

3. Testing for the Justice System

Forensic DNA Analysis and Forensic Chemistry work predominantly for the Queensland Police although both also do some work for the Coronial System. Forensic Toxicology (under Coronial Services) also do some work for Queensland Police (roadside drug and alcohol testing).

Forensic DNA Analysis runs reasonably smoothly, although there are some cultural issues that need to be resolved (management team alignment). Processes are already in train to improve this and realign the management team culture. Work volumes in this area are at capacity, but there are no significant backlogs. This team has innovated and improved processes over the years to remain current.

Forensic Chemistry runs reasonably smoothly also, but suffers from a significant backlog of work, especially in the Illicit Drugs Group. This is largely due to a lack of proper triage and prioritisation processes within Queensland Police Service to manage work coming in for analysis (it all comes in unvetted and consequently work is undertaken that may not be required). Significant engagement has occurred with QPS to address this situation and work pressure is slowly improving in this group. Although the workgroup has a large backlog of cases, the volume of work now coming in is matched by the level of resources (effectively we are at a steady state – the volume of work in and work out are aligned). This means that capacity is matched to demand currently, but there is little leeway should demand increase. There is also no capacity to tackle the already existing backlog of work.

Josie Entwistle 8/11/21

FORENSIC DNA

← WFH due to illness

- Manager Reporting 1 left some time ago.
 - ↳ Moved to relieve
 - ↳ not advertised
 - Allan moved HPS → HP4.
 - ↳ Reporting 2 but substantive posⁿ is Allison's in reporting 1
 - Change - Kylie moved seats. as well
 - Allison doing 2 roles = Evidence
Intell.
 - Kylie cultivated team morale for the positive
 - 0700 hr starts banned.
 - ↳ courts 0900 - 1700 hrs
 - FWA not supported.
 - Loss of support network - wellbeing
-
- Want to stay in Kylie's team
 - States wellbeing concerns
 - Isolation concerns
 - States mgrs controlling behaviours

Submission for assessment - FSS

From: Lara Keller <[REDACTED]>
To: CO_Complaints <[REDACTED]>
Date: Tue, 15 Mar 2022 17:02:49 +1100
Attachments: 20220315 Submission KR.pdf (38.92 MB)

Good a. ernoon

STRICTLY CONFIDENTIAL

I have been provided with the attached documentaon fr om a staff member, and have alerted Jess to it being sent for assessment.

It is from a staff member from the Forensic DNA Laboratory.

There is media a[REDACTED]enon dir ected towards this unit, so I would appreciate your consideraon of this as a ma [REDACTED]er of urgency, please.

In summary, this staff member has reported that:

- * They provided feedback on a dra paper f or which they were listed as a signatory/reviewer
- * The feedback was not incorporated, and their name was removed from the signatory list for the final version
- * They went on to qeson the science on tw o other occasions, but without success

Thanks and Kind Regards

Lara



Lara Keller B App Sc (MLS), Grad Cert Health Mgt, MAIMS, CMgr FIML
A/Executive Director
Forensic and Scientific Services
Prevention Division, Queensland Health

[REDACTED]

Ingrid Moeller

From: Ingrid Moeller
Sent: Wednesday, 16 March 2022 11:29 AM
To: Lara Keller
Subject: RE:

That would be great Lara. See you then.

Thank you!

Ingrid

From: Lara Keller <[REDACTED]>
Sent: Wednesday, 16 March 2022 11:28 AM
To: Ingrid Moeller <[REDACTED]>
Subject: RE:

No problem. How about 0700 tomorrow?
 Thanks
 Lara

From: Ingrid Moeller <[REDACTED]>
Sent: Wednesday, 16 March 2022 11:27 AM
To: Lara Keller <[REDACTED]>
Subject: RE:

On Thursday and Fridays I start at 7. I can come in earlier as well.

From: Lara Keller <[REDACTED]>
Sent: Wednesday, 16 March 2022 11:26 AM
To: Ingrid Moeller <[REDACTED]>
Subject: RE:

Certainly, Ingrid
 When do you start work in the mornings?
 Thanks
 Lara

From: Ingrid Moeller <[Ingrid](#)> <[REDACTED]>
Sent: Wednesday, 16 March 2022 11:25 AM
To: Lara Keller <[REDACTED]>
Subject: RE:

Hi Lara,

I have to jot some things down and I haven't prepared yet. Also is it possible to do it at a time when Cathie isn't in the vicinity?

Ingrid

*Saw Lara on Thurs
 17 March 2022 &
 talked about DIFF.
 - a PID was
 mentioned.*

From: Lara Keller <[REDACTED]>
Sent: Wednesday, 16 March 2022 11:07 AM
To: Ingrid Moeller <[REDACTED].gov.au>
Subject: RE:

Hello Ingrid
Of course. Today? If so, I can meet you at 12?
Thanks
Lara

From: Ingrid Moeller <[REDACTED]>
Sent: Wednesday, 16 March 2022 11:04 AM
To: Lara Keller <[REDACTED]>
Subject:

Hi Lara,

I was hoping I might have a chat with you.

Regards

Ingrid



Ingrid Moeller
Scientist

Forensic & Scientific Services
Prevention Division, Queensland Health

e [REDACTED]

Queensland Health acknowledges the Traditional Owners of the land, and pays respect to Elders past, present and emerging.

ESU Request - draft document

From: CO_Complaints <[REDACTED]>
To: Lara Keller <[REDACTED]>
Date: Wed, 16 Mar 2022 11:32:13 +1100
Attachments: 20220315 Submission KR.pdf (38.92 MB); #184 Review of Microcon Options paper QPS (Final report).pdf (633.18 kB)

Hi Lara,

I was hoping to obtain a copy of the final draft which includes the document sign off. The version in the attached document (starting from page 31) appears to only include every second page number. Is this the version provided by the employee?

The original draft and final report (also attached) appear to be complete.

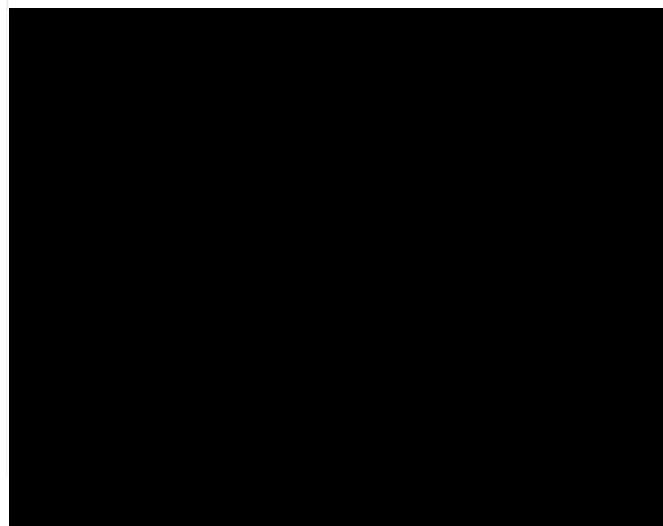
Kind regards
Ash



Ashley Macfarlane

Principal Complaints Officer

Ethical Standards Unit,
Human Resources Branch, Corporate Services
Division | Queensland Health



**CLEAN HANDS
SAVE LIVES**

Wash your hands regularly to stop the spread of germs



Queensland Health acknowledges the Traditional Custodians of the land across Queensland, and pays respect to First Nations Elders past, present and future.

RE: info

From: Kylie Rika <[REDACTED]>
To: Lara Keller <[REDACTED]>
Date: Thu, 17 Mar 2022 10:08:38 +1100

Missing page 3 could explain why my name is not included, however, the fact remains that Amanda, Rhys and I feedback that 0.0088 was probably too high to halt samples, and the report to QPS sll w ent ahead

Thanks
Kylie

From: Kylie Rika
Sent: Thursday, 17 March 2022 10:08 AM
To: Lara Keller <[REDACTED]>
Subject: info

Hi Lara

Attached is the doc we were talking about – for some reason it was pdf'd by someone (not me) and saved into our project folder on I drive with pages missing. I have attached what I believe to be the last version before this one, which has all the pages.

I also have other docs which I can send you but it might be best that I talk you through them. I also cannot print in private in my workspace hence why I am emailing these to you.

Thanks
Kylie



Kylie Rika

Senior Scientist, Forensic Reporting and Intelligence Team
Forensic DNA Analysis, Police Services Stream, Forensic & Scientific Services
Prevention Division, Queensland Health

*****Please note that I may be working from a different location during the COVID-19 Pandemic. The best contact method is via email.*****

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Attention: Ashley

From: Lara Keller <[REDACTED]>
To: CO_Complaints <[REDACTED]>
Date: Thu, 17 Mar 2022 09:47:46 +1100
Attachments: #184 Superseded (by QPS paper) Internal final report.pdf (649.26 kB); Report_Evaluation of the efficacy of Microcons_v3.doc (1.13 MB)

Hello Ash

More information from Kylie Rika as requested. Interesting that her name is listed on page 3 of the word document.

Thanks and Kind Regards
Lara



Lara Keller B App Sc (MLS), Grad Cert Health Mgt, MAIMS, CMgr FIML
A/Executive Director
Forensic and Scientific Services
Prevention Division, Queensland Health

[REDACTED]

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From: Kylie Rika <[REDACTED]>
Sent: Thursday, 17 March 2022 10:00
To: Lara Keller <[REDACTED]@ov.au>
Subject: info

Hi Lara

Attached is the doc we were talking about – for some reason it was pdf'd by someone (not me) and saved into our project folder on I drive with pages missing. I have attached what I believe to be the last version before this one, which has all the pages.

I also have other docs which I can send you but it might be best that I talk you through them. I also cannot print in private in my workspace hence why I am emailing these to you.

Thanks
Kylie



Kylie Rika
Senior Scientist, Forensic Reporting and Intelligence Team
Forensic DNA Analysis, Police Services Stream, Forensic & Scientific Services
Prevention Division, Queensland Health

[REDACTED]

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CLEAN HANDS
SAVE LIVES

Wash your hands regularly
to stop the spread of germs.

MOELLER

Lara Keller

From: Lara Keller
Sent: Thursday, 17 March 2022 11:16 AM
To: CO_Complaints
Subject: Documentation - Forensic DNA
Attachments: 20220317 Ingrid Moeller.pdf; Untitled

Good morning All

CONFIDENTIAL

I have discussed this with Jess this morning.

This is another collection of documents from a different staff member, received today.

Please also note the attached email, which represents a photo of sms messages on the phone of [REDACTED]

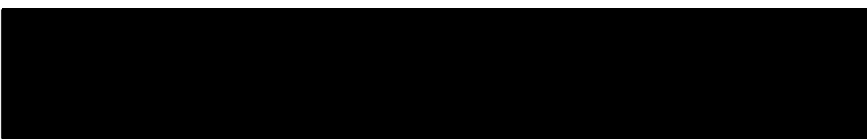
For consideration and advice please.

