

### **John Doherty – proof of evidence**

- I was the Executive Director of Forensic and Scientific Services (“FSS”) from January 2019 to September/October 2021.
- I reported to Health Support Queensland General Manager Michel Lok.
- In my role as Executive Director I had ongoing dealings with the Forensic DNA Analysis Unit.

### **Funding**

- While I was Executive Director of FSS we did not receive any increases in funding.
- My understanding is that FSS lost part of its funding under the Newman government. This was before I worked at FSS.
- When I was Executive Director, my understanding was that it was deemed to be too early into a Labor government to make requests for additional funding.
- For 2 years there was then a “holding pattern”. There was funding directed to the COVID response, but this did not help forensics.
- I felt that there was a need for further funding, particularly in the Forensic DNA Analysis Unit, but this did not seem possible at the time.
- I did not think that Queensland Health had any interest in the budget of FSS, which was managed by HSQ.
- I felt that there was a general belief within the organization that funding was not a huge issue for the Forensic DNA Analysis Unit as their backlogs were not growing. This would tend to indicate that the level of resourcing was about right but efforts were needed to eliminate backlogs.
- It is my understanding there were no formal requests for further funding for the Forensic DNA Analysis Unit through the budget process.
- I would informally raise funding issues with the General Manager, Michel Lok. We caught up quite regularly and would talk about FSS issues including funding, culture, management and training. Most of these discussions will not have been recorded.
- After I started as Executive Director the Queensland Audit Office report was released. This pointed to a shortfall in funding of around \$1m for the Forensic DNA Analysis Team.
- FSS overall delivered a \$3 million surplus for the 2018/2019 financial year. After this happened there was a \$3 million budget cut for FSS for the 2019/2020 financial year. I was not involved in

making this decision. Michel Lok was involved and told me he advocated for FSS' position. I did not want to sign an acceptance of the budget because it had a huge gap for FSS funding and I had an obligation to not overspend. I signed it but next to my signature wrote a qualifier that I would accept the budget if HSQ accepted that I would be \$1 million dollars overspent at year end. HSQ did not accept my qualifier and struck it through.

- My understanding is that part of the reason for the surplus in 2018/2019 was because the Forensic DNA Analysis Unit had a number of people on leave or working part time, so there was unspent salary if it was not backfilled. In 2019/2020 financial year funding was removed from the positions that were not occupied in the previous year due to leave or part-time work arrangements. When the people came back to the work group full time they were no longer funded and this resulted in a budget shortfall for salaries.
- I would bid for funding for positions that were filled by people but not funded. I was not successful. I took the approach that I would have to overspend on salary.
- Every year FSS would do a "budget build" where we were asked to put in bids for FTE and further funding. I recall that the Managing Scientist Cathie Allen put forward requests for more staff, I believe every year while I was Executive Director. Once there was a shortfall of something like 6 FTE in the salary budget, but it was not supported by Michel Lok and it did not get approved.
- There was a further problem with the Forensic DNA Analysis Unit because they did not have enough operating money. An example is how people had to ask permission to get a pen, I felt this was a symptom of the pressure on the operating budget, an extreme measure from managers to say that the operating expenditure has to be managed.

### **Cultural issues**

- I put a lot of effort into a cultural change within the Forensic DNA Analysis Unit while I was Executive Director.
- I was hoping to find a way to bring the team together to try and mend some of the past hurt associated with a previous staff member who had moved on. Technical issues in the lab were also being blown up to be catastrophic things.
- I felt that Kylie Rika was having as much an effect on Cathie Allen and Justin Howes as they had on her.

- Cathie Allen never gave me a reason to not trust her. It was a case of “is there smoke without fire”, if you get that many complaints about not feeling safe in the workplace, at what point can you say that there is definitely nothing to see here.

