depending on the severity
20 of any IPAC breaches to -- of what level the
21 inspector -- the inspector uses their judgment and
22 expertise to determine if the levels should be
23 changed.

24 But based on the information that we
25 have at triaging, also, we would determine the

1 applicable level.

2 MR. CALLAGHAN: So we heard from Public
3 Health Ontario that they provided no training to
4 the inspectors. So since COVID came up, let's take
5 from April, so after wave 1, was there further
6 training to your inspectors on COVID?

7 MS. HAVES: We did provide in October
8 of 2020 an IPAC guideline, infection and control
9 guideline that has some resource documents and the
10 directives. So we would have provided training to
11 the inspectors as inspection became available. We
12 would have reviewed the -- because we were looking
13 at the PPE back in April, making sure that they had
14 appropriate training there, and also the right
15 resources available to them for IPAC.

16 MR. CALLAGHAN: So just unpack that a
17 little bit. Was that self-study? In other words,
18 I know Public Health Ontario produced -- the PDAC
19 group produced information. Was it self study of
20 reading? Is that what you're talking about?

21 MS. HAVES: There was some videos also.
22 Sorry, there was some feedback there. There was
23 some videos we offered to inspectors. There was
24 some self-study also . And then we were just
25 making sure that they were quite proficient and

1 they knew where to get all the information related
2 to IPAC.

3 MR. CALLAGHAN: But Public Health
4 Ontario or -- did you have an IPAC specialist you
5 turned to? Or was this material that with you sent
6 to you by the people in long-term care?

7 MS. HAVES: So I know that our
8 education manager was communicating with Public
9 Health Ontario to -- for the sharing of information
10 for IPAC and arranging some training, some video
11 training for our inspectors.

12 MR. CALLAGHAN: So let's continue on.
13 Level 3+. This is significant actual harm or
14 significant actual risk.

15 "A situation that results in an
16 outcome that had a serious negative
17 impact on one or more resident's
18 health, quality, or life and/or
19 safety or that it is creating a
20 serious risk of significant actual
21 harm or significant actual risk
22 related to one or more resident's
23 health, quality of life, and/or
24 safety.

25 An inspection within 30 business

1 days is required. The situation
2 does not require an immediate
3 inspection as outlined in 25(2)."

4 So we're going to read level 4 in a
5 second, but was level 3+ added for some reason?
6 Because it seems to be significant actual risk. It
7 seems to be contemplated but no immediate
8 inspection, so can you tell us why that is?

9 MS. HAVES: So, obviously, it's higher
10 than the -- could we just go up to the level 3,
11 please? Could we just include level 3?

12 MR. CALLAGHAN: Did I miss level 3?

13 MS. HAVES: No, I'm just --

14 MR. CALLAGHAN: I thought I read it.

15 MS. HAVES: Yeah, you did. I'm just
16 looking at the wording for level 3 and level 3+ to
17 determine. So there's a little bit of different
18 wording for 3 and 3+. And again it depends on the
19 situation. Every situation is different based on
20 the evidence that's provided.

21 So the 3+ does say that it has serious
22 negative impact on one or more residents. So
23 there's a little bit of -- so the 3 is actual harm
24 to the resident, whereas a 3+, it includes one or
25 more residents.

1 MR. CALLAGHAN: Right. So if a place
2 had COVID and the residents were at risk of getting
3 COVID and 30 percent of the residents were going to
4 die, would that be in level 3 or level 3+? Do you
5 know?

6 MS. HAVES: Well, we wouldn't -- we
7 wouldn't know if they were going to die or not.

8 MR. CALLAGHAN: Okay.

9 MS. HAVES: Again, it depends on the
10 situation and the circumstances and the evidence
11 that's presented on where we would place it.

12 MR. CALLAGHAN: So just to be clear, so
13 you were never educated by your training exercises
14 that statistics showed, at least in wave 1, 30
15 percent of residents in long-term care were going
16 to die if they contracted COVID in some way,
17 something like 20 -- little bit more than
18 20 percent in wave 2? That -- that wasn't part of
19 the training?

20 MS. HAVES: What I'm going to say is I
21 don't -- I -- I personally don't know what the
22 direction was for triaging the outbreaks for COVID,
23 what specific direction was given for the levels.
24 I can't answer that. I would have to look that up.

25 LEAD COMMISSIONER FRANK MARROCCO:

1 Commissioner Kitts has a question, John.

2 COMMISSIONER JACK KITTS: Just the
3 difference I see between 3 and 3+ is harm or
4 risk -- actual harm or actual risk versus
5 significant actual harm versus significant actual
6 risk. Is there a definition of what the difference
7 between harm and significant harm or risk and
8 significant risk is? Do they list what that might
9 be?

10 MS. HAVES: I don't have that at this
11 time. I would have to research to see if we have
12 further definitions for that.

13 MR. CALLAGHAN: If we take you down
14 below on that, they seem to direct us to what I
15 believe to be the definition in the Long-Term Care
16 Act. It says.

17 "An immediate inspection --"

18 You see that? There you go.

19 "-- as per Long-Term Care Act
20 in section 25(2) is required for the
21 following that resulted in serious
22 harm or a significant risk of
23 serious harm to the resident,
24 improper or incompetent treatment or
25 care of a resident, abuse of a

1 resident by anyone, or neglect of a
2 resident by the licensee or staff or
3 unlawful conduct."

4 Is that your understanding of what the
5 Act provides, and this is their interpretation?

6 MS. HAVES: Yes.

7 MR. CALLAGHAN: So what they're saying
8 is that an immediate inspection is not required,
9 whether serious negative impact on one or more
10 resident's health quality or life and safety. They
11 don't interpret that to be an immediate --
12 requiring an immediate inspection as required by
13 the Act. Is that right?

14 MS. HAVES: Correct. So if there was
15 an actual -- for the immediate inspection, they're
16 saying that there is actual harm/abuse to a
17 resident or neglect by licensee or staff.

18 MR. CALLAGHAN: Okay. So if we go to
19 level 4, it says:

20 "Serious harm or immediate
21 risk, a situation that places a
22 resident or a group of residents in
23 immediate jeopardy (risk) as it has
24 caused or is likely to cause serious
25 consequences, injury, harm,

1 impairment and/or could result in
2 death or did result in death to a
3 resident receiving care in the
4 long-term care home.

5 This also includes a situation
6 that the licensee is not taking
7 immediate action to appropriately
8 rectify the issue or has failed to
9 intervene to prevent the situation
10 from unfolding.

11 This level includes situations
12 that require an immediate visit to
13 the long-term care home."

14 So in reading that -- and we know that
15 COVID, we just mentioned, does result in death for
16 30 percent or 20 percent, depending on wave 1 or
17 2 -- would you need to know that they weren't
18 following proper IPAC to do an inspection? Or was
19 it sufficient to know that they've got an outbreak?

20 MS. HAVES: So as of January 18th,
21 2021, we've issued -- the COVID outbreaks, we've
22 done that as a level 4 immediately. Prior to that,
23 I'd have to double check to see how they were
24 being -- the appropriate levels were being -- but
25 for us to go into a home to conduct an inspection,

1 it would depend on the situation of the individual
2 homes, the information that we were given and also
3 our support and monitoring calls of every home. So
4 we were supporting monitoring every home that was
5 in outbreak, reaching out to them. And we would
6 have received information about what the individual
7 partners were also doing in those homes, and that
8 would help us determine if an immediate inspection
9 is required.

10 LEAD COMMISSIONER FRANK MARROCCO: Help
11 me with that. In wave 1, if the home is in
12 outbreak, when you -- the inspection was by phone,
13 is there a -- so who would they phone?

14 MS. HAVES: So our inspectors. So in
15 wave 1, as of March and April, we had a team of two
16 inspectors calling. They were assigned specific
17 homes. So they were calling the homes and would
18 speak to the administrators or the clinical staff
19 and would ask specific questions. That was in
20 wave 1.

21 LEAD COMMISSIONER FRANK MARROCCO: And
22 in terms of the follow-up, it's dependent entirely,
23 then, on the answers to those questions, which are
24 given by -- the answers are given either by the
25 executive director or --

1 MS. HAVES: The administrator.

2 LEAD COMMISSIONER FRANK MARROCCO: --
3 the administrator?

4 MS. HAVES: Correct. So when we were
5 calling it wave 1, initially, we were asking them
6 the situation on PPE. We were asking them about
7 the outbreak, their case numbers. We were asking
8 them about staffing.

9 And then if the questions -- the
10 answers led us to care of residents also -- because
11 we were concerned. We knew that is a shortage of
12 staffing would definitely impact care of the
13 residents. So it would --

14 LEAD COMMISSIONER FRANK MARROCCO: And
15 --

16 MS. HAVES: Sorry.

17 LEAD COMMISSIONER FRANK MARROCCO: No.
18 I'm sorry. Please finish your answer.

19 MS. HAVES: So it would depend on the
20 answers given to us on us assessing the risk and
21 what the next steps are required.

22 LEAD COMMISSIONER FRANK MARROCCO: And
23 did they routinely report to the inspectors that
24 there was a shortage of staff or a lack of
25 understanding on how to use -- how to put on and

1 take off personal protective equipment and that
2 sort of thing?

3 MS. HAVES: So during wave 1,
4 absolutely. For staffing, they were saying to us
5 that they had staff that were scared, there was a
6 shortage of staff. And for PPE, I personally
7 didn't hear them say to us we don't know how to use
8 PPE. They would just say to us that they were
9 afraid that there would be a shortage of PPE at
10 that time.

11 LEAD COMMISSIONER FRANK MARROCCO: So
12 what happens then, when somebody says, "We've got a
13 staff shortage. We don't know how to -- we're
14 having difficulty with the PPE"? Assuming someone
15 told you that, what happens then?

16 MS. HAVES: So it's different now in
17 wave 2 than it was in wave 1. We have a very
18 comprehensive process now when people -- when a
19 home tells us that they're short of staff.

20 In wave 1, we were escalating those.
21 We were establishing partnerships with the
22 hospitals and with Ontario Health at that time, and
23 it has grown. In wave 2, there are far more
24 supports. But during wave 1, there were supports
25 with the hospitals. The hospitals had more staff

1 to assist the homes. Wave 2 is a little bit
2 different to that.

3 And in wave 1, some of these homes, we
4 had reached out to Canadian Red Cross; however,
5 they could only support a limited amount of homes.
6 We would also -- Ontario Health to see if they
7 would assist, and they were reaching out to
8 different agencies to help these homes.

9 And now wave 2, there's additional
10 resources in wave 2 to assist with staffing. But
11 there still is staffing shortages for our homes.

12 LEAD COMMISSIONER FRANK MARROCCO:
13 Yeah. And I don't mean to quarrel with any of
14 that, but reaching out doesn't help you much if
15 they can't help. Like --

16 MS. HAVES: Yes. Yes. At the time --
17 you're right. During wave 1 when we were calling,
18 they're saying, "We're short of staff." We, the
19 Ministry, didn't have the staff to send. So we
20 would have to establish those partnerships, those
21 relationships with the partners to see who can help
22 this home to get some staff into this home?

23 LEAD COMMISSIONER FRANK MARROCCO: Do
24 you think if there had been a pandemic plan in
25 place that these partnerships would have already

1 been established?

2 MS. HAVES: I don't know. We didn't
3 know at that time the -- how this pandemic was
4 going to -- we knew that it was going to be
5 difficult for our homes, but we didn't know the
6 severity for some of our homes. We learned a lot
7 through wave 1 and -- and wave 2.

8 But I can tell you that now with the
9 best practices and what we've seen, definitely the
10 partnerships have helped tremendously.

11 LEAD COMMISSIONER FRANK MARROCCO:
12 Commissioner Kitts?

13 COMMISSIONER JACK KITTS: Yeah. I come
14 from the hospital sector, where a lot of the staff
15 concerns go through the Ministry of Labour. So I'm
16 just wondering in long-term care, is your role as
17 inspectors of Ministry of Long-Term Care to
18 actually do what Ministry of Labour does? Because
19 I see a lot of your stuff is about residents. But
20 do you look after the well-being of the staff,
21 health and safety of the staff as well?

22 And then a third overlap is Public
23 Health does restaurants, kitchens, eating areas to
24 make sure that they're clean and up to standards.
25 So I'm just wondering if the Ministry of Long-Term

1 Care wraps that all up into one home where they
2 inspect resident safety and risk, staff safety and
3 risk, and cleanliness and compliance with Public
4 Health measures for eating areas and kitchens.

5 MS. HAVES: So our legislation --
6 you're right. Our legislation is very focussed on
7 resident care. Do we inspect on staff issues? No.
8 Often when we get complaints from staffs, we will
9 reference them to Ministry of Labour, because they
10 have that regulatory oversight over the staff
11 themselves. Ours is -- our legislation, we
12 basically inspect legislation, which is focussed on
13 residents.

14 For cleanliness, it's anything that
15 impacts the residents. There's specific sections
16 of the legislation that talk about maintenance of
17 the home and cleanliness, and we will take a look
18 at that to see if it impacts resident care.

19 COMMISSIONER JACK KITTS: So Public
20 Health does or doesn't inspect the kitchens and the
21 dining areas in the home like they do with
22 restaurants and other things in the community?

23 MS. HAVES: Yes, sorry. I missed that
24 part of your question. Yes, Public Health is also
25 involved in doing their inspections, and they're

1 very specific to those items that you described.

2 COMMISSIONER JACK KITTS: So you have
3 three different types of inspections, and are they
4 coordinated in any way? Do you speak to each other
5 about -- because often the environment often
6 affects both residents and staff.

7 MS. HAVES: I can say that prior to the
8 pandemic, no, we didn't. We did work with Public
9 Health. So we have what we call LCEIs. They're
10 long-term care consultants and environmental
11 inspectors. They work very closely with Public
12 Health. They would reach out to Public Health if
13 they have an inspection on a certain issue; for
14 example, food, kitchen, cleanliness. So they did
15 work on that.

16 So Ministry of Labour, prior to the
17 pandemic, we didn't. I can say as of today,
18 however, we have a partnership established with
19 them, and we work together. So when we hear of
20 complaints or situations, we will inform each
21 other. But we do not take a look at their process,
22 or they don't share with us their reports. They'll
23 just let us know that they've been into a home, and
24 they're inspecting a home given to some complaints
25 that they received.