Thanks and Kind Regards
Lara



Lara Keller B App Sc (MLS), Grad Cert Health Mgt, MAIMS, CMgr FIML
A/Executive Director

Forensic and Scientific Services
Prevention Division, Queensland Health



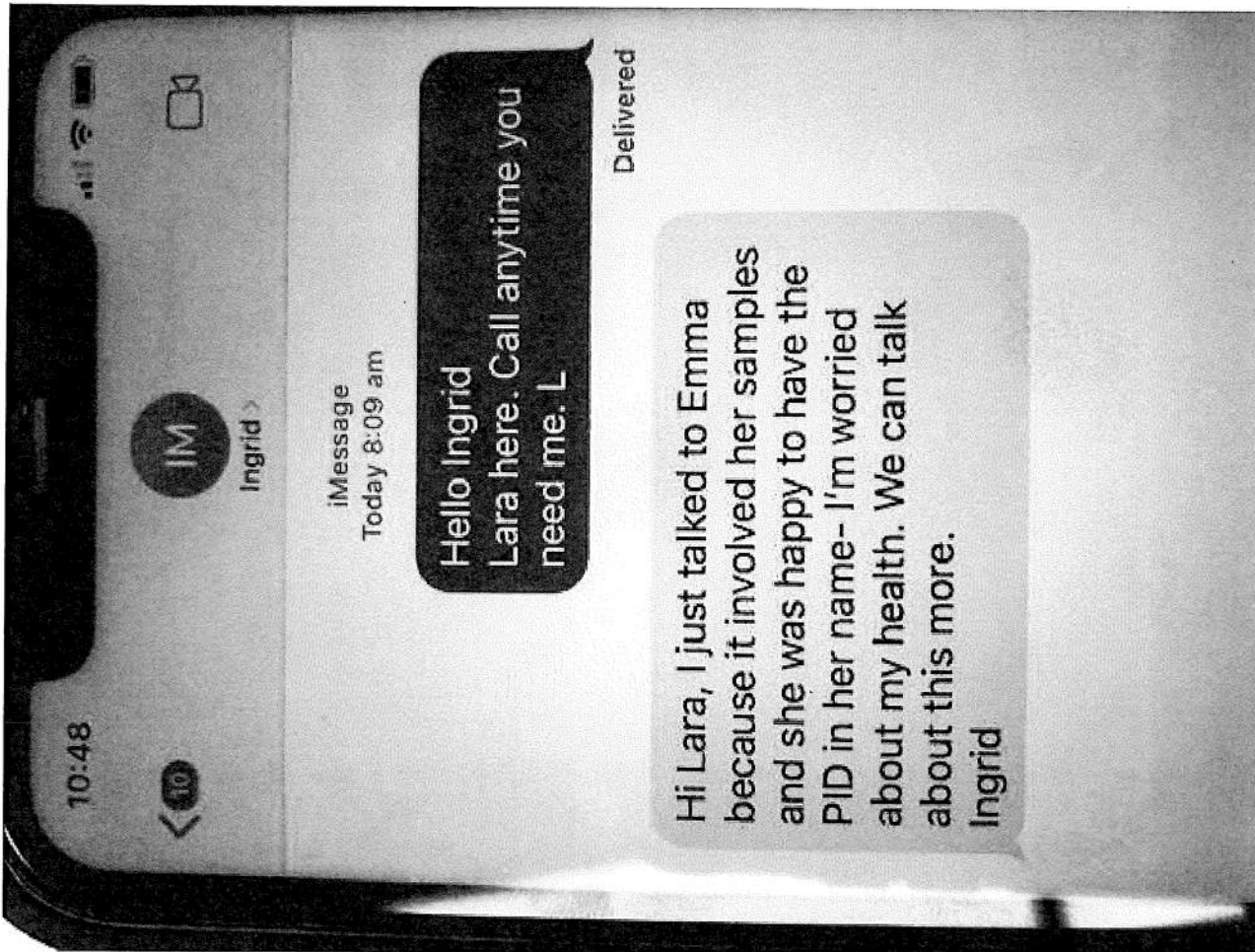
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See RIKa file for ESU assessment
outcome 18/3/22.

Lara Keller

From: Lara Keller [REDACTED]
Sent: Thursday, 17 March 2022 10:49 AM
To: Lara Keller

This email originated from outside Queensland Health. DO NOT click on any links or open attachments unless you recognise the sender and know the content is safe.



Sent from my iPhone

(1)

Ingrid Moeller 17/3/22.

Asked for private mtg.

Wanted to discuss:

1. DIFP
2. Sperm
3. Inaction by mgt.

- Ingrid scared of Cathie
- Cathie punishes people

"Its possible criminals are getting off Scot free in Qld"

DIFP

- Aug 2015 project # 163 was to assess auto microcon (concentrating).

Prior to this, we were sending certain values to microcon

(See submitted p/work)

- report issued

- 8% yielded profile for NCIDD

- Proposals x 3.

- Option 2 was adopted. - suggestive of "don't bother", there's not enough there.

* risks p 18.

- mentioned the issue of statement then rework for a particular case - Kylie said yes, Sharon said no (not enough time).

* We have adopted the most risky & cost effective option.

- Microcons ceased in 2018 - reporting scientists not happy.
- never reviewed again, despite FR.

I advised Ingrid that this may represent an FSU referral.

DIFP with < 0.088 = validated by case scientist, &

reporting scientist does not see it. Unless there is a

req't for statement. Then have to review whole case.

(2)

Ingrid gave examples:

- \$100 notes case

- DIFP → 4 ^{rework} person mix + NCIDD

(only found when anomaly queried by QPS).

SPERM ON SLIDES

- Amanda Reeves called out missed sperm

- she got bullied & then left.

- process changed, "she was right"

- could look in 2 places for sperm

- sample

- slide made / diff.

- auto validated by Luke, but did not notice 1+ sperm

- example SAIK

- 1+ sperm

- DIFP validated

- ↳ microcon

- ↳ defendant identified.

- second example SAIK

- 3+ sperm

- DIFP

- ↳ microcon

- ↳ defendant identified

INACTION / NEGLIGENCE / BULLYING

- has discussed i Justin before
- talked about a case from sometime ago (when new)
- DNA^{Neg} control had a significant profile
 - contamination
 - unhappy i validating it but
 - Justin said 'just do it', so I did it
- issue went on for months, no action
- Rhys had a case which had X-contamⁿ too
- seats or plates were dripping
 - did not pay attention to it for months
 - had to do something as so many staff raised concerns
- referenced Amanda Reeves case
 - Amanda left
 - 2 mo later, email from Cathie - me
Kylie
Emma
 - (emails provided)
 - relates to confidential paper bin - 6w ago.
 - she had pulled out papers from bin
 - we call it 'bin gate'

? told Ingrid that I would need to refer this to ESU.

I explained what might happen then, eg: PID

Ingrid said she has v. high stress levels.

Ingrid warned me about Cathie - 'watch your back'

Cathie goes through people's desks

Complaint assessment form

Assessment officer	Ashley MACFARLANE, Principal Complaints Officer, ESU
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Complaint details

Date received	15 March 2022	Subject officer/s	Cathie ALLEN, Managing Scientist Justin HOWES, Team Leader Unknown
Division	Forensic and Scientific Services	Complainant/s	Kylie RIKA, Reporting Scientist (complainant 1) Emma CAUNT, Scientist (complainant) Ingrid MOELLER, Reporting Scientist (complainant) Lara KELLER, A/Executive Director (informant)

Precis of complaint

In 2018, a change management project proposal was conducted in relation to the process for validating DNA samples. This assessment included the Managing Scientist, Team Leaders, Quality and Projects, Senior Scientists of the Forensic DNA Analysis team as well as consultation with QPS. The complainants were given an opportunity to provide feedback and this was received by the Team Leader. The complainants feedback related to concerns and risks to the exact figure to be used in determining if a DNA sample could reliably validate DNA (with further testing/assessment) or if it was considered 'Insufficient for further processing'. Concerns have been raised by complainant 1 that:

- Their feedback was not incorporated, and their name was removed from the signatory list for the final version
- They went on to question the science on two other occasions, but without success

Complainant 2 has provided examples of criminal cases requiring DNA testing since this process change that identifies DNA samples that were re-worked after their initial result of 'insufficient for further processing' that elicited results. This appears to raise questions about the threshold set and tends to support the initial concerns raised by complainant 1 through the consultation process for the 2018 change.

The information does not amount to suspected corrupt conduct under section 15(1) of the *Crime and Corruption Act 2001* as there is no information to suggest that the matter:

- results, directly or indirectly, in the improper performance of duties in a way that would be considered dishonest, a breach of trust, or a misuse of information
- would not, if proven, be a criminal offence or serious enough to warrant dismissal.

The ESU also considered if the concerns would amount to a PID under section 13(1)(a)(ii) maladministration that adversely affects a person's interests in a substantial and specific way, or section 13(1)(c) being a substantial and specific danger to public health or safety. The ESU considered:

- The scientific process was subject to a change management project proposal which included the Managing Scientist, Team Leaders, Quality and Projects, Senior Scientists of the Forensic DNA Analysis team and also involved consultation with QPS.
- Complainant 1 was given an opportunity to provide feedback and this was received by the Team Leader. It remains unclear how much consideration was given to this feedback which identified possible risks/impacts in the process. There appeared to be a difference in scientific opinion regarding the exact threshold limit to be used by FSS in determining if a DNA sample could reliably validate DNA (with further testing/assessment) or if it was considered 'DNA Insufficient for further processing'.
- While relevant staff were provided an opportunity to provide feedback for consideration, the ESU is not aware of any requirement that the quorum involved with reviewing the process must unanimously agree to the changes.
- The documentation did not tend to support that Complainant 1's name was removed from the endorser list, as suggested.
- Developments since the process change have highlighted that, in hindsight, the feedback provided by Complainant 1 (and others) may have been valid.
- The ESU considered that this was insufficient to suggest that maladministration that adversely affects a person's interests in a substantial and specific way had occurred.
- Examples of criminal cases requiring DNA testing since this change process have raised questions about the thresholds set by FSS and whether it may be limiting the ability to successfully validate samples.
- Nevertheless, the results themselves are used as circumstantial evidence only. The results in isolation, do not themselves prove guilt, they are simply used (in some circumstances) in conjunction with additional evidence as part of an overall justice process.
- In the instance the results were able to secure a conviction through a prosecution process does not necessarily prove the offender would pose a substantial and specific danger to public health and safety.

After considering these factors, the ESU determined the information does not amount to a public interest disclosure (PID) under the *Public Interest Disclosure Act 2010* as the information disclosed was not considered to satisfy the types of public interest information as outlined in sections 12 or 13 of the PID Act.

Further particulars

The SOPs applicable in January 2018 stated:

Forensic DNA Analysis Management Team – Consideration of Project Proposal

The Forensic DNA Analysis Management team will consider the change management project proposal documents as outlined in section 4.3. It is not necessary for all Management Team members to read and approve every proposal; however, a quorum of the Management Team must approve the proposal. The quorum must include the Managing Scientist, Team Leaders, Quality and Projects Senior Scientist/s of the areas significantly affected by the project.

In January 2018, Mr Justin Howes and Ms Cathie Allen drafted the '**Evaluation of the Efficacy of a Post-Extraction Concentration Step Using the Microcon® Centrifugal Filter Devices in Yielding DNA Profile Intelligence.**'

Abstract: *All samples that underwent a Microcon® process were evaluated and categorised into whether there was meaningful information obtained or not. This evaluation primarily focussed on samples that underwent an 'auto-micron' process in 2016. The results suggest there to be arguably minimal value in performing the 'auto-micron' process due to the limited meaningful DNA Intelligence obtained from these samples. Given this, further streamlining of workflow processes could be implemented that would provide significant efficiencies such that these efforts could be better placed in processing higher DNA-yielding samples.*

On 9 January 2018 feedback was provided by Amanda Reeves, Senior Reporting Scientist and Ms Kylie Rika, Reporting Scientist to Justin Howes. The feedback noted that there was a short turn around time to allow for full consideration e.g. "note that there seems to be urgency around this proposal being implemented, which might not allow time for full consideration of all potential risks/impacts."

Given the short TAT for feedback, the Reporting 5's have combined their final feedback. Specific feedback can be found throughout the body of this document, but the combined general feedback is:

1. Can appreciate the value in streamlining processes, but concerned that data for P2 samples is being used to extrapolate for P3 results that we don't yet have interp/processing rules around.
2. Should we be extrapolating around results at all? No one ever really knows what result will be obtained from a particular sample – it has to be tested for the 'true' result to be revealed. It is a false economy to analyse result that give 'assumed known contributor' and retrospectively ascribe them nil value, as the samples are taken and submitted to see whether or not there is 'foreign' DNA present... having said this, the 'value' of each result changes according to the specific sample/case history. Not confident about removing a test that we know does have some value.
3. Note that there seems to be urgency around this proposal being implemented, which might not allow time for full consideration of all potential risks/impacts. For this reason, is it possible to just implement for P3 samples, and revisit in 3 months for viability of extension to P2 samples (see recommendations). Concerned that trying to use P2 results (with one set of interp outcomes and purpose) to forecast for P3 results (with another set of interp outcomes and purpose) is confusing, and combined with the haste, we may miss something. For example, P2 sample goes through auto-mic and gives a partial profile that doesn't match POI could provides important exclusionary intelligence for the case – have we considered the exclusionary benefits appropriately under this proposal?