#### Open door policy

- I had an open door policy and invited staff to come and talk with me. Some scientists and managers came to speak to me about cultural issues.
- The staff who came to me to complain about culture and management decisions were not willing to go on record. I would tell the staff who came to speak to me that if they did not go on record it was hard to tackle their issue.
- Some staff who came to speak to me said that they were worried if Cathie Allen knew that they were raising issues, that there would be retaliation or retribution. I once raised this with Cathie Allen, and she said something along the lines of what repercussions, can somebody point to something.
- I did become aware of some of what had happened while Amanda Reeves worked at the lab, but it wasn't often spoken of at that time.
- One time when a reporting team member came to speak to me, they told me that someone in the analytical team was trying to decide if they were going to be courageous and talk to me. The reporting team member told me that the analytical team is managed by Luke Ryan, who is best friends with Cathie Allen, and they felt that there would be no chance of them surviving any process where they complained about something because Cathie Allen would support Luke Ryan.

#### Cultural change program

- I instigated a cultural change program through an external consultant, Tess Brooks with 1<sup>st</sup> Call.
- She did confidential one on one interviews which gave employees an opportunity to raise the big issues to be discussed. We chose three big issues: navigating differences of scientific opinion, approaching new and novel practices, team culture and how we structure the management team so it is safe for everybody to participate in management decisions.
- One of the aims of the cultural change workshop was to show staff how to navigate scientific differences.

- There was a workshop on discussing scientific differences of opinion, a workshop on navigating novel practices, and one around management structure/working cohesively.
- The rift was so deep that we struggled to bring the group together and effect cultural change.
- It was pretty clear towards the end of the process that it did not take much to undo the progress with the culture. When there was an issue staff would hark back to issues that would happen previously, it felt that it would go back to square one. Trust was a huge issue in that workplace.
- It was also challenging as we had to do much of the program virtually because of COVID-19 and lockdowns.

#### Cultural management team meetings

- I also set up cultural management team meetings which were for HP5 to HP7 staff, entirely focused on culture.
- It was supposed to create an opportunity for discussion between management staff where everyone was at an equal level during the meeting and where staff would not be afraid to talk and raise issues that their teams might have.

#### Paula Brisotto

- As part of the cultural change programme I instigated, Paula was involved in a body of work about values within the DNA group, which was really positive.
- My impression was that she was the one people trusted within management group. I was aware that sometimes people would go to her, and ask her advice on how to speak to Justin or Cathie.

#### Flexible work arrangements

- Flexible work arrangements were one of the things I worked on while I was Executive Director.
- For some employees, issues with flexible work arrangements would manifest when deciding which days of the week were appropriate to work. Some people only wanted to work part days. Some people wanted to finish early to take children from school. Some people wanted the ability to start and finish early.
- My default position was yes, we will make it work.

- Cathie did not have the same position, she would approach these issues which put business needs first.
- Cathie held a view that the reporting scientists would become unavailable to attend court if they finished at 2:30pm and that was grounds to refuse a flexible work agreement. I disagreed and decided we would issue people with flexible working agreements, trial it and see how many times they were called to court and how many times they did not attend court as a consequence. I am not aware of any circumstances where somebody did not attend court, albeit during COVID the courts were largely not running criminal trials. Cathie's view was that flexible work arrangements might conflict with their court obligations.
- I feel Cathie slowly came around to my way of thinking towards the end.
- Under the values work mentioned previously, Forensic DNA Analysis also adopted an approach of 'People First' for decision making, which may have assisted with this.
- When I had the open door policy staff would come and speak to me about flexible work arrangements.
- Sometimes people were of the belief that management would be obstructive with a flexible work arrangement request for the first time, even though they had not experienced it.
- The flexible work arrangement applications went to Cathie Allen before they went to me. It is my experience that the applications always arrived on my desk.

#### Working for Queensland Surveys

- As Executive Director I saw the Working for Queensland Surveys for all of FSS. I saw the responses to questions but I was never sent the "free text" responses from employees.
- The feedback in the Police Services stream was always overwhelmingly positive, and the other areas at FSS did not have as good results.
- I felt like the corporate focus would be on where the problem area was in the WFQ survey results, and this meant attention was taken away from the police stream.
- I asked HR for the "free text" responses from employees but I never received them.