1 COMMISSIONER JACK KITTS: Yeah. I'm
2 just wondering, I guess -- last question is if you
3 compared, you could probably come to a common
4 definition by Labour and Long-Term Care as to what
5 serious risk or significant risk or what those --
6 serious harm, those things are. Because --

7 MS. HAVES: We have very defined -- we
8 have very defined roles, yes.

9 COMMISSIONER JACK KITTS: Okay. Thank
10 you.

11 LEAD COMMISSIONER FRANK MARROCCO:
12 Commissioner Coke?

13 COMMISSIONER ANGELA COKE: Sorry, I
14 just wanted to clarify something. You mentioned
15 that since January 18, 2021, you assign a level 4
16 to the outbreaks. Is that correct?

17 MS. HAVES: Correct. So as of
18 January 18, 2021, we are inspecting on the COVID
19 outbreak homes. There's a certain criteria for
20 that, and we are doing an IPAC inspection. So
21 we're using our IPAC protocols to -- and a check
22 list to do an inspection on those homes.

23 COMMISSIONER ANGELA COKE: So prior to
24 that time, you didn't have sort of any mapping of
25 specific COVID scenarios in homes against the

1 levels to provide some guidance to the inspectors
2 on how to triage?

3 MS. HAVES: It was based on risk. So
4 it would depend on the complaint that was received,
5 the critical incidents, what are the information
6 that was provided in that critical incident or that
7 complaint, the SAO would assign a risk to it.

8 Now, the SAO, keeping in mind, that we
9 were having those support and monitoring calls
10 regularly with the homes. They were also advised
11 of additional background information to know what
12 was happening in home. Was a hospital in the home?
13 Did it have a Public Health Unit IPAC assessment?
14 So all of those would be factors on us determining
15 what level to assign those outbreaks, those intakes
16 for those outbreaks.

17 COMMISSIONER ANGELA COKE: Okay. I
18 guess I'm trying to envisage in this whole COVID
19 scenario would ever be less than a 4, but I
20 understand what you're saying.

21 MS. HAVES: We were just looking at
22 very -- there were so many different factors for
23 every home. We're being -- we're trying to be --
24 all of the partners are being very proactive . And
25 as we start seeing -- so through the support and

1 monitoring call, the home would have told us,
2 "Public Health Unit has declared an outbreak.
3 These are the numbers we have." And then we would
4 ask the questions related to PPE, to staffing, HR,
5 leadership. And all of that would determine that
6 when we actually got the intake, we were being
7 proactive, we would know what's happening in the
8 home if we needed to go out to the home to do an
9 inspection right away.

10 LEAD COMMISSIONER FRANK MARROCCO: But
11 you weren't going out in wave 1 to do an
12 inspection?

13 MS. HAVES: Not initially, no. So in
14 March and April, as we're getting our inspectors
15 ready for IPAC training and getting them the
16 appropriate PPE, we were doing support and
17 monitoring only over the telephone.

18 We were doing offsite -- sorry, we were
19 going offsite inspections too for the critical
20 incidents that were coming in as 3+s and 4s.

21 LEAD COMMISSIONER FRANK MARROCCO: So
22 those are offsite inspections. But if nobody is
23 going in, then whatever's being reported is being
24 reported, but nobody's going in to do anything as a
25 result of what they're hearing.

1 MS. HAVES: Correct.

2 LEAD COMMISSIONER FRANK MARROCCO: Is
3 that right?

4 MS. HAVES: Correct.

5 LEAD COMMISSIONER FRANK MARROCCO:
6 Okay. Thanks. And one last question, and I'll let
7 you go back to continuing this presentation. But
8 did the inspectors ever complain that these various
9 levels are difficult to read and understand?

10 MS. HAVES: I'm -- I'm going to say
11 that the levels can be changed. So when our CEAT
12 department gives it a level, the SAO manager or the
13 inspection manager could review that level, and
14 they could change it. So there could be as a
15 result of that them not quite understanding --
16 determining what level could be difficult.

17 LEAD COMMISSIONER FRANK MARROCCO:
18 Yeah. And I wasn't so much speaking of that. It's
19 just reading it, just being an ordinary person
20 trained as an inspector and reading those different
21 levels, I wondered if there were complaints that
22 just the descriptions of the different levels were
23 confounding.

24 MS. HAVES: Yeah. We do quite a
25 comprehensive training on the levels and reviewing

1 the levels. And I note in the training, we will
2 give examples to the inspectors to say, "What would
3 you determine the levels?" So we recognise that
4 it's difficult.

5 LEAD COMMISSIONER FRANK MARROCCO: Go
6 ahead, Mr. Callaghan.

7 MR. CALLAGHAN: If we can go to 1(e)?
8 I just want to talk a moment about follow-up
9 inspections. And I won't take you through the
10 whole document, but perhaps we might put the
11 schematic up. It's at page 5. And I just want to
12 make sure... So page 5 was a schematic, and this
13 is all put in pros and verbalised in writing in the
14 report. But there's an order issued, as I
15 understand it, and if you go to the middle box, is
16 the order in compliance? If it's no, you reissue
17 the order, and then you conduct another follow-up
18 inspection.

19 And if the order is -- is the order in
20 compliance? If no, reissue the order, conduct
21 another follow-up inspection. Is that the process?
22 Or is there some immediate action that is taken?
23 Am I reading this correctly, that the powers of the
24 inspectors are just to issue an order, return with
25 a follow-up inspection, and issue another order?

1 MS. HAVES: So we have a process that's
2 not outlined here that we did pre-pandemic. So
3 when an inspector goes in to issue the original
4 order and then they go in to do the follow-up, and
5 if they have to reissue an additional order, a
6 second time order, it becomes a senior manager
7 referral.

8 So at that time, the senior manager
9 will meet with the home to say, "This is your
10 second time order. What are you doing to rectify
11 the issue?" And then the inspector will go back
12 into the home. They'll do another follow-up. And
13 if they have to reissue again, it becomes a
14 director referral.

15 And then it goes to the director for
16 them to determine what do we do next? Do you --
17 and she has -- the director has different avenues
18 available to them to determine how to get the home
19 back into compliance.

20 But to answer your question, yes, we
21 continue to follow-up on that order, but there's an
22 additional process that isn't outlined here.

23 MR. CALLAGHAN: Right. But it would
24 take two follow-ups to engage that other process.
25 And is it engaged every time after two orders, or

1 is it there a discretion to that as well?

2 MS. HAVES: There could be a
3 discretion. So if it's a high-risk order, if it
4 was falls or if it was abuse and we had to reissue
5 again, we would definitely have that call with the
6 senior manager.

7 If it's something that is not
8 identified as high risk, we would normally have a
9 call. But I can say that during the pandemic, we
10 may not have had the calls with the lower risk
11 ones.

12 MR. CALLAGHAN: So, yeah. So you
13 prefaced your initial answer with pre-COVID. Is
14 there a difference now post-COVID?

15 MS. HAVES: Well, it's just because of
16 the resources and the amount of backlog and work
17 that we have and the fast pace that's happening
18 right now. If a second time order is issued -- and
19 we review it as a team. So the SAO, service area
20 office, will let the senior manager know this is
21 second time order, this is the section of
22 legislation.

23 The senior manager will make the
24 determination if they feel it's a high-risk order,
25 and then they'll meet with the home. If it's not a

1 high-risk order or if the inspector has said to
2 them, "The home will be into compliance. They have
3 a solid plan; they just needed more time," then we
4 may not do that call with that senior manager.

5 MR. CALLAGHAN: So --

6 MS. HAVES: -- in the home.

7 MR. CALLAGHAN: So on the issue of
8 backlog, I believe we heard this evidence, but was
9 there more inspectors hired during this COVID
10 period, and is there still backlog?

11 MS. HAVES: There was -- before the
12 pandemic, there were vacancies, inspector
13 vacancies. We received approval to -- just let me
14 pull up the date here. We received approval to
15 hire inspectors. That was in October of 2020. And
16 then we have been in the process of hiring 27
17 inspectors.

18 MR. CALLAGHAN: So your complement was
19 down 27 from January to October. Is that what
20 I'm --

21 MS. HAVES: No. We received additional
22 funding. So back in December of 2019, we had a
23 number of inspectors. This was the funding that we
24 had. We received additional funding to hire more
25 inspectors.

1 MR. CALLAGHAN: Was that in -- you say
2 December 2019. Was that independent of COVID
3 because of the backlog? Because I'm assuming --

4 MS. HAVES: Yes. In December of 2019,
5 we had a number of inspectors and a number of --
6 and a certain amount of funding. So -- and then
7 with COVID, with the pandemic, we received
8 additional funding, and we received approval to
9 hire additional inspectors in October of 2020.

10 MR. CALLAGHAN: All right. So just to
11 be clear, the 2019 approval was to address the
12 existing backlog, and the October 2020 approval was
13 to address the COVID issue. Correct?

14 MS. HAVES: Additional for COVID. Yes.

15 MR. CALLAGHAN: So if we --

16 LEAD COMMISSIONER FRANK MARROCCO:
17 Commissioner Coke?

18 COMMISSIONER ANGELA COKE: Sorry. So
19 I'm just trying to understand. You didn't have
20 your full complement staff before. So you had FTE
21 -- maybe FTE count but not money. Is that what you
22 mean?

23 MS. HAVES: Yes. We were -- we were --
24 in December of 2019, we were -- we had too many
25 FTEs for the funding that we had, is my

1 understanding. So we were -- we had said that we
2 weren't going to fill the vacancies that we had for
3 the inspectors in December of 2019.

4 But we have submitted additional
5 requests for funding to hire -- to fill the
6 vacancies that we had and to hire new inspectors.
7 And that's as of October 2020.

8 COMMISSIONER ANGELA COKE: Okay. So
9 with you didn't get an complement of increased
10 staff. You just got the funding to fill the FTEs
11 that you couldn't afford?

12 MS. HAVES: In December? So in
13 December of 2019, we had too many FTEs for the
14 amount of funding that we had. So we were told in
15 December of 2019 we can not hire any new
16 inspectors.

17 And then -- but in October of 2020, we
18 received approval for additional, including the
19 vacancies that we had.

20 COMMISSIONER ANGELA COKE: Okay.

21 LEAD COMMISSIONER FRANK MARROCCO: So
22 the number of inspectors that you could hire
23 remained -- or the number of inspect -- the funding
24 which prohibited you from filling all the FTEs
25 remained in place until October of 2020, when you

1 were given additional funding that allowed you to
2 fill the FTEs that you had, assuming you could find
3 people, and provided additional FTEs? Or --

4 MS. HAVES: Correct.

5 LEAD COMMISSIONER FRANK MARROCCO: --
6 or permission to hire additional inspectors?

7 MS. HAVES: Correct. So we receive --
8 so in December 2019, we had vacant positions for
9 inspectors. We -- but we didn't -- we had too many
10 inspectors --

11 LEAD COMMISSIONER FRANK MARROCCO: I
12 understand.

13 MS. HAVES: -- yeah, for the funding
14 that we had. And then what we asked for was to
15 fill the vacant positions that we had during the
16 pandemic, and that was approved. And then we asked
17 for additional funding for more inspectors, which
18 we received approval.

19 LEAD COMMISSIONER FRANK MARROCCO: And
20 the approval and the additional funding was in
21 October of 2020?

22 MS. HAVES: Correct.

23 MR. CALLAGHAN: All right. Okay. So
24 from December '19 to October 2020, you don't have
25 additional -- you don't have the ability to fill

1 any of those FTEs or hire additional inspectors?

2 MS. HAVES: Correct.

3 LEAD COMMISSIONER FRANK MARROCCO: You
4 have to make do with the complement of inspectors
5 that you had in December 2019?

6 MS. HAVES: Correct. And we were --
7 keeping in mind also we were during a pandemic.
8 There was a shortage of trainers also. And to
9 on-board an inspector, it takes about eight to nine
10 months to fully train an inspector.

11 LEAD COMMISSIONER FRANK MARROCCO:
12 Okay. Commissioner Coke, you were trying to ask
13 questions?

14 COMMISSIONER ANGELA COKE: No, sorry,
15 I'm just wondering. At the end of the day now,
16 what is total funded complement of inspectors that
17 you have? You may not have completed the
18 recruitment, but what is the total allowable number
19 that you have funded?

20 MS. HAVES: So -- so the number that I
21 am given is 174 total inspector positions, and we
22 have 144 active inspectors.

23 COMMISSIONER ANGELA COKE: Okay. Thank
24 you.

25 LEAD COMMISSIONER FRANK MARROCCO: So

1 do you have permission to fund 174 positions?

2 MS. HAVES: That I would need to
3 verify. I'm not sure.

4 LEAD COMMISSIONER FRANK MARROCCO:
5 Okay.

6 MR. CALLAGHAN: Perhaps you can tell
7 Eric, who can advise us.

8 If we could just go on to tab 1(g)?
9 And this the policy to which you were referring
10 when you were talking to Commissioner Coke about
11 dated January 18th, 2021. And it says on its face
12 page:

13 "Within the long-term care
14 quality inspection program, there is
15 a standardised approach which all
16 inspectors must follow when
17 conducting a CIS outbreak
18 inspection. This policy will be
19 applied when an inspection
20 manager/SAO manager assigns a CIS
21 outbreak inspection to an
22 inspector."

23 And if we go to the next page, it says
24 it's objective is to have a consistent process
25 across the province, and inspection resources are

1 focussed and prioritised based on risk.

2 And if we go into Important
3 Considerations, it says:

4 "This is a brief high level
5 focussed inspection. However, where
6 observations, interviews, or record
7 reviews lead the inspectors to
8 believe there is actual potential
9 risk or non-compliance in high-risk
10 areas, the inspection should be
11 expanded to include a further
12 inspection of identified areas of
13 concern in consultation with the SAO
14 manager."

15 So this new process that you spoke
16 about, what does it mean when it says it's a high
17 level risk focussed inspection? Actually, sorry, I
18 should add brief. Are these supposed to be quicker
19 inspections, these ones we're about to talk about?

20 MS. HAVES: So these are IPAC-specific
21 inspections, outbreak-specific that are assessed as
22 a level 4.

23 MR. CALLAGHAN: What does it say?

24 "Brief high-level risk focussed
25 inspections."

1 Are they supposed to be quick
2 inspections? I'm having trouble with the word
3 "brief."

4 MS. HAVES: So they're not going to be
5 including other complaints or other critical
6 incidents. They're just doing the inspection for
7 IPAC. Unless during their observation they see
8 something at a very -- at a high risk level, then
9 they may open other inspection protocols.