The feedback from Ms Reeves and Ms Rika also stated "... I conclude that setting the cut-off for no processing at 0.0088ng/uL is probably too high." The feedback was provided as track changes to the original document which had been recorded on the feedback table.

Feedback due 9/01/2018			
Staff	Date	Feedback	Response
LBR	9/01/2018	Hi Justin Looks great, I assume the recommendations apply to P3 samples ampmed in PP21? I'm ready to sign. Thanks Luke	Hey, yes all samples. Do you think I should just expand this a bit? jah
		Ok excellent. Might be worth specifying. I would either add a Scope section at the start (and key that recommendations apply to all P2 and P3 samples processed with PP21, or just specify in the Conclusion and Recommendations section - perhaps at start of recommendation 2? i.e. "For all Priority 2 and 3 samples processed with PP21, automatically..."	Hey, added to R1: 1. Cease 'auto-microcon' (Quant range: 0.001ng/ul to 0.0088ng/ul) processing for all samples of Priority 2 and 3 requested to be amplified with PowerPlex 21, with the following exceptions: jah
		Hi Justin Looks good - apart from the typo in my name that you already know about. Thanks Kerry-Anne	
KAL	9/01/2018		Adjusted
PMB	9/01/2018	Doesn't apply to P3 with PP21. Best to be option paper as QPS should make the decision on this.	Agree
KDR and AJR	9/01/2018	via track changes on doc in parent folder.	
SMJ	9/01/2018	via notes on doc in parent folder.	
ARM	10/01/2018	Hi, I am happy with the report (pie chart excluded ...) - however, I would actually be in favour of rolling out DNA insufficient to 0.02 ng/ul, and consider an extension of the DNA triaging process. Cheers AJ	

Complainant 1 has alleged:

- They provided the feedback on a draft paper (above) for which they were listed as a signatory/reviewer
- The feedback was not incorporated, and their name was removed from the signatory list for the final version
- They went on to question the science on two other occasions, but without success

The complainant has provided a pdf copy of a report in support of her claims, however every second page has been missed in the scanned document. This includes page 3 which is where her name was included in the original word document draft paper. Another copy of the draft options paper which was provided to QPS does not appear to incorporate their feedback. A further final copy of the options paper sent to QPS has been obtained. It should be noted that in this version, all involved in the document sign off have been removed in the final copy and the final options for consideration appear to be quite different to the 'conclusion and recommendations' section in previous drafts. The ESU does not possess the specialist expertise in relation to the content to understand if any original feedback by the complainant has been considered and implemented. The complainant is of the view their feedback was not incorporated which appears to be consistent with recent concerns raised further below.

On 5 February 2018, Ms Cathie Allen emailed numerous parties, including the complainant to state:

- *On Friday, Paul Csoban and I met with Superintendent of Forensic Services Group, Dale Frieberg and other QPS officers that the Supt requested to attend. We discussed the Options Paper which I had provided to the Supt earlier in the week. The Supt has indicated verbally and by email that the QPS' preferred option is Option 2 - no automatic concentration of Priority 1 or Priority 2 samples.*

On 7 February 2018, Mr Justin Howes emailed numerous parties, including the complainant to state:

- *On the back of the case manager's anecdotal feedback and our lab's second round of datamining of samples that underwent the automicron process, an Options Paper was presented to QPS Superintendent of Forensic Services Dale Frieberg on ways forward for QPS to consider – continue with auto-microcon process, or cease auto-microcons.*
- *QPS have advised the laboratory that they do not wish for our efforts to be put to the auto-microcon process (including the efforts in interpretation) for Priority 1 or 2 samples.*
- *This means samples in the range 0.001ng/uL (LOD) – 0.0088ng/uL will be reported at Quant stage as 'DNA Insufficient for Further Processing'. This is consistent with the process in place for P3 samples. The manual Microcon process may be performed upon QPS Request.*
- *To report in a statement the following wording could be used "Low levels of DNA were detected in this sample and it was not submitted for further DNA profiling."*
- *This is slightly different to the wording written in 2012/13 for these samples (P3) but after some consultation, appears to be a good starting pointy.*
- *An enhancement has been requested to enable this to occur from 112 February. Reactivating samples for further post-extraction processing, if requested from QPS, will be directed to Luke via an FR Request. If there are changes to the 12 February date, I will let you know. As usual, appropriate comments to SOP will follow.*

In response to this advice, there is further correspondence between Justin Howes, Kylie Rika and Emma Caunt. Ms Caunt flags the statement in relation to DNA Insufficient for further processing was inaccurate for 10% samples.

On 7 February 2018, Mr Howes replies that

- *"Yes, I will be changing the expanded comment as I know it is not exactly what we mean. The wording will be similar to the statement wording and making it clear that requests can be actioned.*
- *QPS will have their processes expanded to enable this as well including how to request further work. The expanded comment change will be added to the current SOP as a comment."*

On 8 February 2018, Ms Caunt replies:

- *I've been thinking about this a bit more. I want to say from the outset that I am not necessarily opposed to stopping the automicron process, but do think that there is a risk that we are able to manage.*
- *I am assuming that the 'DNA Insuff for processing' line will be added automatically and that it will be added to a list for validation. My question is, how will the validation process be managed?*
- *My personal opinion is that the line should not be validated until the whole case has been assessed to see if processing of this sample would be of benefit, particularly as the quant value reaches the upper range. Obviously at the statement stage, the reported can assess these samples, but the gap will be if no statement is requested. Since we case manage on a sample by sample basis, the 'DNA insuff' results wont be monitored during the normal case management process.*

Ms Caunt later provided an example to Ms Rika in which a rape case relied on the auto-micron which gave the only evidence to substantiate the claims of the complainant.

On 9 February 2018, Ms Rika escalates this example to Mr Howes as a concern stating *"I guess it's one thing for QPS to understand the risk (if they do) but its not full testing/disclosure for the case from our lab. Perhaps the process needs to be reassessed."*

On 23 February 2018, Ms Rika follows up for a response from Mr Howes. Mr Howes advises that *"I do want to catch you up on this, and will catch you when I return next Thurs"*. It is unclear based on the information provided whether a meeting did in fact take place and what any outcomes may have been.

The issue has been brought into focus more recently following the coverage in the media and through the podcast 'Shandee's Story'. In February 2022, an article was published in the Australian titled *'DNA Debacle – killers getting free pass'* which claimed that the Queensland lab requires crime scene samples to have the equivalent of at least 22 cells to be fully tested, otherwise they are deemed to have insufficient DNA. It claims that the threshold is double the 11 cells required in NSW, and almost three times the eight cells that the product manufacturer has used to obtain good quality DNA profiles.

Related matter:

In assessing this matter, ESU considered previous advice obtained in ESU# 133036 / ETHU003047. In this matter, the complainant raised concerns relating to a potentially flawed scientific process which they believed may fail to assist in criminal proceedings for examining sexual assault evidence. The complainant alleged the management team had failed to resolve the issue despite it being brought to their attention in March 2016.

Assessment:

The ESU also considered if the concerns would amount to a PID under section 13(1)(ii) maladministration that adversely affects a person's interests in a substantial and specific way, or section 13 (1)(c) being a substantial and specific danger to public health or safety. The ESU considered:

- The scientific process was subject to a change management project proposal which included the Managing Scientist, Team Leaders, Quality and Projects, Senior Scientists of Forensic DNA Analysis team and also involved consultation with QPS.
- The complainant was given an opportunity to provide feedback and this was received by the Team Leader. It remains unclear how much consideration was given to this feedback which did identify possible risks/impacts in the process. The disagreement appears to relate to an exact figure to be used by FSS in determining if a DNA sample could reliably validate DNA (with further testing/assessment) or if it was considered 'DNA Insufficient for further processing'.
- While relevant staff were provided an opportunity to provide feedback for consideration, the ESU is not aware of any requirement that the quorum involved with reviewing the process must unanimously agree to the changes. Developments since the process change have highlighted that, in hindsight, further consideration should have been given to implementing the proposed feedback provided by the complainant in 2018.
- Criminal cases requiring DNA testing since this change in process have identified the possibility that the threshold set by FSS, may be inaccurate and limiting the ability to successfully validate samples.
- Regardless of any flaws in the testing process, the results themselves are used as circumstantial evidence only. The results in isolation, do not themselves prove guilt, they are simply used (in some circumstances) in conjunction with additional evidence as part of an overall justice process.
- In the instance the results were able to secure a conviction through a prosecution process does not necessarily prove the offender would pose a substantial and specific danger to public health and safety.

Information relied upon

- Email referral from Lara Keller dated 15 March 2022
- Notes and complaint material, including original draft consultation provided by Kylie Rika
- Review of Microcon Options Paper (Final Report)
- Email referral from Lara Keller dated 17 March 2022
- Documentation provided to Ms Keller by complainant 2 (examples of cases where further testing elicited results)

Other considerations

Has a criminal offence been identified?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Offence/s:
Are there possible registration issues?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Comments:
Is this a privacy complaint/breach?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Comments:
Is this a human rights complaint?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Section/s:

Corrupt conduct assessment

(Does the information raise a suspicion of corrupt conduct as defined in s15 of the Crime and Corruption Act 2001?)

Subject Officer	Allegation/issue	Application of CC Act	Corrupt conduct assessment	Notes/comments
UNKNOWN Ms Cathie ALLEN (possible) Mr Justin HOWES (possible)	<p>Concerns have been raised by complainant 1 that:</p> <ul style="list-style-type: none"> Their feedback to the process for validating DNA samples was not incorporated, and their name was removed from the signatory list for the final version The complainant went on to question the science on two other occasions, but without success <p>Examples were provided by complainant 2 where DNA samples originally classified as 'insufficient DNA' were further tested and yielded results.</p>	<p>Section 15(1)</p> <p>a) adversely affects the performance of functions or exercise of powers of:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> a UPA; or <input type="checkbox"/> a person holding an appointment <p>b) results in the performance of functions or the exercise of powers in a way that:</p> <ul style="list-style-type: none"> <input type="checkbox"/> is not honest or impartial; <input type="checkbox"/> involves a breach of the trust placed in a person holding an appointment; <input type="checkbox"/> involves a misuse of information or material <p>c) would, if proved, be:</p> <ul style="list-style-type: none"> <input type="checkbox"/> a criminal offence; or <input type="checkbox"/> a disciplinary breach providing reasonable grounds for termination 	<p><input type="checkbox"/> Corrupt conduct</p> <p><input checked="" type="checkbox"/> Issue</p>	<p>There is no information to suggest that the alleged conduct:</p> <ul style="list-style-type: none"> - results, directly or indirectly, in the improper performance of duties in a way that would be considered dishonest, a breach of trust, or a misuse of information - would not, if proven, be a criminal offence or serious enough to warrant dismissal.

Application of CCC s40 Directions

<input checked="" type="checkbox"/> Not applicable <input type="checkbox"/> Referral from CCC	Reason: Does not raise a reasonable suspicion of corrupt conduct pursuant to s15(1) of the Crime and Corruption Act 2001.
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<input type="checkbox"/> s40 (1) † immediate referral to CCC <input type="checkbox"/> s40(2) † reported to CCC on monthly schedule <input type="checkbox"/> s40(3) † no referral to CCC – subject to audit	
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PID assessment

(Does the information constitute a public interest disclosure pursuant to Chapter 2 of the Public Interest Disclosure Act 2010?)