#### Support for cultural change

- I felt adequate support would have been HR processes that supported performance management pathways if staff did something they were not supposed to do. I did not have this

ability. The industrial environment made it harder to performance manage people. FSS is a very highly unionised workforce.

- I felt that with limited HR processes, and with people who wanted their concerns to be confidential, I could not fix the cultural problems.
- I also felt that there was limited corporate support and a lack of interest in what FSS was doing. It's not core health business. My perception was that the response to the QAO report had been lacking, particularly around funding. Health don't want to provide additional funding and neither do QPS.
- I feel like I spent 2 ½ yrs trying to fix culture and doing a bit of operational work on the side. I felt like I did not have adequate support to fix the culture. That is part of the reason why I left.
- By corporate support I mean the ability to take someone down a performance management pathway if they're doing something they're not supposed to. The burden of evidence required to performance manage someone is very high – without something tangible it is virtually impossible to satisfy. As a result there is very little appetite to try. I recall that another director in HSQ gave a lawful direction and was told to bugger off. It was reported through HR processes and nothing happened. I observed there to be little support for him/her. The conversation I was trying to have with HR was around the question of how I could performance manage someone – where I had people telling me they had issues with a manager, but they won't go on the record. I wanted to know what I could do, how I could attack it. I didn't feel supported in this. This is why I formed the view that I needed to use other mechanisms to tackle culture. If I had to work with the people I had I would have to get some form of support.
- When I talk about performance management, I am not specifically talking about anyone in Forensic DNA Analysis, but more broadly in FSS.

### **Reworking**

- Incorreced results, results given at an intelligence stage that changed at a later stage, would cause friction between us and QPS.
- We would have monthly meetings with QPS. Cathie Allen, Inspector Dave Neville, Superintendent Bruce McNab and I would attend the meetings. We would provide QPS with reports on incorrects. Bruce and I were mostly there to facilitate the discussion as Cathie and Dave Neville did not have a good relationship.

- Sometimes the incorrects were the result of reworking, which might well produce a different outcome because a different person analysed it.
- We looked at different approaches for incorrects.
- In early 2019 it was decided that Cathie Allen would be the arbiter for re-working. She would be aware of reworks and the possibility of incorrects, and could justify to QPS why reworking was done. As I understood it this was intended to be an administrative process so that Cathie was to be made aware of the rework and the potential for an incorrect. A better result is never going to be an upsetting incorrect for QPS, but if it takes away from their case, it is. Cathie chose to manage that risk herself. I know some people see it as a controlling action and largely it was but I don't believe it was malicious.
- It would have been very unusual if I had directed Cathie to go and institute a specific process, particularly that early in my role as ED. I feel I would have taken her advice as Managing Scientist and said that I supported it.

#### "Production line" approach

- I understand the 'production line' approach to DNA analysis to have come about largely as a consequence of QPS establishing their own evidence recovery areas. If sampling/recovery is done within the DNA team, it would make sense to adopt a case management approach. I'm aware that that's what other labs do. I think a production line is fine for volume crime, but not for major crime cases
- With the in-tube system, the thing that comes to lab is thing in a tube, and gets treated like a production line sample. If it comes in as an item it's treated as an exhibit, and you can look for sperm/bloodstains, and have the opportunity to go back to the item and try and get another sample.
- The risk of incorrects exists in all jurisdictions but is more obvious in Queensland. Case management by the one scientist is not necessarily the whole answer. This is because if you have the same scientist the whole time, confirmation bias can come into play
- So if you moved towards a case based approach you might get more consistency within a case, but you may still get inconsistency with how scientists interpret. This is a national or international problem and should be looked at by a specialist advisory group. There is a lot of

fear in the forensics community around getting it wrong and being caught up in an inquiry into an unlawful conviction.