10 MR. CALLAGHAN: Right. So as they say,
11 if at any time throughout the CIS outbreak,
12 inspectors identify immediate jeopardy situations,
13 they are to follow the immediate jeopardy policy,
14 which we sort of touched on before?

15 MS. HAVES: Right.

16 MR. CALLAGHAN: So basically what
17 you're saying what this should be read to be said
18 is this is an inspection to address the immediate
19 issue of the outbreak, not -- you're not looking at
20 other things. That's the critical incident that's
21 of issue. Correct?

22 MS. HAVES: It's the outbreak
23 inspection.

24 MR. CALLAGHAN: Right. Okay. If we
25 could go to the next page?

1 LEAD COMMISSIONER FRANK MARROCCO: Just
2 so I understand it, so the fact that there's a
3 COVID outbreak in the home isn't really sufficient.
4 There has to be an outbreak in the home, and it has
5 to be identified as posing a risk?

6 MR. CALLAGHAN: So, Chair, if you wait
7 one second, I'll show you what the language is.

8 If we can go to page 4 of 7, please?
9 And it says:

10 "When a long-term care home
11 declares a COVID-19 outbreak."

12 So just to repeat, as we looked at,
13 they're required to identify whenever there's a
14 COVID outbreak. Correct?

15 MS. HAVES: Correct.

16 MR. CALLAGHAN: In the homes. And
17 we've been told a COVID outbreak in the current
18 environment is one case. Is that what you
19 understood it to be in terms of notification by the
20 home?

21 MS. HAVES: Yes. The Public Health
22 Unit determines it could be a suspected outbreak
23 with one case.

24 MR. CALLAGHAN: Okay.

25 "A CIS intake is assigned to a

1 service area office. As the
2 outbreak progresses, the CIS report
3 may be amended by the long-term care
4 home or partners in the community
5 and may advise the SAO of the
6 outbreak status.

7 When the SAO is notified of the
8 initial outbreak or at any time the
9 outbreak progresses, the following
10 criteria will be considered when
11 determining the risk level for
12 assigning a CIS outbreak inspection:

13 There are four or more confirmed
14 COVID positive residents and no
15 partners have completed an IPAC
16 assessment or inspection since the
17 outbreak has been declared.

18 If these criteria are met, the
19 CIS intake will be changed to a risk
20 level 4 by the IM/SAO manager and
21 assigned for immediate inspection."

22 So there are two criteria. There have
23 to be four or more confirmed positive residents,
24 and then no partner -- and I will have to ask about
25 that in a second -- will have done an on-site IPAC

1 assessment or an inspection since the outbreak has
2 been declared.

3 So dealing with the first one, do you
4 have any reason -- do you know why they chose four
5 or more confirmed COVID-19 positive residents?
6 Were you involved in that decision?

7 MS. HAVES: No.

8 MR. CALLAGHAN: All right. So you
9 don't have information as to why?

10 MS. HAVES: I don't have additional
11 information, no.

12 MR. CALLAGHAN: And when it says, "No
13 partners have completed an on-site IPAC
14 assessment," what partners are we speaking of?

15 MS. HAVES: We could be speaking about
16 Public Health Unit, Public Health Ontario, or we
17 could be speaking about a local hospital going in
18 to do an IPAC assessment.

19 MR. CALLAGHAN: So if there's a
20 suspected outbreak, maybe one case, and a hospital
21 goes in and does an IPAC assessment, then it would
22 not rise to a risk level 4 if more cases turned up
23 past 4?

24 MS. HAVES: Correct. We would not --
25 we could not assign an inspection for this.

1 MR. CALLAGHAN: Is there --

2 LEAD COMMISSIONER FRANK MARROCCO: Was
3 there a sense when this number 4 was selected --
4 we've heard evidence that 30 percent of the people
5 in long-term care homes who get COVID die. So if
6 there's four before -- if that's one of the
7 criteria, that's really another way of saying one
8 person will -- has likely -- is likely going to die
9 before that criteria is engaged.

10 MS. HAVES: I don't know why --

11 LEAD COMMISSIONER FRANK MARROCCO: Is
12 there a sense of that when they were selecting the
13 number four?

14 MS. HAVES: I don't know. All I can
15 say is there was a working group that did an
16 analysis, and they determined that they were going
17 to use this criteria for us to go in to do an IPAC
18 inspection. So I don't know what they used
19 exactly, what they analysed, and what they
20 considered to determine the four.

21 MR. CALLAGHAN: And do you know whether
22 the working group would have included any IPAC
23 doctors or the chief medical officer of health?

24 MS. HAVES: No. It was a Ministry of
25 Long-Term Care working group.

1 MR. CALLAGHAN: So if we then -- then
2 you have directions upon entering the long-term
3 care home down below a little bit after Planning
4 the Inspection. And so when we're talking
5 immediate, I take it people go out that moment,
6 because you say within the hour of the inspection,
7 they're to get a certain amount of information
8 regarding the areas in the home with outbreak, the
9 list of residents, the IPAC policies and procedures
10 and the testing and visiting policies. So when
11 people go out immediately, is that -- just so I
12 understand, so is somebody on call to go out to a
13 home within the hour, for example?

14 MS. HAVES: This is referring to them
15 entering the home.

16 MR. CALLAGHAN: I see.

17 MS. HAVES: Yeah, it's when they enter
18 the home, they will go to -- directly to the
19 administrator or executive director, and they'll be
20 asking for this information within the first hour
21 that they're there.

22 MR. CALLAGHAN: So how long between the
23 designation by the IM/SAO manager and the
24 inspection? It says immediate. Is that, like,
25 within the half day? Is that with --

1 MS. HAVES: Yes. We will pull -- so we
2 will look at available resources, inspector
3 resources, and we will pull them and ask them to
4 enter this home immediately to do the IPAC
5 assessment -- or the inspection.

6 MR. CALLAGHAN: Now, in fairness --

7 LEAD COMMISSIONER FRANK MARROCCO:
8 Commissioner Kitts has a question.

9 MR. CALLAGHAN: Thank you. I can't see
10 everybody.

11 LEAD COMMISSIONER FRANK MARROCCO: You
12 may be on mute, Commissioner.

13 COMMISSIONER JACK KITTS: I'm sorry. I
14 just want to go to the concerns that Commissioner
15 Morocco raised about -- you know, and I'm not
16 holding you to number four, because you said you
17 weren't part of that decision. But, you know, we
18 found in wave 1 that where IPAC preparedness was
19 not in place had high levels of mortality rate and
20 spread, and it's been almost a year that we've
21 known that.

22 And so my question is what is the level
23 of confidence in the long-term care system now that
24 every long-term care home has learned from wave 1
25 and has -- should have or has declared that they

1 have a functional IPAC program in place now?

2 Because it seems odd to wait for an
3 outbreak or four to go see if it's functional. We
4 should know that it is, and if there's any
5 outbreak, you know, go and help.

6 Am I clear in sort of -- what's the
7 level of confidence that you're going to go a home
8 now, and it's going to have an IPAC program that
9 meets the inspection criteria?

10 MS. HAVES: I can't say for 100 percent
11 that I'm very, very confident that all homes have a
12 very good program, because we're still seeing
13 issues, we're still seeing outbreaks, we're still
14 assisting homes, we're still asking hospitals to
15 assist homes. However, we've given them, the
16 homes -- we've given them some tools. We asked
17 them for action plans. We make sure we've offered
18 the IPAC hubs. We've offered them funding.
19 We've -- you know, it's very -- we've given them a
20 lot of resources and tools to have and told them
21 what is expected from them.

22 But am I 100 percent confident that
23 they're applying it? Not by the numbers and the
24 complex situations that we're seeing.

25 COMMISSIONER JACK KITTS: So if we

1 combine all of your resources with hospital
2 resources and Public Health Unit resources and did
3 a blitz on all the homes to see where their level
4 of IPAC is, wouldn't that give you more confidence
5 in having to respond to homes with four or more?

6 MS. HAVES: Yes.

7 LEAD COMMISSIONER FRANK MARROCCO: Is
8 there --

9 MS. HAVES: But we -- sorry.

10 LEAD COMMISSIONER FRANK MARROCCO: No,
11 you go ahead.

12 MS. HAVES: I was going to say we -- we
13 do work with the other partners. We do work with
14 the Public Health Unit. In some of our areas, our
15 service area office managers have regular calls
16 with the LHINs, they have regular calls with
17 Ontario Health and all of the experts in Public
18 Health and the medical practitioners to talk about
19 the trends that they're seeing in homes what
20 they've done in homes, what resources are available
21 for IPAC. We have IPAC extenders and, like I said,
22 funding that.

23 So we are -- is it happening in all
24 areas? No. Some areas like Toronto does it very,
25 very well. But we are sharing more and more

1 information on IPAC on how to assist and help these
2 homes.

3 And I know that the leads -- our
4 assistant deputy minister and also the lead for
5 Ontario Health -- are meeting with the large chains
6 to say, "Here are the resources that we're giving
7 you. You need to be prepared. You need to be
8 accountable. You need to use these best practices
9 to control your outbreaks."

10 COMMISSIONER JACK KITTS: And I
11 completely agree. And so accountability is
12 everything. If they're not compliant at this stage
13 in the pandemic, what is the consequence from an
14 inspection that shows they're not compliant?

15 MS. HAVES: Well, we're working with
16 the Public Health Unit. So on the homes that are
17 not compliant, I've seen the Public Health Unit
18 actually issue orders. And we work collectively
19 together, and we are issuing orders.

20 And where we're seeing that the
21 licensee is not accountable and not able to comply,
22 we're asking either for a management company to go
23 in to manage the home or a hospital to go in
24 through a mandatory management order or a volunteer
25 management contract to assist the home.

1 COMMISSIONER JACK KITTS: Thank you.

2 LEAD COMMISSIONER FRANK MARROCCO: Do
3 you insist that where you're forced to take the
4 kind of action you've just described, that the home
5 has to pay for that?

6 MS. HAVES: Yes, they are. When a
7 hospital goes in, the contracts that they sign with
8 the hospitals, those are a mandatory management --
9 or management companies, sorry. They pay for that.

10 LEAD COMMISSIONER FRANK MARROCCO:
11 Would there be any reason why, in conjunction with
12 the Ministry of Labour, you couldn't inspect every
13 one of the 626 homes to see if they're competent
14 with, you know, infection control practices? And I
15 say in conjunction with the Ministry of Labour,
16 because if it's dangerous for the residents, it's
17 probably dangerous for the staff. Then, like, just
18 an audit of every single place. How do you put it
19 on? How do you take it off? And have somebody
20 watching who understands that, ask them some
21 questions about their IPAC practices, and then pass
22 or fail?

23 MS. HAVES: So we don't have the
24 resources to do that. We don't have the capacity
25 to do that. We are taking in complaints on abuse,

1 on neglect, on falls. We have a tremendous amount
2 of workload that we are also inspecting on.

3 And in our role as inspections, we're
4 very regulatory. We're not advisors. We do not
5 educate. So when we go into homes, Public Health
6 does -- what you're saying is something that the
7 hospitals and Public Health Units have been doing.
8 They have been assisting with the audits. They've
9 been educating. They've been showing the home.
10 They don't know what they don't know, and that's
11 what's happening in a lot of these homes. There's
12 so much --

13 LEAD COMMISSIONER FRANK MARROCCO:
14 Yeah.

15 MS. HAVES: There's so much information
16 given to them. But we just don't have the
17 resources or the skillset or the training to
18 specifically do a deep, deep education like Public
19 Health Unit does.

20 LEAD COMMISSIONER FRANK MARROCCO: I
21 appreciate what you're saying. You can't get to
22 the baseline, because for resource reasons, you
23 just simply can't establish the baseline. The
24 difficulty with what happens after there's an
25 outbreak is that then you're playing catch-up right

1 from the beginning with a very infectious disease.
2 It seems to me every day makes a difference if that
3 infection is spreading through the home.

4 MS. HAVES: Yes. Like, we're having
5 calls with all partners. The partners are going in
6 to do assessments. Some of the homes, we're seeing
7 that the numbers are -- are still continuing to
8 rise, and it's finding that smoking gun. Where is
9 the issue? And using the best practices. And
10 we're doing that altogether collectively.

11 LEAD COMMISSIONER FRANK MARROCCO: All
12 right.

13 MR. CALLAGHAN: So just following --

14 LEAD COMMISSIONER FRANK MARROCCO:
15 Commissioner Coke?

16 MR. CALLAGHAN: Sorry.

17 COMMISSIONER ANGELA COKE: It's a bit
18 more general than the COVID issue, but I'm just
19 trying to wonder if you have some sort of threshold
20 or some characterisation of a home that has a
21 pattern of non-compliance. Is there some way that
22 you categorise the homes that have a pattern is
23 what I'm describing it as of non-compliance? And
24 is there a point at which there's some different
25 type of intervention?

1 You described, you know, there's
2 follow-up orders and there's some escalation in
3 terms of what type of order. But at what point do
4 you say, you know, "There's a pattern of
5 non-compliance here, and some different level of
6 measure needs to be taken"? I mean, you can't just
7 keep going back and reordering and reordering if
8 this is the nature of the way this home is
9 performing.

10 MS. HAVES: It's a good question, and
11 thank you for asking it. So, yes, what we do is --
12 pre-COVID again, is we have compliance histories.
13 So we will deal with -- we will work with the
14 licensee. We will look at the compliance history.
15 If they're a chain, for example, that has multiple
16 homes, we will see a trend. We will see a trend on
17 staffing. We will see a trend on falls. And it
18 could be that they don't have a very good falls
19 program or they need additional training.

20 What we have done in the past -- and we
21 are doing it through COVID also -- was some of our
22 larger chains where we're seeing that pattern of
23 their homes coming out in outbreak and that they
24 don't have solid leaderships, we are escalating.
25 We are meeting with them. And those meetings can

1 also include our Public Health partners and Ontario
2 Health. We have a consolidated front to say, "We
3 are seeing an issue. You need to submit a plan.
4 And we are going to monitor that plan to make sure
5 that you're sustaining whatever you're saying
6 you're going to do."

7 COMMISSIONER ANGELA COKE: I guess what
8 is the threshold at which point you say, "You know
9 what? These people need to be out of the
10 business"? What is that threshold?

11 MS. HAVES: I don't have a specific
12 threshold for you. There is just the discussions
13 that we're having and determining what the next
14 steps are.