<p>The information has been disclosed by:</p> <p>A public officer <input checked="" type="checkbox"/> Not a public officer <input type="checkbox"/></p>	<p>Name of discloser:</p> <p>Complainant 1: Kylie RIKA, Reporting Scientist Complainant 2: Ingrid MOELLER</p>
<p>If the discloser is a public officer, is the disclosure about any of the below:</p> <p><input type="checkbox"/> substantial and specific danger to health and safety of a person with a disability</p> <p><input type="checkbox"/> the commission of an offence, or contravention of a condition imposed under a provision of legislation mentioned in Schedule 2 of the PID Act, if the offence or contravention would be a substantial and specific danger to the environment</p> <p><input type="checkbox"/> reprisal connected to a previous PID</p> <p><input type="checkbox"/> corrupt conduct</p> <p><input type="checkbox"/> maladministration that adversely affects a person's interests in a substantial and specific way</p> <p><input type="checkbox"/> a substantial misuse of public resources</p> <p><input type="checkbox"/> substantial and specific danger to public health or safety</p> <p><input type="checkbox"/> substantial and specific danger to the environment</p>	<p>Comments:</p> <p>Considered the information specifically in relation to section 13(1)(a)(ii) maladministration that adversely affects a person's interests in a substantial and specific way, or section 13(1)(c) being a substantial and specific danger to public health or safety.</p> <p>In respect of maladministration:</p> <ul style="list-style-type: none"> The scientific process was subject to a change management project proposal which included the Managing Scientist, Team Leaders, Quality and Projects, Senior Scientists of the Forensic DNA Analysis team and also involved consultation with QPS. Complainant 1 was given an opportunity to provide feedback and this was received by the Team Leader. It remains unclear how much consideration was given to this feedback which identified possible risks/impacts in the process. There appeared to be a difference in scientific opinion regarding the exact threshold limit to be used by FSS in determining if a DNA sample could reliably validate DNA (with further testing/assessment) or if it was considered 'DNA Insufficient for further processing'. While relevant staff were provided an opportunity to provide feedback for consideration, the ESU is not aware of any requirement that the quorum involved with reviewing the process must unanimously agree to the changes. The documentation did not tend to support that Complaint 1's name was removed from the endorser list, as suggested.

	<ul style="list-style-type: none"> • Developments since the process change have highlighted that, in hindsight, the feedback provided by Complainant 1 (and others) may have been valid. • The ESU considered that this was insufficient to suggest that maladministration that adversely affects a person's interests in a substantial and specific way had occurred. <p>In respect of substantial and specific danger to public health and safety:</p> <ul style="list-style-type: none"> • Examples of criminal cases requiring DNA testing since this change process have raised questions about the thresholds set by FSS and whether it may be limiting the ability to successfully validate samples. • Nevertheless, the results themselves are used as circumstantial evidence only. The results in isolation, do not themselves prove guilt, they are simply used (in some circumstances) in conjunction with additional evidence as part of an overall justice process. • In the instance the results were able to secure a conviction through a prosecution process does not necessarily prove the offender would pose a substantial and specific danger to public health and safety. <p>[see attached word document for how each element was broken down]</p>
<p>If the discloser is a not a public officer, is the disclosure about any of the below:</p> <p><input type="checkbox"/> substantial and specific danger to health and safety of a person with a disability</p> <p><input type="checkbox"/> the commission of an offence, or contravention of a condition imposed under a provision mentioned in Schedule 2 of the PID Act, if the contravention would be a substantial and specific danger to the environment</p> <p><input type="checkbox"/> reprisal connected to a previous PID</p>	<p>Comments:</p> <p>N/A</p>
<p>Is it an appropriate disclosure?</p> <p><input checked="" type="checkbox"/> Does the discloser honestly believe on reasonable grounds that the information tends to show the conduct being disclosed?</p> <p><input checked="" type="checkbox"/> Is there evidence which tends to show the conduct occurred (regardless of the discloser's belief)?</p>	<p>Comments:</p> <p>Consider the information to be an appropriate disclosure using either the subjective or objective test.</p>

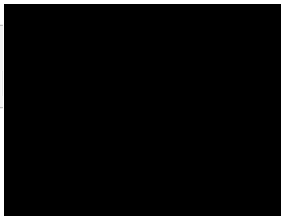
Has the disclosure been made to a proper authority? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Details of proper authority: Lara KELLER, A/Executive Director
Is the matter a PID? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Public officers have provided information to a proper authority. While it is considered an appropriate disclosure, the information provided was not considered to satisfy the types of public interest information provided for in sections 12 or 13 of the PID Act. As such, it is not considered to be a public interest disclosure made by either complainant 1 or 2.

Endorsement

(To be completed by delegate)

Date assessed	17/03/2022	
CRM attendees	<input checked="" type="checkbox"/> Jess Byrne, Director ESU <input type="checkbox"/> Ashley Macfarlane, Principal Complaints Officer <input type="checkbox"/> Rob Hunter, Principal Investigator <input type="checkbox"/> Alix Braidwood, Senior Complaints Officer <input type="checkbox"/> Rachael Swann, Principal Advisor, People and Performance	Discussion notes: Assessment considered on paper by Jess Byrne, Director ESU. Additional notes taken to break down the maladministration component (attached). Overall, agree with the assessment that the information does not raise a reasonable suspicion of corrupt conduct and is not considered to be a public interest disclosure.
Conflict of interest declaration	<input checked="" type="checkbox"/> No conflicts of interest identified <input type="checkbox"/> Conflicts of interest identified	Details:
Assessment decision:	Corrupt conduct Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> PID Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<input type="checkbox"/> Referral to CCC <input checked="" type="checkbox"/> Referral to Division [<i>FSS – Prevention Division</i>] <input type="checkbox"/> ESU to deal with <input type="checkbox"/> ESU to monitor <input type="checkbox"/> Information only – no further action required
Additional advice:	Jess to provide assessment outcome to Lara Keller and offer to meet to discuss. Given the high media attention associated with the matters subject to this assessment, coupled with the concerns flagged by the complainants about coming forward with the information, it is strongly recommended ongoing support is provided to the complainants. It will also be important that appropriate actions are taken	

	in response to the concerns being raised about the threshold limits to give the complainants confidence in the process and that they are being heard.	
Endorsed by:	Jess Byrne, Director ESU	Signed: Date: 17/03/2022



Digitally signed by
Jess Byrne, Director
Ethical Standards Unit
Date: 2022.03.17
17:38:12 +10'00'

CONFIDENTIAL - outcome of assessments

From: Jess M Byrne [REDACTED]
 To: Lara Keller [REDACTED]
 Cc: CO_Complaints [REDACTED]
 Date: Fri, 18 Mar 2022 18:44:46 +1100

Hi Lara

Thank you for your referrals on 15 March 2022 and 17 March 2022 regarding information provided to you by Ms Kylie Rika, Reporting Scientist, FSS and Ms Ingrid Moeller, Reporting Scientist, FSS. We have had the opportunity to consider both sets of information and the concerns raised by both individuals.

Concerns raised

In relation to Ms Rika, her concerns centred around feedback she provided as part of an options paper from 2018 titled '*Evaluation of the Efficacy of a Post-Extraction Concentration Step Using the Microcon® Centrifugal Filter Devices in Yielding DNA Profile Intelligence.*'. Ms Rika advised she provided feedback as part of this process about the threshold limits being applied for DNA analysis, concerned they may be too high. Ms Rika claims her feedback was not incorporated and her name was removed from the signatory list for the final version. Further, she went on to question the science on a couple of other occasions, without success.

As part of our assessment, we identified every second page was missing from the paper that was provided by Ms Rika. This included page 3 where her name was listed. When all pages were provided, it appears her name was still on the signatory list. Also of note, all involved in the document sign off have been removed in the final copy. From this information, it doesn't appear as though Ms Rika's name has been removed from the list or that she has been singled out in this process.

In relation to whether her feedback was considered, it is noted the threshold limits weren't changed. However the final 'conclusion and recommendations' section appears to be quite different to that contained in previous drafts. The ESU does not possess the specialist expertise in relation to the content to understand if any of the original feedback by Ms Rika was considered and/or implemented. There is also no information provided to determine whether any feedback was provided to Ms Rika at the time regarding her concerns.

In relation to Ms Moeller, the information she provided centred around a paper she was involved in in August 2015 titled '*Assessment of results obtained from 'automatic-microcon' samples*'. A number of options were put forward at that time outlining the benefits and risks. Overall, the paper recommended the project be finalised at that point and a new project commence in 6 months-time after the introduction of the Forensic Register. It is unclear from the information as to whether that recommendation was accepted or one of the other options were progressed. In addition to this paper, Ms Moeller provided examples of cases where samples within the 0.002 – 0.0088 range were further tested and elicited a result.

We considered Ms Moeller's concerns as further evidence or examples of the concerns already raised by Ms Rika.

ESU assessment

I am the authorised delegate pursuant to the Department of Health Human Resources Delegations Manual to assess the information and determine whether the information may constitute corrupt conduct pursuant to the *Crime and Corruption Act 2001* (CC Act) or a public interest disclosure pursuant to the *Public Interest Disclosure Act 2010* (PID Act).

Corrupt conduct assessment

In determining corrupt conduct, all three elements of s15(1) of the CC Act must be satisfied. That is, we need to look at the relationship of the conduct to the Department's functions; the outcome of the conduct; and the seriousness of the conduct.

Based on the information provided, I have determined the concerns **do not meet the definition of corrupt conduct** pursuant to s15(1) of the CC Act. This decision was reached as there is no information to suggest the alleged conduct:

- * results, directly or indirectly, in the improper performance of duties in a way that would be considered dishonest, a breach of trust, or a misuse of information; and
- * would, if proven, be a criminal offence or serious enough to warrant dismissal.

As such, there is no requirement for the matter to be reported to the Crime and Corruption Commission (CCC).

PID assessment

In determining whether the information is a public interest disclosure pursuant to Chapter 2 of the PID Act, it needs to be an appropriate disclosure; of public interest information; made to a proper authority.

I considered the information was an appropriate disclosure – in that a public officer has an honest belief, on reasonable grounds that the conduct occurred, and in some cases has provided evidence to support their concerns. I also considered the information was disclosed to a proper authority (you). However I didn't consider the information that was

disclosed met the types of information that would be public interest information under sections 12 or 13 of the PID Act. As such I determined the information was not a public interest disclosure pursuant to Chapter 2 of the PID Act.

I gave specific consideration to whether the information would amount to *maladministration that adversely affects a person's interests in a substantial and specific way* [s13(1)(a)(ii) of the PID Act] or whether the information would amount to a *substantial and specific danger to public health and safety* [s13(1)(c) of the PID Act].

In relation to maladministration (as defined in the PID Act) the following considerations were made in this regard:

- * The scientific process was subject to a change management project proposal which included the Managing Scientist, Team Leaders, Quality and Projects, Senior Scientists of the Forensic DNA Analysis team and also involved consultation with QPS.
- * Relevant employees were given an opportunity to provide feedback and this was received by the Team Leader. It remains unclear how much consideration was given to this feedback which identified possible risks/impacts in the process.
- * There appeared to be a difference in scientific opinion regarding the exact threshold limit to be used by FSS in determining if a DNA sample could reliably validate DNA (with further testing/assessment) or if it was considered 'DNA Insufficient for further processing'.
- * The ESU is not aware of any requirement that the quorum involved with reviewing the process must unanimously agree to the changes.
- * The documentation did not tend to support that Ms Rika's name was removed from the endorser list, as suggested.
- * Developments since the process change have highlighted that, in hindsight, the feedback provided by Ms Rika (and others) may have been valid. However, based on the information available, there is insufficient information to suggest that maladministration has occurred, particularly maladministration that would adversely affect a person's interests in a substantial and specific way.

In relation to substantial and specific danger to public health and safety, the following considerations were made in this regard:

- * Examples of criminal cases requiring DNA testing since the change process in 2018 have raised questions about the thresholds set by FSS and whether it may be limiting the ability to successfully validate samples.
- * Nevertheless, the results themselves are used as circumstantial evidence only. The results in isolation, do not themselves prove guilt, they are simply used (in some circumstances) in conjunction with additional evidence as part of an overall justice process.
- * In the instance the results were able to secure a conviction through a prosecution process does not necessarily prove the offender would pose a substantial and specific danger to public health and safety.

This is consistent with other assessments that have been done on similar matters in the past with respect of the application of substantial and specific danger to public health and safety as it relates to scientific processes.

Action required

As this matter has not been identified as possible corrupt conduct or a public interest disclosure, the ESU don't have jurisdiction over the matter and it is referred back to the division for any necessary action that may be required (noting this will likely fall into the broader work that is being considered in this space at present). Should additional information come to light that may alter the assessment decision, please contact the ESU for advice.

I realise this may not be the outcome Ms Rika and Ms Moeller were after and I understand they were both concerned about the ramifications in coming forward. While the information hasn't met the threshold of a PID in this circumstance and therefore the specific protections under the PID Act are not enlivened, I would strongly encourage that support provisions (similar to those afforded under the PID Act) are provided to both employees. Given they were comfortable raising their concerns with you in the first instance, you might like to consider continuing the support you have already provided, checking in with them on a regular basis, keeping them updated (to the extent possible) about the progress of actions being taken; and monitoring the workplace for any signs they are being treated differently etc.

To demonstrate the value in employees coming forward with information, it will be vital to ensure the employees concerns are heard; appropriate action is taken in response to the concerns; they are kept updated throughout the process; and ongoing support is provided.

I apologise for the length of the email – I just felt it was important to explain the reasoning for the outcome on this one. I'm more than happy to talk this through with you further if you like. Please don't hesitate to reach out at any time for further advice or guidance.

Kind regards
Jess

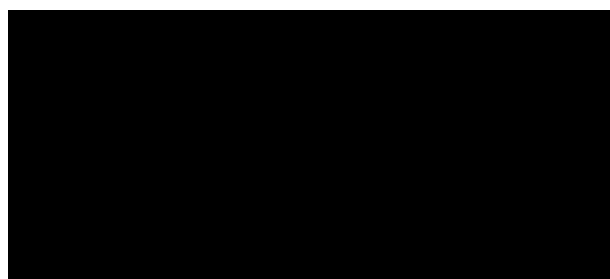
Jess Byrne

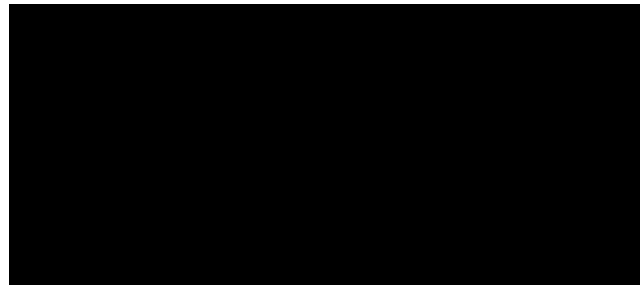
Director

Ethical Standards Unit | Human Resources Branch

Corporate Services Division | Queensland Health

Working hours Monday to Friday





MENTAL WELLBEING | Dear mind, remember to make time for you
Visit mentalwellbeing.initiatives.qld.gov.au

A row of four circular social media icons: Facebook, Twitter, LinkedIn, and Instagram.

Queensland Health acknowledges the Traditional Custodians of the land across Queensland, and pays respect to First Nations Elders past, present and future.

ESU Case			
Case number:	QESU0010408	Opened:	21-03-2022 10:12:46
Case Type:	Issue	Opened by:	Ashley MACFARLANE (macfarad)
ESU File Number:	C-FILE-69073	Assignment group:	Ethical Standards Unit
CCC Reference number:		Assigned to:	Jess BYRNE (byrneje)
CCC category:		State:	Inactive
CCC notified date:		Sensitive:	false
Source of complaint:	Employee	Sensitive Watchlist:	
Unknown subject officer:	false	Business Watchlist:	
Subject officer's name:	Cathie ALLEN, Justin HOWES, Unknown	Processing Unit:	Prevention Division
Subject Officer's status:		Referred to: Organisation:	
HHS/Division:	Prevention Division	Referred to Organisation: Other:	
Work Unit:	Forensic and Scientific Services	Referred to: Contact:	Lara KELLER
Concerned Party:	Kylie RIKA, (complainant) Emma CAUNT, (complainant) Ingrid MOELLER, (complainant) Lara KELLER, (informant)	Referred to: Date:	18-03-2022
Relationship to Subject Officer:	subordinate	PID:	false
ESU Notified:	15-03-2022	PID Assessment Date:	
Assessment:	Issue - referred to Division	Follow up:	
Legal or other representation engaged by employee:	false	Case closed:	21-03-2022
Extra Information:		Parent case:	
Legal advice engaged:	false	Linked Case:	
Extra Information:		Outcome:	
Precis of Complaint:		Comments on Outcome:	

In 2018, a change management project proposal was conducted in relation to the process for validating DNA samples. This assessment included the Managing Scientist, Team Leaders, Quality and Projects, Senior Scientists of the Forensic DNA Analysis team as well as consultation with QPS. The complainants were given an opportunity to provide feedback and this was received by the Team Leader. The complainants feedback related to concerns and risks to the exact figure to be used in determining if a DNA sample could reliably validate DNA (with further testing/assessment) or if it was considered 'Insufficient for further processing'.

Concerns have been raised by complainant 1 that:

- Their feedback was not incorporated, and their name was removed from the signatory list for the final version
- They went on to question the science on two other occasions, but without success

Complainant 2 has provided examples of criminal cases requiring DNA testing since this process change that identifies DNA samples that were re-worked after their initial result of 'insufficient for further processing' that elicited results. This appears to raise questions about the threshold set and tends to support the initial concerns raised by complainant 1 through the consultation process for the 2018 change.

The information does not amount to suspected corrupt conduct under section 15(1) of the Crime and Corruption Act 2001 as there is no information to suggest that the matter:

- results, directly or indirectly, in the improper performance of duties in a way that would be considered dishonest, a breach of trust, or a misuse of information
- would not, if proven, be a criminal offence or serious enough to warrant dismissal.

The ESU also considered if the concerns would amount to a PID under section 13(1)(a)(ii) maladministration that adversely affects a person's interests in a substantial and specific way, or section 13(1)(c) being a substantial and specific danger to public health or safety. The ESU considered:

- The scientific process was subject to a change management project proposal which included the Managing Scientist, Team Leaders, Quality and Projects, Senior Scientists of the Forensic DNA Analysis team and also involved consultation with QPS.
- Complainant 1 was given an opportunity to provide feedback and this was received by the Team Leader. It remains unclear how much consideration was given to this feedback which identified possible risks/impacts in the process. There appeared to be a difference in scientific opinion regarding the exact threshold limit to be used by FSS in determining if a DNA sample could reliably validate DNA (with further testing/assessment) or if it was considered 'DNA Insufficient for further processing'.
- While relevant staff were provided an opportunity to provide feedback for consideration, the ESU is not aware of any requirement that the quorum involved with reviewing the process must unanimously agree to the changes.
- The documentation did not tend to support that Complainant 1's name was removed from the endorser list, as suggested.
- Developments since the process change have highlighted that, in hindsight, the feedback provided by Complainant 1 (and others) may have been valid.
- The ESU considered that this was insufficient to suggest that maladministration that adversely affects a person's interests in a substantial and specific way had occurred.
- Examples of criminal cases requiring DNA testing since this change process have raised questions about the thresholds set by FSS and whether it may be limiting the ability to successfully validate samples.
- Nevertheless, the results themselves are used as circumstantial evidence only. The results in isolation, do not themselves prove guilt, they are simply used (in some circumstances) in conjunction with additional evidence as part of an overall justice process.
- In the instance the results were able to secure a conviction through a prosecution process does not necessarily prove the offender would pose a substantial and specific danger to public health and safety.

After considering these factors, the ESU determined the information does not amount to a public interest disclosure (PID) under the Public Interest Disclosure Act 2010 as the information disclosed was not considered to satisfy the types of public interest information as outlined in sections 12 or 13 of the PID Act.

Further Particulars:

The SOPs applicable in January 2018 stated:

Forensic DNA Analysis Management Team – Consideration of Project Proposal

The Forensic DNA Analysis Management team will consider the change management project proposal documents as outlined in section 4.3. It is not necessary for all Management Team members to read and approve every proposal; however, a quorum of the Management Team must approve the proposal. The quorum must include the Managing Scientist, Team Leaders, Quality and Projects Senior Scientist/s of the areas significantly affected by the project.

In January 2018, Mr Justin Howes and Ms Cathie Allen drafted the 'Evaluation of the Efficacy of a Post-Extraction Concentration Step Using the Microcon® Centrifugal Filter Devices in Yielding DNA Profile Intelligence.'

Abstract: All samples that underwent a Microcon® process were evaluated and categorised into whether there was meaningful information obtained or not. This evaluation primarily focussed on samples that underwent an 'auto-micron' process in 2016. The results suggest there to be arguably minimal value in performing the 'auto-micron' process due to the limited meaningful DNA Intelligence obtained from these samples. Given this, further streamlining of workflow processes could be implemented that would provide significant efficiencies such that these efforts could be better placed in processing higher DNA-yielding samples.

On 9 January 2018 feedback was provided by Amanda Reeves, Senior Reporting Scientist and Ms Kylie Rika, Reporting Scientist to Justin Howes. The feedback noted that there was a short turn around time to allow for full consideration e.g. "note that there seems to be urgency around this proposal being implemented, which might not allow time for full consideration of all potential risks/impacts."

The feedback from Ms Reeves and Ms Rika also stated "... I conclude that setting the cut-off for no processing at 0.0088ng/uL is probably too high." The feedback was provided as track changes to the original document which had been recorded on the feedback table.

Complainant 1 has alleged:

- They provided the feedback on a draft paper (above) for which they were listed as a signatory/reviewer
- The feedback was not incorporated, and their name was removed from the signatory list for the final version
- They went on to question the science on two other occasions, but without success

The complainant has provided a pdf copy of a report in support of her claims, however every second page has been missed in the scanned document. This includes page 3 which is where her name was included in the original word document draft paper. Another copy of the draft options paper which was provided to QPS does not appear to incorporate their feedback. A further final copy of the options paper sent to QPS has been obtained. It should be noted that in this version, all involved in the document sign off have been removed in the final copy and the final options for consideration appear to be quite different to the 'conclusion and recommendations' section in previous drafts. The ESU does not possess the specialist expertise in relation to the content to understand if any original feedback by the complainant has been considered and implemented. The complainant is of the view their feedback was not incorporated which appears to be consistent with recent concerns raised further below.

On 5 February 2018, Ms Cathie Allen emailed numerous parties, including the complainant to state:

- On Friday, Paul Csoban and I met with Superintendent of Forensic Services Group, Dale Frieberg and other QPS officers that the Supt requested to attend. We discussed the Options Paper which I had provided to the Supt earlier in the week. The Supt has indicated verbally and by email that the QPS' preferred option is Option 2 – no automatic concentration of Priority 1 or Priority 2 samples.