15 COMMISSIONER ANGELA COKE: Okay. Thank
16 you.

17 MR. CALLAGHAN: If we could just go
18 ahead a little bit on this document? And we have
19 to move along for the timing reasons.

20 But I take it you designed for this new
21 protocol for COVID outbreak a new checklist for
22 IPAC issues. Right?

23 MS. HAVES: Correct.

24 MR. CALLAGHAN: All right. And that's
25 at page 5 of 7.

1 MS. HAVES: Yes.

2 MR. CALLAGHAN: I don't think we need
3 to -- okay. And it deals with things, everything
4 from signage postages to cleaning and
5 disinfections, et cetera. Could you tell me, then,
6 this was January 21st -- or, pardon me, January
7 18th. Has this new policy been used yet? Have you
8 had occasion to have an immediate inspection on the
9 basis of this?

10 MS. HAVES: Yes. Yes. I don't have
11 the exact -- sorry. I don't have the exact number
12 for you of how many IPAC inspections we've done.

13 MR. CALLAGHAN: Okay. So I just want
14 to touch base, then, quickly on what you said a
15 moment ago, which is about the inspections that
16 seem to have been done, you said, in May.

17 We have a slide deck, and I'm not
18 expecting you to have seen it, but it just gives us
19 a jumping off part. That's at -- unless you did
20 see it -- number K, please. And while that gets
21 pulled up, we're at page 4. And when it comes up,
22 it will say:

23 "On May 27th, 2020, the
24 Ministry deployed long-term care
25 inspectors team to conduct

1 comprehensive detailed inspections
2 of high risk red long-term care
3 homes over a 21 day period. That
4 will end June 17th."

5 Was that done by your office, by your
6 inspectors?

7 MS. HAVES: By the individuals through
8 the area office, yes.

9 MR. CALLAGHAN: Okay. These are only
10 of 19 homes, was there? Or, pardon me, how many
11 homes were there?

12 MS. HAVES: There was 19 red homes at
13 the time. So the list was fluctuating. So
14 information was being gathered by Ministry of
15 Long-Term Care, Public Health, Ontario Health. We
16 would determine what the red homes were, and we
17 were inspecting on those homes.

18 MR. CALLAGHAN: And is there a score
19 card as to how those homes fared after the
20 inspections? Like, do you keep track as to whether
21 or not the red homes that were inspected had an
22 outbreak or didn't have an outbreak?

23 MS. HAVES: So they would have been --
24 they would have been in outbreak, because they are
25 identified as a red home. They would have been in

1 risk either of IPAC, leadership, staffing issues,
2 and that's why we were going out to do the
3 inspections.

4 For a score card, I could say that,
5 yes, you would have seen that, because the level --
6 the -- it would have been gone from a red to an
7 orange to a yellow to a green saying that it's now
8 fine. We also would have our heads ups -- our
9 regular heads ups to show the progress and to show
10 that the numbers were declining, what issues were
11 addressed also.

12 MR. CALLAGHAN: So I guess what I'm
13 asking -- and if you could just go down one more
14 slide? And this is the slide at a period of time
15 as you point out. Is there a score card, if I may,
16 or some sort of calculus that we can look at and
17 say a home's in red that you inspected and
18 subsequently had no outbreak or had an outbreak.
19 Do we know how successful your inspection process
20 was during that?

21 MS. HAVES: Nothing specific. We would
22 have to go case by case, home by home.

23 MR. CALLAGHAN: All right. And I take
24 it we could probably map the red ones against homes
25 that are known to have an outbreak and start there,

1 I suppose. Is that the way --

2 MS. HAVES: Yes.

3 MR. CALLAGHAN: -- to do it?

4 MS. HAVES: Yes. We would pull all of
5 the information to see, in the inspection, what did
6 we inspect? What did we issue? And were they in
7 compliance the next time that we went to do an
8 inspection? We'd have to pull all of that, the
9 heads ups information.

10 Because I -- I'm just looking at some
11 of these too. They would have had voluntary
12 management contracts. The hospital would have been
13 in. They would have had their score card, their
14 database, their -- of showing what they've done and
15 how they address compliance.

16 MR. CALLAGHAN: But what I'm
17 understanding is that there's been no comprehensive
18 review of the success of that program as of yet?

19 MS. HAVES: You're correct. Yes.

20 MR. CALLAGHAN: And we were going to
21 pick a view of a couple of homes that we have heard
22 about already, one of which was Sunnycrest.

23 And, again, our time is getting short,
24 and we have a couple of homes to do. So I'll try
25 to move through this gingerly.

1 But I think -- who is that? That is --
2 Ms. Johnston, is that your territory?

3 MS. JOHNSTON: Yes, it is.

4 MR. CALLAGHAN: So now I'm at tab 2(i),
5 Kavi.

6 So we're aware, and I'm assuming you're
7 aware, that there was a comprehensive inspection of
8 that home in December of 2019.

9 MS. JOHNSTON: M-hm. Yes.

10 MR. CALLAGHAN: All right. You have to
11 say yes or no.

12 LEAD COMMISSIONER FRANK MARROCCO: This
13 is Sunnycrest, is it, Mr. Callaghan?

14 MR. CALLAGHAN: Yes. Yes. Yes, it is.

15 So if we go over, if we're looking
16 at -- if we go over the page, you'll see this
17 report is dated December 3rd and 4th. But this was
18 done as a result of a critical incident.

19 And if we can go to through the next
20 page, Kavi?

21 So, Ms. Johnston, I take it -- this
22 says that the inspection was conducted on the
23 following days, and it's September 24, 25, 26, 27,
24 30th, October 1, 2, 3, 4, 7, 8, 10, 11, 15, 16, 17,
25 18, 21, 22, 23, November 12, and 13, 2019. And

1 you'll see the basis of it at the bottom is
2 included. There's a falls prevention, but
3 infection prevention and control.

4 MS. JOHNSTON: M-hm.

5 MR. CALLAGHAN: So just tell me, is
6 that a -- that's a lot of days. Is that typical
7 for an inspection to be in there that many days?

8 MS. JOHNSTON: Not necessarily. So I
9 know -- I know for sure for this one, we had one of
10 the inspectors -- there was illness amongst those
11 days, so there were two inspectors that did conduct
12 this inspection.

13 And it also is in dependant on the
14 nature of what they are looking at and in terms of
15 the findings.

16 MR. CALLAGHAN: All right. So let's
17 just take look at -- I just wanted to touch on a
18 few of these. If we could go to page 4 of 20? And
19 under Findings, it says:

20 "The licensee has failed to
21 ensure that there was a designated
22 staff member to coordinate the
23 infection prevention and control
24 program. Critical incident report
25 was submitted to the director for a

1 specific outbreak declared in the
2 home on a specified day.

3 In an interview with inspector
4 number 571, the director of care in
5 place at the time of the outbreak,
6 indicated that they were not the
7 lead for infection prevention and
8 control.

9 RN number 116 was uncertain as to
10 whether the infection control lead
11 was resource RN number 112 or
12 number 156 or both when this
13 specific outbreak was declared.

14 In separate interviews with
15 inspector number 571, resource RN
16 number 112 and 156 indicated they
17 were not the infection prevention
18 and control program lead at the time
19 of the outbreak."

20 It goes on:

21 "The licensee has failed to
22 ensure there was a designated staff
23 member to coordinate the infection
24 prevention and control program."

25 So the first issue, then, is that there

1 was some uncertainty or, indeed, no clarity
2 whatsoever as to who was in charge as it related to
3 IPAC. Right?

4 MS. JOHNSTON: That's correct.

5 MR. CALLAGHAN: And number two:

6 "The licensee failed to ensure
7 that symptoms of infection gathered
8 and recorded were analysed daily to
9 detect the presence of infection for
10 the purpose of reducing incidents of
11 infections and outbreaks."

12 This is -- I've forgotten the name of
13 it, but this is the list one is to keep to make
14 sure we track who is infected or not. Correct?

15 MS. JOHNSTON: That's right.

16 MR. CALLAGHAN: Line listing, I think
17 we call it.

18 MS. JOHNSTON: Yeah, surveillance line
19 listing.

20 MR. CALLAGHAN: And I'm not going to --
21 we won't take a look at this whole thing, but there
22 were specific orders then issued in respect of this
23 home. And I think if we go to the back of that
24 document at page 1 of 8, if I've got this correct.
25 And this is the order, and it's dated December 3rd

1 and 4th. And if you go over the next page, it
2 says -- and we won't go through the whole thing,
3 but it says:

4 "The licensees must be
5 compliant with section 229(6) of the
6 Ontario regulation. Specific, the
7 licensee must:

8 (A) ensure that all registered
9 staff and managers are educated on
10 Ontario regulations 79/10
11 section 229(6), and a licensee's
12 process for ensuring symptoms of
13 infections that are monitored and
14 recorded are analysed daily to
15 detect the presence of infection for
16 the purpose of reducing incident of
17 infection and outbreaks.

18 (B), a documented record will be
19 kept of the training."

20 And at the back of the document,
21 if you go to page 4 of 8, please?
22 Right there. Thank you. The
23 licensee -- pardon me, the
24 inspector's report:

25 "The severity of this issue was

1 determined to be a level 3, because
2 there was actual harm to the
3 residents. Scope of the issue was a
4 level 2, as it related to 7 of 15
5 residents reviewed and concluded
6 both floors, where residents reside
7 in the long-term care home. The
8 home had no previous history."

9 They're given till January 31st, 2020.
10 So that would be -- I'm not sure. That would be 60
11 days, I assume?

12 MS. JOHNSTON: It's issued December
13 19th, yeah, thereabouts.

14 MR. CALLAGHAN: I'm sorry. You broke
15 up there.

16 MS. JOHNSTON: I -- yeah, from the
17 report date, it was December -- December 9th, so it
18 would be, yeah, close to 60 days.

19 MR. CALLAGHAN: Well, 60 days is 60
20 business days. Right? That's what the requirement
21 is?

22 MS. JOHNSTON: Yes.

23 MR. CALLAGHAN: And there was another
24 report on March 9th, 2020, because we couldn't find
25 anything of any follow-up on March -- on January

1 31st. We did find a republic report of March 9th,
2 2020, and it would appear that there was a
3 complaint regarding a fall and that the inspectors
4 went in for that purpose. Is that correct?

5 MS. JOHNSTON: They -- they also went
6 in to follow up on that. It's a (audio glitch).

7 MR. CALLAGHAN: I'm sorry. You broke
8 up again. You'll have to speak clearer.

9 MS. JOHNSTON: You can see where
10 they (audio glitch).

11 Sorry. It must be my connectivity.

12 Yes, if you scroll further down, you
13 can see where they did follow up on the order at
14 this time.

15 MR. CALLAGHAN: Okay. So I just want
16 to be clear. Was there a scheduled revisit, or did
17 they actually just go out because there was an
18 incident, and then they followed up? Like, I'm
19 just trying to understand this. Was this a
20 scheduled visit, a follow-up, or was this a
21 critical incident they were going out and they
22 therefore followed up? The prior order.

23 MS. JOHNSTON: Well, it would have been
24 both. So with -- so with any order, we schedule
25 them.

1 My internet. I might have to stop my
2 video because of the internet.

3 MR. CALLAGHAN: Okay. That's fine.

4 MS. JOHNSTON: So, anyway, it's both.
5 So the inspection was scheduled for follow-up. And
6 with any inspection, what the inspector will do at
7 the time, if there's other intakes on file, they'll
8 be inspected at the same time, which would have
9 been the case in this particular situation.

10 MR. CALLAGHAN: Okay. Well, let's go,
11 then, because in this follow-up order at --

12 MS. JOHNSTON: M-hm.

13 MR. CALLAGHAN: -- page 5 of 6 -- your
14 earlier pages deal with the fall, which we're not
15 interested in, per se. But it says on page 5 of
16 6 -- it says:

17 "On December 3rd, the
18 compliance order from the inspection
19 was made. They restate the order."
20 And then it says:

21 "The licensee failed to comply
22 with part A, whereby the licensee
23 failed to ensure that all registered
24 staff and managers were educated.

25 A review of the read and sign

1 education materials provided to
2 registered staff in response to CO
3 were reviewed.

4 The educational materials failed
5 to include reference to the
6 education under regulation 79/10.
7 Separate interviews with full time
8 RN number 2, Number 103, and
9 infection control lead 101 all
10 confirmed an awareness of the
11 requirements of the legislations."
12 At the end, they conclude:

13 "The licensee did not comply
14 with the order made under this Act."

15 So they didn't rectify the order of
16 December 2019 and 2020. So what happens to this
17 now, now that we have a follow-up and they haven't
18 complied?

19 MS. JOHNSTON: So in this particular
20 case, so the inspector followed up on the --
21 following up on an order is twofold. So they would
22 look -- when they go in to inspect, they look to
23 see if the home is still in -- whether they're in
24 compliance or non-compliance with section 229(6).

25 In this particular case, they were in

1 compliance with the legislation, the 229(6).
2 However, a component of the order, the home was not
3 in full compliance with. So in that particular
4 case, the -- the inspector would leave section 101
5 of not complying fully with the order set out by
6 the inspector.

7 MR. CALLAGHAN: Right. But I don't see
8 any follow-up after this. Am I missing something?
9 We've not found anything that shows that anybody
10 did a visit after March 9th, escalated it to the
11 director, or what have you. Am I correct on that?

12 MS. JOHNSTON: Yes, because this was --
13 this wasn't a reissued order. So the order was
14 complied. They were issued a written notification
15 under section 10(3). So we would not follow up on
16 a written notification.

17 MR. CALLAGHAN: So it's March 31st,
18 we're in the middle of a pandemic, and they don't
19 have anybody who's educated in IPAC and there's no
20 follow-up. That's what I'm to understand?

21 MS. JOHNSTON: No. So -- so they would
22 have -- so the -- the home would have been in
23 compliance with section 229 . So they would have
24 had -- they would have had the -- the IPAC lead in
25 play. But what they didn't -- what they failed to

1 do is finish with all the education for all the
2 staff. So the educational materials failed to
3 include the reference in education.

4 So the staff were educated, but -- they
5 didn't they didn't support -- able to supply the
6 read and signed component that the staff were
7 actually educated. But through the inspector's
8 inspections -- so they would interview staff, they
9 would conduct observations, they would have
10 determined at that point in time that the staff
11 would have been educated.