On 7 February 2018, Mr Justin Howes emailed numerous parties, including the complainant to state:

- On the back of the case manager's anecdotal feedback and our lab's second round of datamining of samples that underwent the automicron process, an Options Paper was presented to QPS Superintendent of Forensic Services Dale Frieberg on ways forward for QPS to consider – continue with auto-micron process, or cease auto-microcrons.
- QPS have advised the laboratory that they do not wish for our efforts to be put to the auto-micron process (including the efforts in interpretation) for Priority 1 or 2 samples.
- This means samples in the range 0.001ng/uL (LOD) – 0.0088ng/uL will be reported at Quant stage as 'DNA Insufficient for Further Processing'. This is consistent with the process in place for P3 samples. The manual Microcon process may be performed upon QPS Request.
- To report in a statement the following wording could be used "Low levels of DNA were detected in this sample and it was not submitted for further DNA profiling."
- This is slightly different to the wording written in 2012/13 for these samples (P3) but after some consultation, appears to be a good starting pointy.
- An enhancement has been requested to enable this to occur from 112 February. Reactivating samples for further post-extraction processing, if requested from QPS, will be directed to Luke via an FR Request. If there are changes to the 12 February date, I will let you know. As usual, appropriate comments to

SOP will follow.

In response to this advice, there is further correspondence between Justin Howes, Kylie Rika and Emma Caunt. Ms Caunt flags the statement in relation to DNA Insufficient for further processing was inaccurate for 10% samples.

On 7 February 2018, Mr Howes replies that

- "Yes, I will be changing the expanded comment as I know it is not exactly what we mean. The wording will be similar to the statement wording and making it clear that requests can be actioned.
- QPS will have their processes expanded to enable this as well including how to request further work. The expanded comment change will be added to the current SOP as a comment."

On 8 February 2018, Ms Caunt replies:

- I've been thinking about this a bit more. I want to say from the outset that I am not necessarily opposed to stopping the automicron process, but do think that there is a risk that we are able to manage.
- I am assuming that the 'DNA Insuff for processing' line will be added automatically and that it will be added to a list for validation. My question is, how will the validation process be managed?
- My personal opinion is that the line should not be validated until the whole case has been assessed to see if processing of this sample would be of benefit, particularly as the quant value reaches the upper range. Obviously at the statement stage, the reported can assess these samples, but the gap will be if no statement is requested. Since we case manage on a sample by sample basis, the 'DNA insuff' results wont be monitored during the normal case management process.

Ms Caunt later provided an example to Ms Rika in which a rape case relied on the auto-micron which gave the only evidence to substantiate the claims of the complainant.

On 9 February 2018, Ms Rika escalates this example to Mr Howes as a concern stating "I guess it's one thing for QPS to understand the risk (if they do) but its not full testing/disclosure for the case from our lab. Perhaps the process needs to be reassessed."

On 23 February 2018, Ms Rika follows up for a response from Mr Howes. Mr Howes advises that "I do want to catch you up on this, and will catch you when I return next Thurs". It is unclear based on the information provided whether a meeting did in fact take place and what any outcomes may have been.

The issue has been brought into focus more recently following the coverage in the media and through the podcast 'Shandee's Story'. In February 2022, an article was published in the Australian titled 'DNA Debacle – killers getting free pass' which claimed that the Queensland lab requires crime scene samples to have the equivalent of at least 22 cells to be fully tested, otherwise they are deemed to have insufficient DNA. It claims that the threshold is double the 11 cells required in NSW, and almost three times the eight cells that the product manufacturer has used to obtain good quality DNA profiles.

Related matter:

In assessing this matter, ESU considered previous advice obtained in ESU# 133036 / ETHU003047. In this matter, the complainant raised concerns relating to a potentially flawed scientific process which they believed may fail to assist in criminal proceedings for examining sexual assault evidence. The complainant alleged the management team had failed to resolve the issue despite it being brought to their attention in March 2016.

Assessment:

The ESU also considered if the concerns would amount to a PID under section 13(1)(ii) maladministration that adversely affects a person's interests in a substantial and specific way, or section 13 (1)(c) being a substantial and specific danger to public health or safety. The ESU considered:

- The scientific process was subject to a change management project proposal which included the Managing Scientist, Team Leaders, Quality and Projects, Senior Scientists of Forensic DNA Analysis team and also involved consultation with QPS.
- The complainant was given an opportunity to provide feedback and this was received by the Team Leader. It remains unclear how much consideration was given to this feedback which did identify possible risks/impacts in the process. The disagreement appears to relate to an exact figure to be used by FSS in determining if a DNA sample could reliably validate DNA (with further testing/assessment) or if it was considered 'DNA Insufficient for further processing'.
- While relevant staff were provided an opportunity to provide feedback for consideration, the ESU is not aware of any requirement that the quorum involved with reviewing the process must unanimously agree to the changes. Developments since the process change have highlighted that, in hindsight, further consideration should have been given to implementing the proposed feedback provided by the complainant in 2018.
- Criminal cases requiring DNA testing since this change in process have identified the possibility that the threshold set by FSS, may be inaccurate and limiting the ability to successfully validate samples.
- Regardless of any flaws in the testing process, the results themselves are used as circumstantial evidence only. The results in isolation, do not themselves prove guilt, they are simply used (in some circumstances) in conjunction with additional evidence as part of an overall justice process.
- In the instance the results were able to secure a conviction through a prosecution process does not necessarily prove the offender would pose a

substantial and specific danger to public health and safety.

Information relied upon

- Email referral from Lara Keller dated 15 March 2022
- Notes and complaint material, including original draft consultation provided by Kylie Rika
- Review of Microcon Options Paper (Final Report)
- Email referral from Lara Keller dated 17 March 2022
- Documentation provided to Ms Keller by complainant 2 (examples of cases where further testing elicited results)

Notes

Work notes:

21-03-2022 11:59:13 - Jess BYRNE (Work notes)

QESUPID0010353 has been updated with a new work notes:

21-03-2022 11:59:12 - Jess BYRNE (Work notes)

Considered the information specifically in relation to section 13(1)(a)(ii) maladministration that adversely affects a person's interests in a substantial and specific way, or section 13(1)(c) being a substantial and specific danger to public health or safety.

In respect of maladministration:

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- Complainant 1 was given an opportunity to provide feedback and this was received by the Team Leader. It remains unclear how much consideration was given to this feedback which identified possible risks/impacts in the process. There appeared to be a difference in scientific opinion regarding the exact threshold limit to be used by FSS in determining if a DNA sample could reliably validate DNA (with further testing/assessment) or if it was considered 'DNA Insufficient for further processing'.
- While relevant staff were provided an opportunity to provide feedback for consideration, the ESU is not aware of any requirement that the quorum involved with reviewing the process must unanimously agree to the changes.
- The documentation did not tend to support that Complainant 1's name was removed from the endorser list, as suggested.
- Developments since the process change have highlighted that, in hindsight, the feedback provided by Complainant 1 (and others) may have been valid.
- The ESU considered that this was insufficient to suggest that maladministration that adversely affects a person's interests in a substantial and specific way had occurred.

In respect of substantial and specific danger to public health and safety:

- Examples of criminal cases requiring DNA testing since this change process have raised questions about the thresholds set by FSS and whether it may be limiting the ability to successfully validate samples.
- Nevertheless, the results themselves are used as circumstantial evidence only. The results in isolation, do not themselves prove guilt, they are simply used (in some circumstances) in conjunction with additional evidence as part of an overall justice process.
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[see attached word document for how each element was broken down]

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21-03-2022 10:21:00 - Ashley MACFARLANE (Work notes)

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I realise this may not be the outcome Ms Rika and Ms Moeller were after and I understand they were both concerned about the ramifications in coming forward. While the information hasn't met the threshold of a PID in this circumstance and therefore the specific protections under the PID Act are not enlivened, I would strongly encourage that support provisions (similar to those afforded under the PID Act) are provided to both employees. Given they were comfortable raising their concerns with you in the first instance, you might like to consider continuing the support you have already provided, checking in with them on a regular basis, keeping them updated (to the extent possible) about the progress of actions being taken; and monitoring the workplace for any signs they are being treated differently etc.

To demonstrate the value in employees coming forward with information, it will be vital to ensure the employees concerns are heard; appropriate action is taken in response to the concerns; they are kept updated throughout the process; and ongoing support is provided."

21-03-2022 10:20:03 - Ashley MACFARLANE (Work notes)

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Corrupt conduct assessment

In determining corrupt conduct, all three elements of s15(1) of the CC Act must be satisfied. That is, we need to look at the relationship of the conduct to the Department's functions; the outcome of the conduct; and the seriousness of the conduct.

Based on the information provided, I have determined the concerns do not meet the definition of corrupt conduct pursuant to s15(1) of the CC Act. This decision was reached as there is no information to suggest the alleged conduct:

- results, directly or indirectly, in the improper performance of duties in a way that would be considered dishonest, a breach of trust, or a misuse of information; and
- would, if proven, be a criminal offence or serious enough to warrant dismissal.

As such, there is no requirement for the matter to be reported to the Crime and Corruption Commission (CCC).

PID assessment

In determining whether the information is a public interest disclosure pursuant to Chapter 2 of the PID Act, it needs to be an appropriate disclosure; of public interest information; made to a proper authority.

I considered the information was an appropriate disclosure – in that a public officer has an honest belief, on reasonable grounds that the conduct occurred, and in some cases has provided evidence to support their concerns. I also considered the information was disclosed to a proper authority (you). However I didn't consider the information that was disclosed met the types of information that would be public interest information under sections 12 or 13 of the PID Act. As such I determined the information was not a public interest disclosure pursuant to Chapter 2 of the PID Act.

I gave specific consideration to whether the information would amount to maladministration that adversely affects a person's interests in a substantial and specific way [s13(1)(a)(ii) of the PID Act] or whether the information would amount to a substantial and specific danger to public health and safety [s13(1)(c) of the PID Act].

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- The scientific process was subject to a change management project proposal which included the Managing Scientist, Team Leaders, Quality and Projects, Senior Scientists of the Forensic DNA Analysis team and also involved consultation with QPS.
- Relevant employees were given an opportunity to provide feedback and this was received by the Team Leader. It remains unclear how much consideration was given to this feedback which identified possible risks/impacts in the process.
- There appeared to be a difference in scientific opinion regarding the exact threshold limit to be used by FSS in determining if a DNA sample could reliably validate DNA (with further testing/assessment) or if it was considered 'DNA Insufficient for further processing'.
- The ESU is not aware of any requirement that the quorum involved with reviewing the process must unanimously agree to the changes.
- The documentation did not tend to support that Ms Rika's name was removed from the endorser list, as suggested.
- Developments since the process change have highlighted that, in hindsight, the feedback provided by Ms Rika (and others) may have been valid.

However, based on the information available, there is insufficient information to suggest that maladministration has occurred, particularly maladministration that would adversely affects a person's interests in a substantial and specific way.

In relation to substantial and specific danger to public health and safety, the following considerations were made in this regard:

- Examples of criminal cases requiring DNA testing since the change process in 2018 have raised questions about the thresholds set by FSS and whether it may be limiting the ability to successfully validate samples.
- Nevertheless, the results themselves are used as circumstantial evidence only. The results in isolation, do not themselves prove guilt, they are simply used (in some circumstances) in conjunction with additional evidence as part of an overall justice process.
- In the instance the results were able to secure a conviction through a prosecution process does not necessarily prove the offender would pose a substantial and specific danger to public health and safety.

This is consistent with other assessments that have been done on similar matters in the past with respect of the application of substantial and specific danger to public health and safety as it relates to scientific processes.

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Activities

Legacy Worknotes

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Related List Title: ESU PID Assessment List
Table name: x_qhhsi_qld_hlth_e_esu_pid_assessment
Query Condition: Case = QESU0010408
Sort Order: Number in ascending order

1 ESU PID Assessments

▲ Number	Case	Allegation	State	Assignment group	Assigned to
QESUPID0010353	QESU0010408	Concerns in relation to change in scientific process at FSS	Inactive	Ethical Standards Unit	Jess BYRNE (byrneje)

RE: Testing thresholds

From: Justin Howes <[REDACTED]>
To: Lara Keller <[REDACTED]>
Cc: Cathie Allen <[REDACTED]>
Date: Mon, 21 Feb 2022 12:59:21 +1100
Attachments: #184 Review of Microcon Options paper QPS (Final report).pdf (633.18 kB)

Hi Lara

As discussed, I am not aware of the other lab's current values for processing post-quant and would tread cautiously with what is presented in the media and replicated in the message below.

In 2018, options were presented to QPS which were provided in the attached document. The options were presented and one was approved by QPS at the time: Option 2.

Please note the workflow based on the options paper has no relevance to the workflow for samples in the case in question from 2013.

Regards
Justin



Justin Howes

Team Leader - Forensic Reporting and Intelligence Team
Forensic DNA Analysis, Police Services Stream, Forensic & Scientific Services
Prevention Division, Queensland Health

[REDACTED]

Please note that I may be working from a different location during the COVID-19 Pandemic. The best contact method is via email.

Queensland Health acknowledges the Traditional Owners of the land, and pays respect to Elders past, present and emerging.



From: Lara Keller <[REDACTED]>
Sent: Monday, 21 Feb 2022 12:59:21 +1100
To: Justin Howes <[REDACTED]>
Cc: Cathie Allen <[REDACTED]>
Subject: FW: Test
Importance: High

Hello Justin

With Cathie away today, could you please investigate and provide me with an update on the progress of this request? Cathie mentioned a quote for FR, but I don't have the detail or an expected TAT.

Could you get back to me today please?

Thanks and Kind Regards
Lara



Lara Keller B App Sc (MLS), Grad Cert Health Mgt, MAIMS, CMgr FIML
 A/Executive Director
Forensic and Scientific Services
 Prevention Division, Queensland Health

Queensland Health acknowledges the Traditional Owners of the land, and pays respect to Elders past, present and emerging.

From: Neville.DavidH[OSC] <[REDACTED]>
 Sent: Monday, 21 February 2022
 To: Cathie Allen <[REDACTED]>
 Cc: Frieberg.DaleJ[OSC] <[REDACTED]>; Lara Keller <[REDACTED]>
 Subject: FW: Testing thresholds

This email originated from outside Queensland Health. DO NOT click on any links or open attachments unless you recognise the sender and know the content is safe.

Dear Cathie

I understand the difficulty of the ongoing coverage by the *The Australian* of the [REDACTED] case. This must be causing significant stress for you and your staff.

Unfortunately I have been drawn into comment internally on peripheral matters raised by the outlet on 18 February 2022.

[article.](#)

It claims that the Queensland lab requires crime scene samples to have the equivalent of at least 22 cells to be fully tested, otherwise they are deemed to have insufficient DNA. It claims that the threshold is double the 11 cells required in NSW, and almost three times the eight cells that the product manufacturer has used to obtain good quality DNA profiles.

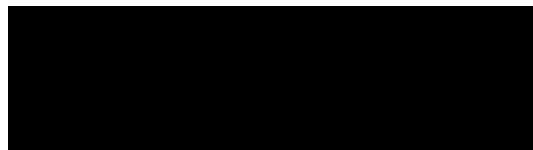
I know you are busy, but since 1 December 2021 I have raised concerns in relation to the truncating of testing based on DNA quant values because of the significant number of below threshold samples yielding a profile when testing is continued. This remains a high priority matter for the QPS. To date I have not received any feedback or explanation as to the difference between the predicted (<2%) and observed success rates (30%) for samples that reportedly contained a low concentration.

Could you please provide advice as to how the Queensland threshold for testing accords with other jurisdictions. Can you also please advise the outcome of any internal review that you have undertaken based on the information I provided. I need this information as a matter of urgency to brief the executive in relation to this matter.

Regards



David Neville
 Inspector
 Biometrics
 Forensic Services Group



From: Neville.DavidH[OSC] <[REDACTED]>
 Sent: Friday, 17 D
 To: Cathie Allen <[REDACTED]>
 C: Frieberg.DaleJ[OSC]
 <[REDACTED]>
 Subject: Re: [REDACTED]

Hi Cathie

Thanks for the clarification. That was my understanding too. I was of the belief that QHFSS stopped doing this as a matter of routine for low quant samples because there was a lower than 2 percent chance of success. However, QPS has found the success rate to be 30 percent when we requested this to be done. It is the difference between these success rates that I am interested in.

Have a good weekend

David Neville
Inspector, FSG

From: Cathie Allen <[REDACTED]>
Sent: Friday, December 10, 2021
To: Neville.DavidH[OSC]
Cc: Lara Keller; Frieberg.DaleJ[OSC]
Subject: RE: [REDACTED]


CAUTION: This email originated from outside of Queensland Police Service. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi David

Thank you for the follow-up email regarding samples within this case.

To ensure that we're all on the same page, I'd like to clarify the process. If samples that have been deemed 'insufficient DNA for further processing' are processed further, they all first undergo a concentration step, followed by amplification. This is in contrast with samples that are not deemed in this range, as these samples amplify, without a concentration step. Just wanted to draw to your attention that there is additional work undertaken on the DNA extract to attempt to achieve a DNA result for the samples deemed 'insufficient DNA for further processing'.

Cheers
Cathie



Cathie Allen BSc, MSc (Forensic Science) (She/Her*)
Managing Scientist
Social Chair, Organising Committee for 25th International Symposium of the
Australian and New Zealand Forensic Science Society (ANZFSS), Brisbane, 11 – 15 Sept 2022
Police Services Stream, Forensic & Scientific Services
Prevention Division, Queensland Health

[REDACTED] past, present and future.

*If you're wondering about the use of pronouns She/Her on this signature block, I encourage you to read some resources available [here](#)



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Sent: Friday, 17 Dec 2021
To: Cathie Allen <[REDACTED]>
Cc: Lara Keller <[REDACTED]>; Frieberg.DaleJ[OSC] <[REDACTED]>
Subject: RE: [REDACTED]

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Hi Cathie

In addition to the items on the list provided previously, last week we requested a blood swab [REDACTED] to be retested which was originally reported as "insufficient DNA for further testing". This sample was taken from blood on a broken shard of glass as depicted in the photo below.

Given the nature of the stain and inert substrate, we were surprised with the original result which is what prompted the request to further test. Today we were advised that subsequent testing yielded a single source 20 loci profile. This was an excellent result solving the crime which would have been otherwise missed.

The image below is attached to the exhibit screen which was visible to the laboratory staff. The results of presumptive testing are also included on that screen. I wondered if lab staff use this information when making a decision on stopping testing?

Forwarded for your information and consideration along with the other material provided.



David Neville
Inspector
Biometrics
Forensic Services Group



From: Neville.DavidH[OSC] <[REDACTED]>
Sent: Thursday, 16 December
To: Cathie Allen <[REDACTED]>

Cc: Frieberg, DaleJ[OSC] <[REDACTED]> Lara Keller <[REDACTED]>
 Subject: Re: [REDACTED]

Hi Cathie
 Thanks, this is a high priority for us, we would appreciate advice as soon as possible please.

David Neville
 Inspector, FSG
 [REDACTED]


From: Cathie Allen <[REDACTED]>
 Sent: Thursday, December 16, 2021 12:42 pm
 To: Neville.DavidH[OSC]
 Cc: Frieberg, DaleJ[OSC]; Lara Keller
 Subject: RE: [REDACTED]

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Hi David

Thank you for your email and feedback regarding this. We will review scientific data available to us and will provide further advice to the QPS in due course.

Cheers
 Cathie



Cathie Allen BSc, MSc (Forensic Science) (She/Her*)
 Managing Scientist
 Social Chair, Organising Committee for 25th International Symposium of the
 Australian and New Zealand Forensic Science Society (ANZFSS), Brisbane, 11 – 15 Sept 2022
Police Services Stream, Forensic & Scientific Services

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*If you're wondering about the use of pronouns She/Her on this signature block, I encourage you to read some resources available [here](#)



From: Neville.DavidH[OSC] <[REDACTED]>
 Sent: Monday, 13 [REDACTED]
 To: Cathie Allen <[REDACTED]>
 Cc: Harris.LibbvA[REDACTED]
 Subject: RE: [REDACTED]

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Hi Cathie
 Since sending you my last message I found some correspondence from February 2018 where QHFSS made a recommendation to QPS that testing of samples that contained less than 0.008ng/uL of DNA should discontinue because

the chance of obtaining a profile was less than 2%. Samples below this threshold were previously micro concentrated in an effort to obtain a profile. Based on the advice from QHFSS, the QPS agreed to discontinue testing including micro concentration under such circumstances and the result would be reported as "DNA Insufficient for further testing" (DIFFT). I am assuming this is the information I was seeking in the below request.

Based on the results obtained for [REDACTED], I asked my staff to undertake a wider review of the success rate of further testing of items that were originally reported as DIFFT during 2021. This revealed 51 out of 160 samples provided a profile when the QPS requested testing to continue. These items are listed in the attached.

On 14 November 2018 I raised similar concern in relation to [REDACTED] as 3 out of 4 samples yielded a result when QPS requested testing to continue. At that time QHFSS provided reassurance that the success rate would be lower than 2% and that the matter should be treated as an aberration. As a result the QPS agreed to continue the truncation of testing for items below the threshold quantity of DNA and limit automated micro concentration to P1 samples only.

Given the result of the recent cases where continued testing was successful, might it be timely to review the practice of truncating testing of lower quantity items? For instance, is the threshold value still valid? Also, with the implementation of the latest version of STRMix that can deconvolute more complex mixtures, is it more likely to get a result now?

I think the 30% success rate of retesting warrants a further examination to make sure we are maximising our chances of solving crime, particularly for major crime matters.

I look forward to discussing this further with you.



David Neville
Inspector
Biometrics
Forensic Services Group
Operations Support Command



From: Neville.DavidH[OSC]
Sent: Friday, 3 Dec
To: Cathie Allen [REDACTED]
Subject: RE: [REDACTED]

Thanks Cathie
I appreciate the helpful feedback. Based on our conversation the other day, I am assuming these discussions occurred in 2008. Is there any correspondence that was provided to base this decision on that you can provide, please? For our reference and moving into the future, what is the actual percentage that your dataset has indicated? Obviously this information will be helpful in guiding future requests for retesting.



David Neville
Inspector
Biometrics
Forensic Services Group
Operations Support Command



From: Cathie Allen <[REDACTED]>
Sent: Friday, 3 Dec
To: Neville.DavidH[OSC] [REDACTED]

Cc: Justin Howes <[REDACTED]>
 Subject: RE: [REDACTED]

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Hi David

Thanks for the additional information on those samples from that particular case. We'll have a look into them and get back to you when we can.

After we had conducted a review of a large dataset, it was found that below a particular quantitation threshold and in line with manufacturer's specifications, a very small percentage of samples may provide some type of DNA profile, if they proceeded through DNA processing. This information was provided to the QPS, and the QPS advised that it would prefer that those samples that didn't exceed the quant threshold were not processed through to a DNA profile. We've monitored this and have found that with a larger dataset, the small percentage didn't vary.

We'll provide advice for this particular case when we're able to.

Cheers
 Cathie

Cathie Allen BSc, MSc (Forensic Science) (She/Her*)

Managing Scientist

Social Chair, Organising Committee for 25th International Symposium of the Australian and New Zealand Forensic Science Society (ANZFSS), Brisbane, 11 – 15 Sept 2022

Police Services Stream, Forensic & Scientific Services

Prevention Division, Queensland Health

[REDACTED] *to Elders past, present and future.*

*If you're wondering about the use of pronouns She/Her on this signature block, I encourage you to read some resources available [here](#)



From: Neville.DavidH[OSC] <[REDACTED]>
 Sent: Wednesday
 To: Cathie Allen <[REDACTED]>
 Cc: Justin Howes <[REDACTED]>
 Subject: RE: [REDACTED]

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Hi Cathie

To provide further context, it has been raised with me that 33 items were examined with advice being received, "DNA Insufficient for further testing". A request was made for these items to be further worked. Ten of these then returned a result with persons being identified with LR's of >100 billion. I have attached a spreadsheet that includes the results. I wondered if there was a particular reason for this case as to why approx. 30% of the samples yielded a result after the work was requested. Can you please advise what the actual threshold is and advice as to whether this needs to be reviewed.