12 MR. CALLAGHAN: Okay. I see. So I
13 don't see them limiting the requirement to -- like,
14 if we look up here, it says the licensee was
15 ordered -- pardon me. I'm not being very clear.
16 Was:

17 "Licensee was ordered."

18 And referring to 229(6), and they refer
19 to:

20 "(A) ensure all registered
21 staff and managers are educated and
22 (B) document the record.

23 And it says:

24 "The licensee failed to comply
25 with part (A) whereby the licensee

1 failed to ensure all registered
2 staff and managers were educated."

3 I don't read this as meaning that they
4 failed to have a document. Am I reading this
5 wrong? Because it would appear to be saying that
6 they came, and they didn't have the education. But
7 what I hear you saying is they didn't have the
8 document evidencing education.

9 MS. JOHNSTON: Right. I see. So I --
10 I -- so based on -- for -- further down in the
11 finding, it says.

12 "A review of the read and sign
13 education materials provided to
14 registered staff in response to the
15 compliance order were reviewed. The
16 educational materials failed to
17 include reference in education under
18 section 229(6)."

19 MR. CALLAGHAN: Okay. There's that
20 too. And then it says that the RN 102, 103 and the
21 infection control all confirmed an unawareness of
22 the requirements of 229(6). I don't want to be
23 unfair to the home here, but is it your
24 understanding they failed in the education
25 component, or is it just the recording of the

1 education?

2 MS. JOHNSTON: In the education
3 component.

4 MR. CALLAGHAN: All right. Well, then
5 let's just move ahead then. There was --

6 LEAD COMMISSIONER FRANK MARROCCO: I'm
7 sorry, John. I'm sorry. I missed the answer.

8 MS. JOHNSTON: Oh, in the education
9 (audio glitch).

10 LEAD COMMISSIONER FRANK MARROCCO: It's
11 breaking up for me, which is why I've turned off --

12 MS. JOHNSTON: I'll turn off my --

13 LEAD COMMISSIONER FRANK MARROCCO:
14 -- the video.

15 MS. JOHNSTON: -- video. That might
16 help.

17 LEAD COMMISSIONER FRANK MARROCCO: And
18 I just missed the answer to your question. I
19 didn't hear it.

20 MS. JOHNSTON: Oh, the education
21 component.

22 MR. CALLAGHAN: So they didn't follow
23 through with educating their staff on the IPAC
24 requirements. Correct?

25 MS. JOHNSTON: Right.

1 MR. CALLAGHAN: All right.

2 LEAD COMMISSIONER FRANK MARROCCO:

3 John, there's a question from Commissioner Coke.

4 COMMISSIONER ANGELA COKE: Sorry, just
5 a question about timing issues. So when they have
6 a compliance date of January 31st, are they
7 required to report to you that we're now in
8 compliance? And if you're going back, why the gap
9 for three months before going back? Or two months?

10 MS. JOHNSTON: So the homes -- so a
11 compliant due date of January 31st, the homes
12 wouldn't necessarily report to us that they're in
13 compliance. So what happens is the -- a follow-up
14 inspection is scheduled on our part. And we enter
15 the home unannounced, so the home does not know
16 that we are -- when we're arriving.

17 So we did go back in March. And,
18 again, we -- we schedule, you know, based on our
19 resources as well at the time.

20 COMMISSIONER ANGELA COKE: Okay. Thank
21 you.

22 MR. CALLAGHAN: So I think --

23 MS. HAVES: If I could just add some --

24 MR. CALLAGHAN: Go ahead.

25 MS. HAVES: If I could just add some

1 context here too? We have a chart available for
2 our inspectors to issue compliance due dates. And
3 it depends on the orders and if it's a high
4 priority compliance order or if it's one that's not
5 a high priority. So if it's a high priority, it
6 would be 90 business days that we would try to
7 schedule a follow-up inspection. And if it's not a
8 high priority -- excuse me, it's 120 days.

9 MR. CALLAGHAN: So this was a level
10 3/level 2. So was that a -- I think we established
11 it was supposed to be a 60-day follow-up.

12 MS. HAVES: So the compliance -- when
13 we're talking about compliance due date.

14 MR. CALLAGHAN: I see.

15 MS. HAVES: Yeah, not follow-up. But
16 Commissioner Coke was asking why the delay? But
17 this is just to provide some additional context
18 that we have timeframes of when we should be
19 scheduling a follow-up inspection or the compliance
20 due dates, how long we give them.

21 MS. JOHNSTON: Right.

22 MR. CALLAGHAN: And just to repeat, you
23 were no direction from management about changing
24 those dates in respect of things like IPAC in the
25 middle of a pandemic. Correct?

1 MS. HAVES: Are you talking about the
2 compliance due dates or the follow-ups,
3 inspections?

4 MR. CALLAGHAN: Either.

5 MS. HAVES: They are two separate --

6 MR. CALLAGHAN: Either.

7 MS. HAVES: Yeah, no, there was no
8 specific direction.

9 MR. CALLAGHAN: So if we could go then
10 to 1(b)? We had talked -- I think, Lynne, you
11 mentioned that there was the self-assessment
12 process or preparedness assessment, and this is the
13 home's preparedness assessment. Can I ask whether,
14 Valerie, you saw this?

15 MS. JOHNSTON: I -- I -- I only saw it
16 recently. I did not see it at the time.

17 MR. CALLAGHAN: So these would not have
18 been given back to the Inspection branch to look
19 at?

20 MS. JOHNSTON: No. I did not receive
21 this.

22 MR. CALLAGHAN: So if we go -- now,
23 this self-assessment has very little comments. If
24 we could just go to -- well, just take a look at
25 one page for timing reasons.

1 For example, if we go to page 9, this
2 is the -- you'll see this is IPAC, and there's five
3 levels. They marked themselves as a level 3. And
4 they refer to:

5 "Dedicated in-house IPAC
6 resource, trained IPAC
7 leads/champions on site. All staff
8 trained on IPAC with clear
9 policies."

10 And I take it that they're indicating
11 that they have that, and yet there's no reference
12 here to the outstanding order. So I take it from
13 your answers you wouldn't have been given an
14 opportunity to assess the validity of this
15 self-assessment against the outstanding order,
16 because you never saw it. Is that right, Valerie?

17 MS. JOHNSTON: Well, I never saw this
18 in conjunction with Ontario Health in the home.
19 But I just want to add there was no outstanding
20 order at this time. So the -- the order was
21 complied in March of 2020, and my -- this IPAC
22 preparedness assessment were completed latter part
23 of August.

24 MR. CALLAGHAN: Sorry. I'm sorry. I
25 thought we looked at it and said the education

1 component hadn't been done.

2 MS. JOHNSTON: But the home does not
3 have an outstanding order. They were issued --
4 they were issued non-compliance under section 101.3
5 for not complying with the order.

6 MR. CALLAGHAN: So I'm a little
7 confused. So they don't have sufficient IPAC
8 training or IPAC leads in December. They go back
9 in March, and there's no evidence of education,
10 and, in fact, the person that's supposed to be the
11 IPAC lead doesn't know about the section. And that
12 from the inspection branch is a complied-with
13 order?

14 MS. JOHNSTON: Because the inspector is
15 looking for non-compliance under that particular
16 section. So -- so -- and so when they originally
17 left the order, it was in relation to not
18 maintaining surveillance line listing sheets. So
19 when the inspector goes back in to follow up,
20 that's what they would look at.

21 So when an inspector leaves an order,
22 they -- they order the home a possible solution in
23 terms to rectify the problem. So it -- so at the
24 time, the home had rectified the line listing.
25 However, the one component of the order was not in

1 compliance. So by policy, by direction, we would
2 leave a section 101.

3 MR. CALLAGHAN: All right. So, of
4 course, you couldn't come back unless you came back
5 in an outbreak to determine whether the line list
6 and an outbreak was sufficient. Correct?

7 MS. JOHNSTON: Well, not necessarily.
8 I mean, the inspector would have completed
9 observations at that time, so they -- they still
10 would have used the inspection -- infection
11 prevention and control IP protocol. And by doing
12 that, you know, there is -- there's a systemic way
13 of conducting the inspection whereby they would be,
14 you know, conducting observations, staff
15 interviews, and record reviews. So...

16 MR. CALLAGHAN: Okay.

17 MS. JOHNSTON: At that time --

18 MR. CALLAGHAN: Well, I'm not sure I
19 fully understand what you're saying, given the
20 comments, but let's move on.

21 MS. JOHNSTON: It's Confusing.

22 LEAD COMMISSIONER FRANK MARROCCO:
23 John, before you move on, this is in relation to
24 Sunnycrest. Right?

25 MR. CALLAGHAN: Correct.

1 LEAD COMMISSIONER FRANK MARROCCO:

2 Okay.

3 MR. CALLAGHAN: Well, so --

4 LEAD COMMISSIONER FRANK MARROCCO: So
5 do I have it right that Sunnycrest said that they
6 had complied with the IPAC requirement as it's
7 described in that spreadsheet?

8 MR. CALLAGHAN: They did. What the
9 point is --

10 LEAD COMMISSIONER FRANK MARROCCO:
11 That's what they said. When you said they did,
12 that's what they said?

13 MR. CALLAGHAN: That's what they said.
14 The March 9th order seems to indicate that the
15 education component hadn't been completed, and,
16 indeed, even the lead wasn't aware of the
17 requirements --

18 LEAD COMMISSIONER FRANK MARROCCO:
19 Right.

20 MR. CALLAGHAN: -- under that section.
21 And so that's why -- and I think we're being
22 told -- even though that's the conclusion, that
23 doesn't mean that they're out of compliance. Which
24 I'm not sure I understand, but that's what I think
25 we're being told.

1 LEAD COMMISSIONER FRANK MARROCCO:

2 Okay.

3 MR. CALLAGHAN: All right. And then if
4 I can take you then to document 2(c)? And this is
5 a memo. But behind the memo -- and this memo goes
6 to a number of people. I'm not suggesting it went
7 to you, Valerie, or even you, Lynne, but it
8 identifies Sunnycrest as a home of concern of the
9 priority homes.

10 And then for Durham central east,
11 you'll see that right there in the second column.
12 And then if you go over the next page, you'll see
13 this is the rolled up reports of the view of the
14 various homes in the east region. And if you go
15 over, you'll see they assess them, and they give
16 various ratings as to which homes will require the
17 most support. Did you ever get a copy of this
18 document?

19 MS. JOHNSTON: I haven't, no.

20 MR. CALLAGHAN: So this was never
21 provided to the inspectors?

22 Lynne, have you ever seen this
23 document?

24 MS. HAVES: I haven't seen this
25 document here, no.

1 MR. CALLAGHAN: So the general says:

2 "Based on the results of the
3 preparedness exercise, identify the
4 homes that you believe are at most
5 risk from a preparedness
6 perspective. They are not prepared
7 for wave 2, have not made
8 substantial improvements..."

9 And you'll see the home listed there
10 under Durham central east. And then they go into
11 very specific items. If you go to the next page?

12 "Based on the results of the
13 preparedness exercise, identify the
14 homes that you believe will require
15 the most support in the area of HR."

16 And they don't actually list that home
17 in there, Sunnycrest.

18 We go over another page, it says
19 individual --

20 If you go up the next one, Kavi?

21 It says:

22 "Based on the results of the
23 preparedness exercise, identify the
24 homes that you believe will require
25 the most support in the area of

1 safety and IPAC if wave 2 occurs."

2 And then they have:

3 "Please also comment on the
4 specific IPAC deficiencies in these
5 homes."

6 And then they refer to the Sunnycrest
7 in the middle there. And there's commentary. I
8 won't take you through all that. We go to the
9 next, it says:

10 "Identify homes that are not
11 active, do not participate in the
12 Ontario Health regional planning
13 tables, for example, homes that have
14 refused/declined attendance, homes
15 that you notice have not been on the
16 call, participated in homes that do
17 not include supportive partnerships
18 in their preparedness."

19 And they list Sunnycrest. Now, just on
20 that point, were you in constant -- were you in
21 communication with Sunnycrest at your office,
22 Valerie?

23 MS. JOHNSTON: Yes, for sure. For
24 sure. Through wave 1 and 2.

25

1 MR. CALLAGHAN: That would not include
2 your -- this August. This wouldn't include your --
3 in August, that comment wouldn't include you?

4 MS. JOHNSTON: Well, I'm not aware of
5 this, but -- but in terms of -- as an SAO office,
6 we were -- we would be in contact with Sunnycrest.
7 We continued our support and monitoring throughout.

8 MR. CALLAGHAN: But this is done in
9 August, so this is before any outbreak at
10 Sunnycrest.

11 MS. JOHNSTON: Yeah, I don't know.

12 MR. CALLAGHAN: You don't know. But
13 you don't recall them calling your -- you don't
14 recall Ontario Health saying, "I'm doing this
15 survey. I just want to get your views"? You don't
16 recall that?

17 MS. JOHNSTON: No. No.

18 MR. CALLAGHAN: I'm just going to show
19 you a --

20 LEAD COMMISSIONER FRANK MARROCCO:
21 John, before you leave it, just so I understand
22 what I'm looking at, this was done by -- this is a
23 survey result that was obtained by Ontario Health?

24 MR. CALLAGHAN: Right.

25 LEAD COMMISSIONER FRANK MARROCCO:

1 Okay.

2 MR. CALLAGHAN: So as we understood
3 it -- maybe Ontario Health should come and testify.
4 But as we understand it, Ontario Health -- we've
5 been told that this was part of the fall
6 preparedness. They issued these self-assessments
7 and then did these assessments of the homes. And
8 we have now talked to Dr. Kyle and to Lakeridge,
9 neither of them saw any of this material, and now
10 we've been told that the inspectors never got it.

11 LEAD COMMISSIONER FRANK MARROCCO: All
12 right.

13 MS. HAVES: Can I -- can I just add
14 additional context here too?

15 MR. CALLAGHAN: Yeah, for sure.

16 MS. HAVES: So the preparedness
17 assessments were done, you're correct, by the
18 long-term care homes and Ontario Health. They were
19 not forwarded -- the individual assessments were
20 not forwarded to Ministry of Long-Term Care.
21 However, in our support and monitoring calls or any
22 calls that we would have with the home, we would
23 ask them, "Could you please forward your
24 preparedness assessment to make sure that
25 preparedness assessment was matching what we were

1 being told?" But we -- we did not get them.

2 This is specific to the east. We did
3 receive a general feedback from Ontario Health to
4 say these are how many assessments -- preparedness
5 assessments we received, and this is how many homes
6 in the province fell under these categories.

7 MR. CALLAGHAN: But to be clear, nobody
8 sent these to you with the idea that you'd go and
9 check, because they're concerned of IPAC at
10 Sunnycrest, for example?

11 MS. HAVES: Correct.

12 MR. CALLAGHAN: And there's a large
13 chart for central east. It's maybe cumbersome.

14 I wonder, Kavi, if you can bring it up.

15 So we'll see how this works. But I'm
16 not sure if you've seen this, but I just want to
17 show at least the commissioners, and it's a chart
18 of the various homes. And remarkably -- and I
19 won't take you through it, but if you looked at it,
20 you'll see homes, remarkably, rated themselves from
21 3 to 5. Weren't primarily 1s and 2s.

22 LEAD COMMISSIONER FRANK MARROCCO:

23 John, the screen is blank. How did Sunny -- let's
24 just cut to chase here. How did Sunnycrest rank
25 themselves?

1 MR. CALLAGHAN: 3s across the board.
2 And what's of interest, and I'll just take you
3 quickly through it, their commentary in this
4 chart -- and Ontario Health -- it seems to
5 designate them as a concern, because this home has
6 low engagement with the LHIN and a C class design.
7 It should be closely monitored. In doesn't seem to
8 be that they actually reflected anything about
9 IPAC, and there's no reference to the orders to
10 which we just referred.

11 LEAD COMMISSIONER FRANK MARROCCO: What
12 does a 3 mean?

13 MR. CALLAGHAN: 3 means you're right in
14 the middle of the pack.

15 LEAD COMMISSIONER FRANK MARROCCO: So
16 their assessment of themselves is we're kind of
17 average?

18 MR. CALLAGHAN: Yes.

19 LEAD COMMISSIONER FRANK MARROCCO: And
20 Ontario Health's assessment of them is better keep
21 an eye on them; they've got some problems?

22 MR. CALLAGHAN: Right. And we're going
23 to talk about Tender Care, who rated themselves as
24 4s and 5s, and they don't show up on the list.

25 So then if we can then talk about the

1 outbreak then at Sunnycrest. And if we could go --
2 we'll go off a document that -- it's just easy.
3 It's tab H.

4 LEAD COMMISSIONER FRANK MARROCCO:
5 While they're finding the document, is there any
6 reason why Ontario Health would not give the
7 Ministry of Long-Term Care a heads up about these
8 homes like Sunnycrest?

9 MS. HAVES: They did at a high level;
10 they just didn't give at us individual assessments.

11 LEAD COMMISSIONER FRANK MARROCCO: You
12 could see though -- I appreciate they may have
13 given it at a high level. But they if they don't
14 tell you which home, how do you know where to send
15 an inspector, assuming you have an inspector to
16 send?

17 MS. HAVES: But they did give us a list
18 of those homes at a higher level, not the exact
19 details of it. And at that time, I recall us
20 looking to see on our daily support and monitoring,
21 are we addressing these issues?

22 LEAD COMMISSIONER FRANK MARROCCO: But
23 not in relation to Sunnycrest, surely?

24 MS. HAVES: Well, Val is saying no. At
25 that time, she hadn't seen it.

1 LEAD COMMISSIONER FRANK MARROCCO:
2 Because it would be extraordinary if you were
3 saying that you assessed Sunnycrest as being kind
4 of average, given what happened.

5 MS. HAVES: Well, they -- they assessed
6 themselves with Ontario Health. We were not
7 assessing them. But we were monitoring -- we were
8 monitoring them, though. Yeah.

9 LEAD COMMISSIONER FRANK MARROCCO: See,
10 that's what I'm having some trouble with. You're
11 monitoring them. Ontario Health has this
12 information, and Ontario Health is not satisfied.
13 But you need to know that.

14 MS. HAVES: Yes.

15 LEAD COMMISSIONER FRANK MARROCCO:
16 Yeah.

17 MR. CALLAGHAN: So this is a -- and we
18 have this on many homes; I'm not sure we have them
19 all. These are the outbreak, and it gives you a
20 rundown of what's happening.

21 If we can go to the very back, please,
22 Kavi? Bottom of the document.

23 Okay. So here it says that May 7th --
24 this is earlier, and I don't know, Valerie, if
25 you're aware of this -- there was a positive COVID

1 test and that the outbreak was declared over from
2 May 7th to May 20th. Were you aware of that?

3 MS. JOHNSTON: Yes.

4 MR. CALLAGHAN: Okay. So the
5 information we have is that you get called on
6 November -- not you personally, but it's called in
7 on November 23rd, I believe --

8 MS. JOHNSTON: M-hm.

9 MR. CALLAGHAN: -- that there's an
10 incident. Okay? Are you familiar with the date?

11 MS. JOHNSTON: November 23rd, they were
12 (audio glitch).

13 MR. CALLAGHAN: Right. They called
14 in --

15 MS. JOHNSTON: Yes.

16 MR. CALLAGHAN: -- a critical incident
17 because of the outbreak. Right?

18 MS. JOHNSTON: Correct.

19 MR. CALLAGHAN: All right. So
20 November 24th, they have two staff tested positive,
21 five residents confirmed positive.

22 And then we go -- and this records on a
23 daily basis. And I take it is this your office
24 communicating with them? Is that where this
25 information is coming from?

1 MS. JOHNSTON: It is, yes.

2 MR. CALLAGHAN: So:

3 "November 26th, five residents
4 remain positive with 14 additional
5 residents symptomatic. 119
6 residents to be tested today.

7 November 27th, two new residents
8 positive for a total of seven. 34
9 residents are symptomatic. 90
10 resident swabs are pending."

11 Then we go up to November 28th.

12 "One resident has now died.
13 Six new residents positive for a
14 total 13. Five new staff.

15 November 29th, one new resident
16 death for a total of two deaths. 63
17 new residents for 76 residents
18 confirmed positive. Three new staff
19 for 11."

20 Now, you don't actually send an
21 inspector out until November 29th. So can you
22 explain why it takes from November 23rd to
23 November 29th to send an inspector?

24 MS. JOHNSTON: So with this particular
25 home, we -- so the inspector went in on -- on

1 Saturday, November 28th. The home went into
2 outbreak, as you know, the 23rd to 24th. So at
3 that time, we were having daily calls. The calls
4 entailed, you know, members from the LHIN, the
5 Public Health, Lakeridge Hospital. You know, there
6 was all hands on deck in terms of how we're going
7 to support this home. So, I mean, we were
8 following this home really -- you know, ever so
9 closely.

10 So by -- you know, by -- by Saturday,
11 we had an inspector on site.

12 MR. CALLAGHAN: All right. And --

13 MS. JOHNSTON: And the hospital had
14 already conducted IPAC assessments in this home.
15 So there was already IPAC assessments, you know,
16 being completed.

17 MR. CALLAGHAN: Had that happened yet?
18 I got the impression that Lakeridge doesn't go in
19 until the next -- till November 30th.

20 MS. JOHNSTON: Lakeridge had already
21 been in the home.

22 MR. CALLAGHAN: They had. Okay. We
23 would have heard that.

24 MS. JOHNSTON: As well as Public Health
25 at that time.

1 MR. CALLAGHAN: All right. I'll defer
2 to what we heard from them, so I'll defer to what
3 they said.

4 But so if we can then turn over then to
5 tab K, please? So the report as is dated
6 November 20th. You're saying that Mr. Shi went in
7 on the 28th?

8 MS. JOHNSTON: He did. He was there on
9 Saturday, and we issued the report on the Sunday.

10 MR. CALLAGHAN: And if you go down,
11 this is the order of inspection, and it says during
12 the course --

13 We're at page 3 of 9, please, Kavi.

14 Okay. And I'm not going to read this
15 whole thing, but it says -- I'll just quickly touch
16 on some.

17 "During the course of the
18 inspection, the following was
19 observed on November 28th.

20 There was no designated screener
21 wearing full personal protective
22 equipment. At least eight resident
23 rooms did not have PPE caddies. A
24 PPE caddy was located outside room
25 2204 on the designated COVID

1 positive unit."

2 Anyway, I won't go through them all.

3 But if we go to the end, just because of timing, he
4 again, says severity.

5 So if you can go back up one, please?

6 There we go.

7 "Severity. There was actual
8 harm to residents. There was not
9 enough staff in the home to provide
10 timely medications and treatments,
11 inconsistent IPAC practices during
12 the course of COVID-19 outbreak,
13 lack of education and information to
14 the front-line staff related to IPAC
15 practices and home's COVID-19
16 outbreak, lack of access to PPE
17 supplies, and inconsistent
18 precaution signage on resident
19 rooms.

20 In addition, as of November 29th,
21 there have been two resident deaths
22 and two residents who have been
23 hospitalised."

24 MS. JOHNSTON: M-hm.

25 MR. CALLAGHAN: The scope:

1 "The scope of this
2 non-compliance was wide-spread
3 because of the concerns that were
4 identified has the potential to
5 affect a large number of long-term
6 care residents. And as of
7 November 29, there have been 67
8 residents who have tested positive."
9 And they require the order to be
10 complied with by December 1st. Correct?

11 MS. JOHNSTON: That's right.

12 MR. CALLAGHAN: So now the peculiar
13 thing about this is, as I understand, Lakeridge
14 takes management of the home. So this order is
15 basically Lakeridge's to fix?

16 MS. JOHNSTON: The -- yes. The --
17 the -- yes.

18 MR. CALLAGHAN: So when we go on
19 December 14th.

20 MS. JOHNSTON: M-hm.

21 MR. CALLAGHAN: And then it's fixed.

22 MS. JOHNSTON: The order was put back
23 into compliance, yes.

24 MR. CALLAGHAN: Right. But to be fair,
25 that was Lakeridge putting things back into

1 compliance as the managers of the home. Correct?

2 MS. JOHNSTON: Yeah, for sure. Yes.

3 MR. CALLAGHAN: Now, we were
4 provided -- if we can go to Document 2(m)? We were
5 provided that there was a review of this decision,
6 and a decision was issued.

7 MS. JOHNSTON: Yes.

8 MR. CALLAGHAN: And I take it, just so
9 we're clear, even through when the order was
10 issued -- and perhaps this is an appeal by the
11 owner of the home rather than Lakeridge. They had
12 to comply with the order. Correct? Even though
13 they could appeal it, but in the meantime, they had
14 to comply. Is that the way the legislation is?

15 MS. JOHNSTON: It's exactly that.

16 MR. CALLAGHAN: Now, in this order --
17 we don't have the file, so I've got to be careful,
18 because I haven't seen the file. But in this
19 decision, the appeal is heard by Tammy -- I'm
20 afraid I won't be able to pronounce her last name.

21 MS. HAVES: Syzmanowski.

22 MR. CALLAGHAN: Syzmanowski.

23 MS. JOHNSTON: M-hm.

24 MR. CALLAGHAN: And she goes to the
25 file on this appeal. She upholds the decision, as

1 I understand it, but she takes issue with some of
2 the findings of the inspector. Is that how you
3 understand it?

4 MS. JOHNSTON: Yes. Yes. She's --
5 yes. She -- she had issued, the order was
6 rescinded, and a director's order was issued in
7 place under the same legislation.

8 MR. CALLAGHAN: Right. To the same
9 effect?

10 MS. JOHNSTON: To the same effect.

11 M-hm.

12 MR. CALLAGHAN: I don't know how these
13 appeals work, but I just have to ask you about one
14 thing. It's page 12 of 17. And this might have
15 some impact. We've heard from family members who
16 are notably very concerned about their loved ones
17 and what happened.

18 So I think that might be further down,
19 Kavi.

20 First of all, the first one, the
21 inspector notes:

22 "On the grounds of the order
23 that interviews were conducted with
24 two PSWs and one RPN indicating that
25 staffing was down to less than

1 50 percent of the home.

2 The inspector further states that
3 the staff told the inspector that
4 there was not enough time to stock
5 the caddies with PPE that were by
6 the resident's rooms. My review of
7 the inspector's evidence, the home
8 had significant staffing gaps and a
9 lack of staff attending the home.

10 However, there was no evidence
11 collected to support the statement
12 that staffing was down specifically
13 to less than 50 percent of the home.

14 Additionally, the RPN reported
15 that they were unable to the find
16 the staff to stock the PPE carts,
17 since there was no staff available
18 to do so.

19 However, there was no evidence
20 collected to support the statement
21 that staff indicated that there was
22 not enough time to stock the caddies
23 with PPE for the resident rooms. As
24 such, I will be altering and
25 substituting an inspector's order

1 with a director's order to
2 remove/revise these statements on
3 the grounds for the order."

4 I read that, because I'm curious as to
5 what level of evidence is an inspector to get if
6 not to hear from the staff at the home?

7 MS. JOHNSTON: Well, our policy
8 protocol is we would -- we would need two -- two
9 pieces of evidence.

10 So in this particular case, the
11 inspector -- this is by staff interviews. There
12 was no documented evidence to support, you know,
13 the director further supporting this.

14 MR. CALLAGHAN: Well, I mean, I find it
15 odd, because I would have thought two PSWs giving
16 that evidence would constitute two separate pieces
17 of evidence.

18 MS. JOHNSTON: Well, no, because that
19 would be staff interview. So we would need
20 documentation support or an observational support.

21 MR. CALLAGHAN: Okay. So the
22 inspectors, if they had five PSWs tell them that's
23 what they saw and the home didn't have a record of
24 it, you couldn't rely on the five PSWs? Is that
25 the current system?

1 MS. JOHNSTON: The five PSWs would be
2 certainly evidence, for sure. But the inspector
3 would have needed to, you know, investigate that a
4 little further in terms of, you know, maybe care
5 not provided or the staffing schedule. You just
6 would have needed to have taken that a little
7 further.

8 MR. CALLAGHAN: Okay. It's
9 interesting --

10 MS. JOHNSTON: To support -- to
11 support -- to support an order.

12 MR. CALLAGHAN: All right. That puts
13 the inspectors up against the wall there.

14 But let me read the next line there.

15 "The inspector notes in the
16 grounds for the order that on
17 November 29, 2020, there was 76
18 residents and 11 staff who had
19 tested positive for COVID-19.

20 The inspector further states
21 there have been two resident deaths
22 and two residents who have been
23 hospitalised related to COVID-19.

24 After reviewing the evidence
25 collected by the inspector, I'm

1 unable to verify or confirm either
2 statement.

3 As a result, I'll be altering and
4 substituting the inspector's record
5 with the director's order to remove
6 this statement from the grounds."

7 And I read this, because I found it
8 particularly odd that when we go back to -- let me
9 get my page number here -- document H. This
10 decision is a recent date; this is the 19th day of
11 January. And if we look at --
12 Can we go the front of this, Kavi?

13 LEAD COMMISSIONER FRANK MARROCCO: It's
14 2021.

15 MR. CALLAGHAN: Yes. Yes, Mr. Chair.
16 If we can go to the front of this
17 document, please, Kavi?

18 This is the document I took you to.
19 It's dated January 4th. See that? Is that
20 January 4th, 2021? Do you see that? Valerie, do
21 you see that? Can you see the date, please?

22 MS. JOHNSTON: Yeah, I see that.

23 MR. CALLAGHAN: All right. Now, the
24 first name underneath that, it's to Tammy -- what's
25 her last name? Syzmanowski?

1 MS. JOHNSTON: Syzmanowski.

2 MS. HAVES: Syzmanowski.

3 MR. CALLAGHAN: You see that? That's
4 the same person. Right?

5 MS. JOHNSTON: Yeah.

6 MR. CALLAGHAN: All right. So we go to
7 November 29, on this document that she received.
8 There you go.

9 MS. JOHNSTON: So can I explain? So
10 the -- and I know Lynne, who certainly --

11 MR. CALLAGHAN: Sorry. Valerie, can
12 you just let me show? I just want to illustrate.
13 I think you know where I'm going, so I just want to
14 show -- I just want the commissioners to follow me,
15 and then you're free to speak.

16 MS. JOHNSTON: Oh, I see. Yes.

17 MR. CALLAGHAN: So this is
18 November 29th, and that is one new resident death
19 for a total of two deaths, which is consistent with
20 what was in the report. 63 new residents confirmed
21 for a total 76. That was also supposed to be
22 expunged from the order. Three new staff positive
23 for a total of 11 confirmed staff.

24 So she's expunging from the inspector's
25 order information that she herself got. So I'm

1 sure there's some reason why that's being done.
2 Perhaps you might explain that as to why -- and if
3 you know. Maybe that it's up for the director to
4 explain this. It's just I found it odd that she
5 would expunge it.

6 MS. HAVES: Can I jump in, please? So
7 being someone that conducts director reviews, I
8 can't speak for Tammy. I can't speak of why she
9 would not have verified through the heads up. But
10 what I can say is director reviews are stand-alone.
11 So we will review the order that is being appealed,
12 and then we will make sure that the evidence that's
13 collected in that inspection file supports the
14 grounds and supports the order.

15 And perhaps she was looking for that
16 specific evidence. And, again, I can't speak for
17 Tammy; I don't know why. Perhaps there was nothing
18 for her to substantiate the grounds. There was
19 nothing in the inspection file that she was
20 reviewing -- because, again, they're stand-alone
21 files that we look at -- to say, yes, those were
22 the numbers at the time.

23 MR. CALLAGHAN: And fair enough. And
24 we don't have -- we have -- nobody's -- we haven't
25 received the appeal files, so I can't tell you

1 what's there. Just an illustration. And I raise
2 the illustration not because of the case but
3 because of the commissioners are going to have to
4 look at the broader context. And I can tell you
5 there are some Sunnycrest families that would
6 probably be very disappointed to have that
7 expunged, given that was their loved ones. So
8 there's a larger context. So I'm not suggesting
9 from an evidentiary perspective. I'm just pointing
10 out that inconsistently.

11 MS. HAVES: I can explain by doing
12 these often that inspectors will sometimes put in
13 the ground a certain statement. So I'm looking for
14 the evidence to match that statement.

15 MR. CALLAGHAN: Yeah.

16 MS. HAVES: And often the evidence is
17 not there, so we have to remove that statement,
18 Because it's not there.

19 MR. CALLAGHAN: Right. And I
20 understand that from an administrative law
21 perspective, and I appreciate that.

22 So if we could go -- I just -- the last
23 document on this one is 2.0, and this is what we
24 understand is the Lakeridge Health management plan
25 for Sunnycrest. And, Valerie, can you just tell

1 us -- we don't have time to go through this, but
2 can you tell what you say the purpose is and why it
3 is that it's Lakeridge and not Sunnycrest itself
4 doing this?

5 MS. JOHNSTON: Okay. For sure. So
6 Lakeridge Hospital entered into a voluntary
7 management contract with Sunnycrest, and that was
8 December 1st. And part of the agreement is the
9 managing company has to supply or provide a
10 management plan. So -- and that -- they have to
11 submit that within five days.

12 So Lakeridge Hospital did provide this
13 management plan December 4th within the five days
14 outlining certain concerns that they found and how
15 they're going to address them.

16 MR. CALLAGHAN: So I'll just give you
17 one goal, page 2. So this is increased knowledge
18 of IPAC best practices to improve compliance of
19 same. And the performance measure that they're
20 putting is 1 percent of staff and leaders will
21 complete within 90 days.

22 I guess the question I have is how this
23 is structured. Eventually, the home goes back to
24 Sunnycrest. And if Lakeridge has put it back into
25 a position, what is there to ensure that the

1 owner/operator actually can continue the good work
2 of Lakeridge and not slip into what might have been
3 the prior problem?

4 Because I haven't -- I have not -- by
5 the way, I've not given you some of the evidence
6 that we got from Lakeridge that state of how they
7 found the place. We have that. But what's the
8 mechanism to show that Sunnycrest can actually do
9 that which Lakeridge is doing for them?

10 MS. JOHNSTON: For sure. So the
11 voluntary management contract is for 90 days, which
12 can certainly be extended if -- if they're not --
13 you know, if the homes aren't -- the transition
14 between the home taking back management is -- is
15 not sufficient.

16 So it's a process. So throughout this
17 process, we have daily meetings with the home
18 throughout the outbreak. The management plan is --
19 is discussed at that time. And then it rolls into
20 transition planning meetings, which we will --
21 which we have just recently started.

22 So part of our transitional framework
23 is that the home and the -- the hospital have to
24 submit transitional plans, and they would be
25 components of the management plans. So areas that

1 the hospital has identified that the home needs to
2 rectify, you know, it's -- it's the hospital's
3 recommendations, it's the plan, the outcome,
4 there's a timeline in terms of when things are to
5 be completed by.

6 So we continue at -- the Ministry, you
7 know, are involved with some of these
8 conversations. There also -- there's a
9 transitional planning framework. So both the
10 hospital and the home receive a transitional plan
11 checklist, and both parties will be completing this
12 checklist to ensure that key areas are met such as,
13 you know, staffing, IPAC, leadership.

14 And it also has to be individualised.
15 The -- the -- the planning, the transitional plan
16 has to be individualised for the home to ensure
17 that, you know, both parties agree.

18 And it's also reviewed by us, the
19 Ministry, that the transition back to the licensee
20 back to managing the home can go on.

21 MR. CALLAGHAN: Given the shortness of
22 time, let me just deal with the other in a quicker
23 fashion, if I might?

24 MS. JOHNSTON: M-hm.

25 MR. CALLAGHAN: When we get to Tender

1 Care, I'm not sure you're aware of this, but there
2 was -- you probably are, but there was an
3 inspection report in 2019, which involved first an
4 allegation that there was an IPAC issue, and then
5 the inspector contacted the director, who said it
6 was not necessary to follow up on that. Are you
7 familiar with that?

8 MS. JOHNSTON: I'm familiar with this
9 report. I'm not sure what you mean by not
10 following up on it. There was no non-compliance.

11 MR. CALLAGHAN: If you go down to
12 page 3 of 4.

13 MS. JOHNSTON: Okay.

14 MR. CALLAGHAN: I don't know. I
15 won't -- I'll leave the names out of them. It
16 says:

17 "Skype message received
18 indicated that because there was no
19 negative consequences to the
20 residents that they should not
21 pursue the IPAC finding."

22 And this is in 2019. And then there is
23 a -- there is an infection prevention and control
24 checklist, I take it -- it's number L if you have
25 it there -- that they have. But were you aware of

1 that?

2 MS. JOHNSTON: I was aware of the
3 function from -- from what you've provided this
4 morning for the IP. So the inspector reviewed the
5 complaint regarding the -- the one resident with an
6 infection.

7 MR. CALLAGHAN: Right. But if you
8 go -- there's a whole list of questions here.

9 MS. JOHNSTON: M-hm.

10 MR. CALLAGHAN: And most of them aren't
11 answered.

12 It's 7 of 10, Kavi.

13 So I take it this is the old form.

14 "Do staff monitor symptoms of
15 infections?"

16 Number 12.

17 And if you go down a little bit,
18 please, Kavi?

19 You'll see that not answered right at
20 the bottom. Over the next page:

21 "Do staff on every shift record
22 symptoms of infection?"

23 So does this mean that we didn't
24 follow-up on this instance and get those answers?
25 Is that what that document would indicate?

1 MS. JOHNSTON: So the inspector -- so
2 the -- there again, so this -- this inspector went
3 in on a specific complaint related to a roommate
4 having a medical condition, MRSA. So -- so the
5 complaint was that they were roommates of such.

6 So the inspector would plan how they're
7 going to inspect that inspection, and they would be
8 focussed on those key areas. So depending on their
9 findings, they don't necessarily have to answer all
10 of these questions.

11 MR. CALLAGHAN: I see. So,
12 effectively, it didn't rise to the level 4?

13 MS. JOHNSTON: That's right.

14 MR. CALLAGHAN: Or level 3+, I guess.
15 Correct? That was the assessment?

16 MS. JOHNSTON: This was a level 3, but
17 no. So the levels are -- are -- the levels are
18 triaged at -- or created or triaged at the CEAT, at
19 the CEAT level. So this came to the inspector as a
20 level 3, and he's inspecting on -- upon it. He
21 wouldn't necessarily change the level at the time.
22 He would continue with the inspection and leave
23 non-compliance if there's non-compliance.

24 MR. CALLAGHAN: Okay . So if we go to
25 tab D? This is the outbreak in December. And I

1 take it you're notified in December?

2 MS. JOHNSTON: M-hm. Yes.

3 MR. CALLAGHAN: And so on this

4 document --

5 If we can go down a little bit, Kavi,
6 please?

7 It says:

8 "One staff who was tested on
9 December 1st during our weekly staff
10 surveillance results returned
11 positive on December 4th."

12 That resulted in you guys being
13 contacted for a CIS. Correct?

14 MS. JOHNSTON: That's correct.

15 MR. CALLAGHAN: All right. And
16 that's -- but on this one, we don't see an
17 inspection until later in December.

18 And if we go to tab G, we have a report
19 date December 17th.

20 MS. JOHNSTON: M-hm. Yes. We went in
21 December 16th.

22 MR. CALLAGHAN: Right. And the delay
23 would be as a result of what?

24 MS. JOHNSTON: Sorry. You said?

25 MR. CALLAGHAN: What would the delay be

1 part of?

2 MS. JOHNSTON: I would -- so this was a
3 level 3 inspection. We -- from onset of the
4 outbreak, which was December 8th, we had daily
5 meetings with the home, the hospital that was
6 involved with this home. Everybody was involved
7 with this home from the onset. So we continued to
8 monitor the home daily, and an inspector went on --
9 on December 16th.

10 MR. CALLAGHAN: But was UHN in the home
11 at that time? Or was it UHN, I believe?

12 MS. JOHNSTON: No, Scarborough Health
13 Network was in initially, and the general came in
14 later on.

15 MR. CALLAGHAN: Right.

16 MS. JOHNSTON: Public Health was
17 involved.

18 MR. CALLAGHAN: So by December 16th --
19 if we go to tab F? And by this time -- well, let's
20 look at December 17th, because it's easier to read.
21 So it says by December 17th -- I'm afraid I can't
22 put my eyes correctly on the other ones. It says:

23 "Two new resident deaths for a
24 total of nine COVID related deaths."

25 So it's a day after you get in, the day

1 of the report.

2 MS. JOHNSTON: M-hm.

3 MR. CALLAGHAN: It says:

4 "Total of 93 confirmed positive
5 residents. With the nine deaths,
6 that leaves 84 active."

7 And then they got two residents in
8 palliative, again, it says. And then there are 11
9 new staff for 33 staff active cases. But so can
10 you tell me exactly why you didn't go in until
11 December 16th with that kind of issue?

12 MS. JOHNSTON: I can -- I can say that
13 from the care partners, there were IPAC assessments
14 already being complete by Scarborough Health
15 Network. You know, this was a collaborative -- you
16 know, collaborative daily meetings, support calls.
17 You know, also resource-wise, you know, we went in
18 as soon as we...

19 MR. CALLAGHAN: Okay. All right. Then
20 the report itself, if we can go back to tab G? And
21 I won't go through the details of it. And in this
22 one, 5 of 9.

23 If we can go to 5 of 9? Okay. If we
24 can go to the top there?

25 "As there was an outbreak at

1 the home, the observations
2 demonstrated that there were
3 inconsistent IPAC practices from the
4 staff of the home and inconsistent
5 supply of PPE outside of the
6 residents home. As a result, the
7 disease spread rapidly throughout
8 the home, and there were a number of
9 resident deaths and also a number of
10 residents who have tested positive
11 for the outbreak, resulting in
12 actual risk to the residents.

13 The risk associated to staff not
14 adhering to the home's IPAC programs
15 would be possible transmission of
16 infectious agents during the ongoing
17 outbreak in the home.

18 Severity. There was actual risk
19 of harm to the residents because the
20 home was in outbreak, and there was
21 a potential for possible
22 transmissions of infectious agents
23 due to staff not participating in
24 the implementation of the IPAC
25 program and an inconsistent supply

1 of PPE outside residents' rooms.

2 In addition, there were a number
3 of resident deaths and a number of
4 residents who tested positive."

5 And I believe, if I'm not mistaken,
6 this home rated its IPAC at 5 in the inspection --
7 in the pre-inspection report.

8 LEAD COMMISSIONER FRANK MARROCCO: What
9 does 5 mean?

10 MR. CALLAGHAN: 5 is the highest.

11 LEAD COMMISSIONER FRANK MARROCCO:
12 Okay.

13 MR. CALLAGHAN: And just to make sure
14 I'm correct, I don't want misstate this -- just one
15 second.

16 If we go to tab B and down to page 9?
17 I apologise. Level 4. So it's level
18 4. And then they explain -- they give -- unlike
19 some of the others, this home provided comments.

20 "An ADOC currently serves as
21 IPAC lead, and there is an IPAC team
22 in place. Education on the core
23 competencies of IPAC are provided to
24 all staff."

25 And it goes on to talk about 60 audits

1 a year -- or done monthly. 60 audits are done
2 monthly.

3 "The average compliance rate of
4 January to June is 91 percent."

5 And it talks about internal IPAC
6 audits. And we heard some evidence about that from
7 some of the other witnesses about how those worked.

8 But going back, then, to G. If we
9 go -- now, this one, the order is to be complied
10 with as of December 24th, 2020.

11 MS. JOHNSTON: M-hm.

12 MR. CALLAGHAN: And when we heard from
13 North York General Hospital, I don't think they had
14 heard from anybody about a follow-up. Has there
15 been a follow-up done?

16 MS. JOHNSTON: There has, yes. The
17 team went in January 7th for follow-up, and the
18 report is pending.

19 MR. CALLAGHAN: So why would it take
20 that long? Like, North York -- we heard some,
21 shall we say, exasperation from North York General
22 Hospital, who is in the home or was for a period.
23 I think they're still there. And they can't quite
24 understand why they haven't actually got the
25 feedback from your department. So can you explain

1 why it is that they don't have it?

2 MS. JOHNSTON: Sure. So the team went
3 in -- a team of two went in January 7th, and they
4 exited the home January 20th. The team had a
5 follow-up order. They had a number of complaints.
6 They had nine compliant intakes as well as the
7 follow-up and a critical incident inspection to
8 complete at the same time. So the team has exited
9 the home, and -- and they are working on the
10 report.

11 MR. CALLAGHAN: Okay. Do they sit down
12 and give a debrief?

13 MS. JOHNSTON: Yes, they would have.

14 MR. CALLAGHAN: So we're just
15 waiting --

16 MS. HAVES: So prior -- prior the
17 leaving the home, they would give their initial
18 observations.

19 And then they leave the home, and then
20 they prepare the report by examining all of the
21 evidence collected. And then they do what you see
22 at the bottom right here. They do the judgment
23 matrix. They evaluate the severity, the scope, the
24 compliance history to determine what level of
25 non-compliance is going to be issued. So it's a

1 detailed process that the inspector will go
2 through.

3 MR. CALLAGHAN: So then when can North
4 York General Hospital or the home expect that
5 response? When will that be out?

6 MS. JOHNSTON: It depends when the
7 inspection report is finalised. So it will be in
8 the next, probably, week or so.

9 MR. CALLAGHAN: But to be clear,
10 there's been no policy direction to your office
11 that --

12 MS. JOHNSTON: Yes.

13 MR. CALLAGHAN: -- inspections related
14 to IPAC and COVID ought to be expedited?

15 MS. JOHNSTON: Inspection reports must
16 be issued within 20 business days.

17 MR. CALLAGHAN: Okay. So this is
18 longer than 20 business. This is the follow-up, is
19 it? This is December 24th, and then there is --
20 I'm just trying to understand. Like, I think Lynne
21 took us through the timelines at the beginning.
22 I'm just asking, they seem to be abiding by
23 whatever the timelines are. I'm not doubting that.

24 I'm asking whether or not there's been
25 any direction from senior management on a policy

1 level that, given the outbreak, that when we're
2 dealing with a COVID-related response, that perhaps
3 these reports should be done quicker.

4 MS. HAVES: No, we have not given that
5 direction.

6 MR. CALLAGHAN: So if we could then
7 move on to the next home? We'll try to finish as
8 quickly as we can here. This is St. George's.

9 And if we could pull up Document 5(f),
10 please?

11 So this is in April of 2020. This is a
12 critical incident report, and it refers to an
13 outbreak.

14 And if you go to the second page?

15 And these are notations that start the
16 beginning of May, I think, if I read it correctly
17 at the bottom. May 1st, 2020, and they go to
18 June 15th. And I won't belabour the reading of
19 this. But I take it you never did an inspection,
20 even though there were, I think, as many as 10 team
21 members and 1 resident tested positive in this
22 outbreak. So there was never an inspection? Or
23 would this all have been over the phone, as we
24 discussed earlier?

25 MR. WISDOM: There -- there was no home

1 inspections on site, but we were doing the
2 monitoring calls with -- with the homes.

3 MR. CALLAGHAN: Right.

4 MR. WISDOM: And also there were staff
5 that were positive, but there were no residents
6 that were positive.

7 MR. CALLAGHAN: Well, this one says
8 there was one resident.

9 "Outbreak continues, June 8th.
10 10 team members and one resident
11 have tested positive."

12 MR. WISDOM: Okay.

13 MR. CALLAGHAN: And one resident was
14 isolated, and that isolation was completed. Would
15 it have made a difference if a resident was ill, or
16 would it have still been same process?

17 MR. WISDOM: No, it would have been the
18 same process.

19 MR. CALLAGHAN: So then if we can bring
20 up document L?

21 MR. KAVI: Which one is that one?

22 MR. CALLAGHAN: Maybe I have the wrong
23 one in hand. My apologies. There's an inspection
24 report July 24th, 2020.

25 Now, I just bring this up -- and I

1 won't read any of this out, but, Mr. Wisdom, this
2 is a report dealing with another critical incident.
3 And that's as of July 27th, and it deals with a
4 personal care plan. But I take it -- and I've read
5 others -- your inspectors were called about this
6 home on a number of occasions during this period
7 for various incidents?

8 MR. WISDOM: What do you mean, called?

9 MR. CALLAGHAN: Well, here's one where
10 you went in to the inspect -- the inspectors went
11 into the home on July 24th, 2020.

12 MR. WISDOM: Okay.

13 MR. CALLAGHAN: And I'm putting to you
14 that whatever was going on in that home was
15 whatever was going on, but you were there focussed
16 on the critical incident that brought you there?

17 MR. WISDOM: Yes, that's right.

18 MR. CALLAGHAN: All right. Because
19 I've seen other communications where there were a
20 number of various complaints. And I won't go into
21 them. They're in the file that you have --

22 MR. WISDOM: Yes.

23 MR. CALLAGHAN: -- including people not
24 wearing masks when they went to smoke and stuff,
25 things like that. You would get complaints about

1 that and deal with them. Correct?

2 MR. WISDOM: Yes. Some of the -- the
3 way that we dealt with that was over the -- the
4 phone with the partners, and the partners and
5 ourselves would be talking about the various IPAC
6 strategies that the home should be implementing.
7 And -- and so in those conversations, those would
8 be brought to the attention of the home, and we
9 would have the discussions around what's happening
10 and what they should be doing. Public Health would
11 be giving their recommendations about the IPAC
12 assessments done at the home as well.

13 MR. CALLAGHAN: So on that front, would
14 that include UHN?

15 MR. WISDOM: Yes, UHN was in -- in home
16 as well.

17 MR. CALLAGHAN: But they were in the
18 home as a result of a later outbreak. Correct?

19 MR. WISDOM: Yes, as a -- as a result
20 of the outbreak, providing support to the home.

21 MR. CALLAGHAN: Well, I take it they
22 provided other support, because Dr. Hota
23 specifically told the commission that, "We had
24 encountered throughout this outbreak and even prior
25 to the outbreak some resistance from the local

1 leadership to implement some of recommendations
2 that we've made." Did you have the same issue in
3 respect of this home?

4 MR. WISDOM: No. We were not aware
5 they were having issues with implementing
6 recommendations.

7 So the standard protocol is if the LHIN
8 or the hospital finds that the home is resisting
9 any directions we provided or recommendations --
10 same for Public Health as well -- that they reach
11 out to the SAO office and speak to the manager.
12 And then the manager would reach out to the home
13 and, if necessary, to the licensee, and they would
14 have a joint conversation about the concern of them
15 not responding to the direction from whatever --
16 whatever partner, whether it's Public Health or the
17 hospital.

18 MR. CALLAGHAN: Okay. If we could go
19 to the critical incident report? I have it marked
20 as number 3, which is probably the wrong number,
21 Kavi, of 21st of September 2020. There you go.

22 So there was another critical incident
23 report. This is in September. And it shows that
24 as many as six team members were positive as of
25 October 13th . Did you do an inspection of the

1 home at that point?

2 MR. WISDOM: No. We -- we -- no.

3 MR. CALLAGHAN: Sorry. I can't hear
4 you, Mr. Wisdom.

5 MR. WISDOM: I'm sorry. No, we did not
6 go into the home.

7 MR. CALLAGHAN: And can you tell me why
8 you didn't go to the home at that point?

9 MR. WISDOM: Certainly. The -- we did
10 not enter the home again, because we had -- we were
11 monitoring the home on a daily basis and speaking
12 to the various partners. And based on what we were
13 hearing, it sounds like the home had the situation
14 under control with the support from partners. And
15 we also had a resource issue as well.

16 MR. CALLAGHAN: All right. And before
17 we get to the subsequent outbreak, I just want to
18 take you to their preparedness assessment, which is
19 at tab D. And I'm not going to take you through
20 it, but they gave a very detailed one, including at
21 the beginning the UHN hospital partnership and IPAC
22 leadership and consultation. And I've read to you
23 what the review of IPAC said about complying with
24 what was suggested.

25 But I'm more interested in the form of

1 this. This form of -- maybe, Lynne, this is a
2 question for you, but this form seems a little bit
3 different than what we saw from others.

4 And if we can go to page 14? And maybe
5 this is something you haven't -- this is something
6 that -- and maybe this is a rolled-up form from
7 Ontario Health. But under Moderate Risk, and
8 they're talking about IPAC and PPE, particularly
9 PPE. And it says Trigger. And this is for a
10 moderate risk. Improve staff --

11 You may want to blow that up, Kavi, so
12 people can read it.

13 "Improve staff understanding
14 and comfort choosing correct PPE.
15 Donning and doffing compliance
16 techniques improving. Auditing
17 results show 50 to 75 percent
18 compliance. Universal masking
19 compliance improving."

20 I'm kind of struggling with why that
21 would be moderately acceptable, 50 to 75 percent
22 donning and doffing, when we've been told
23 repeatedly these are the things that spread COVID.
24 And improving masking use, it's not a rocket
25 science. But did you have any input as to how this

1 would be a moderate risk as opposed to a high risk?

2 MS. HAVES: No. This is an Ontario
3 Health --

4 MR. CALLAGHAN: Okay.

5 MS. HAVES: -- trigger.

6 MR. CALLAGHAN: I just thought I'd ask.
7 I mean, I suppose Ontario Health has an explanation
8 for that.

9 But if we then go back to Mr. Wisdom?
10 So we then have an outbreak, and this is at tab E.
11 What we have is the heads up for St. George's. And
12 now it may be that we couldn't find it, but was a
13 critical incident report phoned in?

14 MR. WISDOM: Yes, there -- there would
15 have been one for the November outbreak.

16 MR. CALLAGHAN: All right. And so that
17 starts -- we have it sort of -- it was being
18 declared on December 4th. Are we talking the same
19 thing, or are we talking an earlier outbreak? They
20 have a --

21 MR. WISDOM: Yes, there's a --

22 MR. CALLAGHAN: -- suspected outbreak
23 in November, and if we go back --

24 MR. WISDOM: These there was a --

25 MR. CALLAGHAN: -- to November 4th, you

1 have a declared suspected outbreak. It's declared
2 over the 23rd. So now it's the third outbreak. I
3 take it you didn't go in after this outbreak
4 either. Correct?

5 MR. WISDOM: Not this one. That's
6 correct.

7 MR. CALLAGHAN: Then there's another
8 outbreak in December, and it continues on through
9 January. And I take it you didn't go in on that
10 either?

11 MR. WISDOM: No, we did not.

12 MR. CALLAGHAN: And is that for the
13 same reasons, staffing reasons?

14 MR. WISDOM: Yes. That's also --
15 that's part of it in addition to the fact that we
16 have a good grasp as to what's happening in the
17 home based on the interaction and conversations
18 with the partners.

19 MR. CALLAGHAN: So that's a confusing
20 answer, because we've just gone through Valerie,
21 who -- they did send people into homes. And there
22 was Lakeridge in one of those homes and there was
23 North York General in another home, And yet they
24 sent people in.

25 So you took the view that UHN could

1 handle this inside? Is that the idea? I'm just
2 trying to figure out why this is different.

3 MR. WISDOM: No, so it's not
4 fundamentally different, because we have the same
5 process where the partners are on the ground. But
6 I think probably the difference is just the
7 resource availability between what Valerie is
8 saying and what we have in Toronto.

9 MR. CALLAGHAN: So if you had -- so I
10 take it your view is if you had more resources, you
11 ideally would have sent them in. Correct?

12 MR. WISDOM: Yes. Yes.

13 MR. CALLAGHAN: Okay. Those will be my
14 questions, I think, commissioners. I apologise.
15 It's taken much longer than I...

16 LEAD COMMISSIONER FRANK MARROCCO: I
17 don't think we have any further questions. So
18 thank you very much for the presentation, and thank
19 you for answering the questions. And I guess with
20 that, we will conclude for today.

21 MR. CALLAGHAN: Thank you very much.

22 COMMISSIONER ANGELA COKE: Thank you.

23 COMMISSIONER JACK KITTS: Thank you.

24 Bye. -- Upon concluding at 12:30 p.m.

25

1 REPORTER'S CERTIFICATE

2
3 I, Eveliene Symonds, BA, CSR(A),
4 Certified Shorthand Reporter, certify;

5 That the foregoing proceedings were
6 taken before me at the time and place therein set
7 forth, at which time the witness was put under oath
8 by me;

9 That the testimony of the witness
10 and all objections made at the time of the
11 examination were recorded stenographically by me
12 and were thereafter transcribed;

13 That the foregoing is a true and
14 correct transcript of my shorthand notes so taken.

15 I further certify that this
16 questioning was conducted in accordance with the
17 Protocol for Remote Questioning, Revised
18 05/05/2020.

19 Dated this 3rd day of February, 2021.

20
21 

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Page 8, line 24: "ICS" not "CIS"

Page 8, line 25: "complaints" not "complainant"

Page 39, line 14: "factors" not "tactors"

Page 41, line 11: "CIATT" not "CEAT"

Page 87, line 21: "completed in latter" not
"complied in"

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