Finally, sorry to sound demanding, can you also provide information on your expected likelihood of success in normal casework (i.e the likelihood of DNA insufficient samples yielding a result if testing is continued).

Cheers



David Neville
Inspector
Biometrics
Forensic Services Group
Operations Support Command



From: Neville.DavidH[OSC]
Sent: Wednesday
To: Cathie Allen <[redacted]>
Subject: Op Tango Amunet

Hi Cathie
I wondered if you might be available at some me t oday to have a brief chat about some results from [redacted].
If Jusn w as available too, that might be helpful. Can we teams please?



David Neville
Inspector
Biometrics
Forensic Services Group



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been checked for the presence of computer viruses.

①

Kylie Rika 8.4.22

- Kylie said she is putting all ducks in a row
- She gave me a large collection of documents, with tabs

DIFP

- Went back to our quant validation
- there are holes in the validation
- Big problems in the lab
 - No true science leaders
 - Rank & power model
 - No proper review of experiments

QUANT = estimate how much DNA is in the sample
 BUT used to set up limit i Very specific threshold
 is worrying - should not drive process change

- Summary is attached to the report provided.
 - Emma helped Kylie prepare this

Other issues :

- Not allowed to reach out to other labs for advice
- Staff need to be empowered to rework, not "think twice, go through me"
- Can't data mine FR
- Feedback asked for but met i hostility
 - ↳ justify / brush under carpet
- Huge pressure to sign off
- mgt team arrogant & egos
- Previously asked for scientific advisory board - no action

When I challenged the DIFP, my team was broken up

- Now set up a spreadsheet to capture variances Nov 21
↳ email

• SOP 17117V21 states ED to authorise rework ???

• Business not science

• Cathic not competent anymore

• Luke just validates w/o taking other considerations

labor. Kylie went back over a recent case to see if there were

any: DIFF

- examples provided

Josie Entwistle

12/4/22.

- Concern re Justin copying in line manager in a response email when Josie asked question about CTS sample (emails)
- about a remark & stutter
- she's a reviewer of his finding
- disagreement for ? resolution process
- did not like the tone of his email
- uncomfortable i being a reviewer in this case.
- now 'ugly'
 - mgt status
 - threatening
- 'make you aware' of this
- Cathie will probably back Justin up.

- if dispute process is enacted, Paula might do it diff to cathie
- pulling rank
- equal partners in the CTS process
- retaliation is likely if I reply or not to the email.
- feel like we aren't allowed to question
- quality at risk?
- we are actively discouraged from suggesting reworks
- I feel bullied & intimidated
- Punish you by asking additional questions

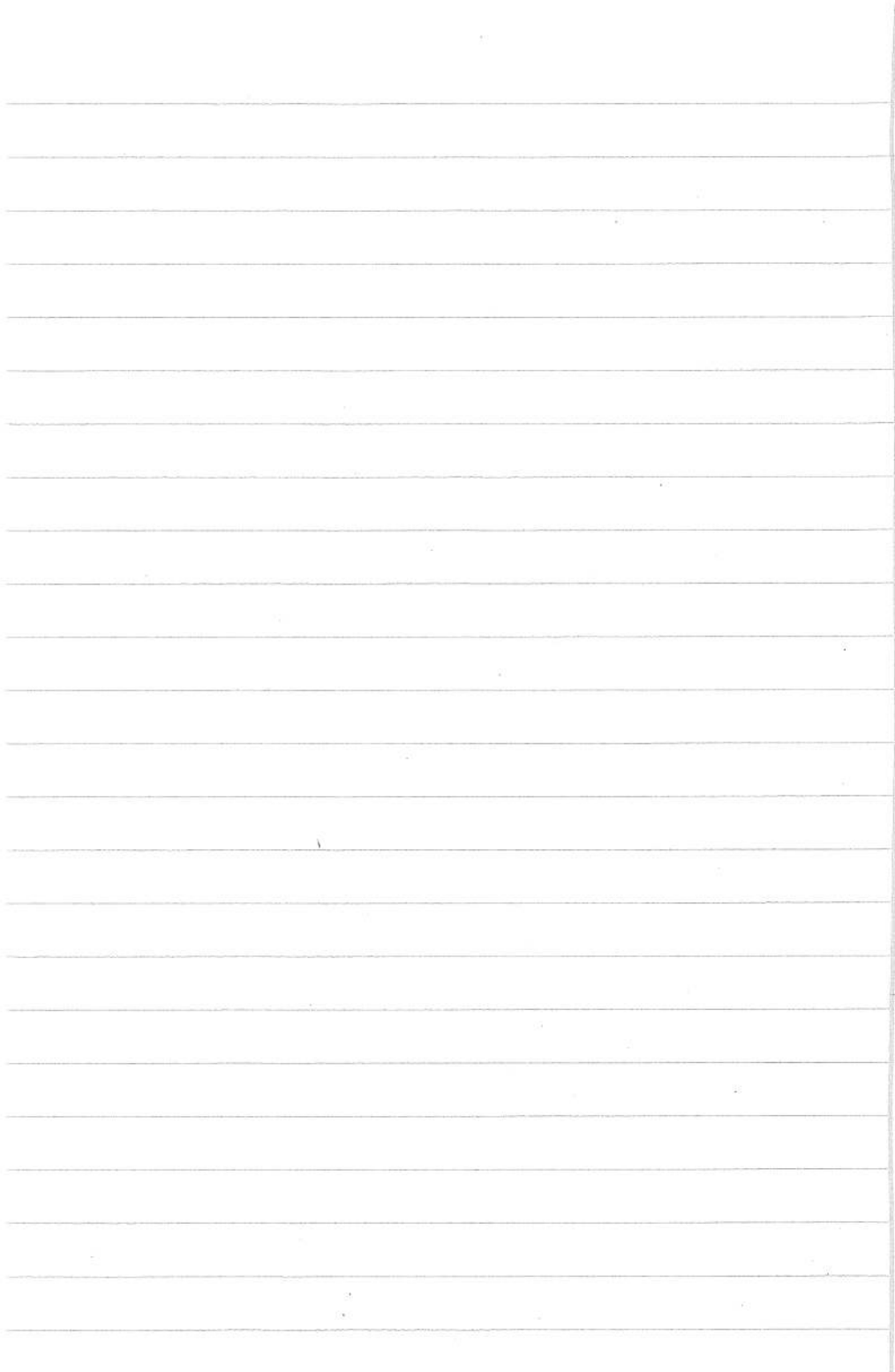
- previous issues ē Justin
 - test w/ shop re seeking external assistance from other labs re stats
 - queried Justin ← paternity
 - months of circling around
 - referred by Justin to Cathie
 - then was intimidated by Cathie
 - we should approach external people to help us
 - did not like that at all.
 - esp as I suggested Emma
 - Justin ended up making the contact

- I've been sidelined

- Sharon doesn't contact me

- people have spoken to previous EDs

• 100% WFH



FW: CTS sample [REDACTED]

[REDACTED] Josie Entwistle <[REDACTED]>
To: Lara Keller <[REDACTED]>
Date: Wed, 13 Apr 2022 11:45:17 +1000

Hi Lara,

For your reference, please below the new emails further to those discussed. I'm happy to discuss further if you would like.

Regards

Josie

From: Justin Howes <[REDACTED]>
Sent: Wednesday, 13 April 2022 11:45:17
To: Josie Entwistle <[REDACTED]>
Subject: RE: CTS [REDACTED]

Hi Josie

Thankyou for your explanations. I had expected the 14 to be considered some of the time as an allele, and also as dropin; the decon worked as I had expected when given the 3p assumption.

The file is back in the CTS portal with you to click to email and send for final submission if no further adjustments are required.

Thanks
Justin


Justin Howes

Team Leader - Forensic Reporting and Intelligence Team
Forensic DNA Analysis, Police Services Stream, Forensic & Scientific Services
Prevention Division, Queensland Health

[REDACTED]

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From: Josie Entwistle <[REDACTED]>
Sent: Tuesday, 12 April 2022 11:45:17
To: Justin Howes <[REDACTED]>

Hi Justin,

Regarding NATA, I would like to be able to demonstrate a level of consistency in my approach to DNA profile interpretation as both CMer and reviewer, regardless of whether it is CTS or casework. I am open to feedback, including

alternative perspectives and considerations, however I would like to agree with and feel supported in reported interpretations. I am not wanting to take the place of the reporter as a reviewer in any instance, though I would like to feel safe in offering my interpretative opinion and having it considered in good faith. For this particular case, if you would like to maintain the 2mx interp, I can step away as the reviewer. I do note that under an assumption of 3 contributors, STRmix has considered the peak @D1 to be allelic for a portion of the combinations.

Regarding number of contributors within CTS, we include all of our accepted labelled peaks for CTS (and not stutter), and the number of contributors can be implied/derived from that. We also report internal result lines that include the number of contributors, and this forms part of the CTS assessment by the reviewer.

I am surprised and confused in having my line manager included with no clarification, in what I had considered was a profile discussion between a reporter and a reviewer.

I have sent the CTS back to you as requested. Please advise when it is available for me to review, or if you intend to seek an alternative. It would be appreciated if this could be returned for review (if by me) by noon tomorrow, given my previously advised leave.

Regards

Josie

From: Justin Howes <[REDACTED]>
Sent: Monday, 11 April 2020 10:05 AM
To: Josie Entwistle <[REDACTED]>
Cc: Sharon Johnston <[REDACTED]>
Subject: RE: CTS sample [REDACTED]

Hi Josie
Thanks for the clarification on locus.

I am aware that stutter is one aspect that could indicate another contributor. It is observed in SS and mixtures, and can also be observed in mixtures to be higher than the values we use.

I will treat this sample with the same due diligence that I would treat any sample and consider the need for reworks. In this situation I don't see any need for a rework given the profile obtained and data within. This would not be any different to any casework sample.

From your email, I do have some points for you to clarify with me please. I am curious how having an impending NATA audit should affect the case manager's decision making on reworks? Please also clarify where the number of contributors forms part of our external CTS assessment? I have been doing proficiency tests for over 20 years in three labs and for nearly 10 years, I have advocated for this sort of assessment in CTS.

On NATA, while the standards explain that the tech review must not be performed such that it shifts the perceived responsibility of the findings from the examiner to the reviewer, I have still taken on board your view that you would consider 3mx for this profile. I have run as a 3p and have obtained the same data for the profile record and imported the new pdf. We have the same LR order of magnitude and I have attached the new LR pdf in the sample notation. The only difference is that this signal is used as a peak – I will have to add this as an allele to the table of alleles in the CTS. Please redirect the CTS back to me for the edit.

Thanks
Justin



Justin Howes

Team Leader - Forensic Reporting and Intelligence Team
Forensic DNA Analysis, Police Services Stream, Forensic & Scientific Services
Prevention Division, Queensland Health



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From: Josie Entwistle <[REDACTED]>
 Sent: Monday, 11 [REDACTED]
 To: Justin Howes <[REDACTED]>
 Subject: RE: CTS sample [REDACTED]

Hi Justin,

I listed D3 in error, my feedback was in relation to D1. I understand that the profile is well amp'd, however the high stutter in itself is an indication of an additional contributor. The reference to the single source guidelines was to illustrate that we have guided leniency regarding stutters above threshold for single source, but this guided/supported leniency has not been extended to mixtures. We have been instructed to treat CTS as per casework samples. In a casework scenario I would consider this profile either as a 3mx, or I would rework to check if the stutter changed in a subsequent run and re-assess. It is certainly possible that a change in the number of contributors may not affect the LR's, however the assessment of the number of contributors is one of the first steps in our interpretation process, is reported, and forms part of our external CTS assessment. In the interests of giving this sample due diligence and with an awareness of upcoming laboratory reviews (eg NATA), it is my preference to rework this profile as the next step.

Regards

Josie

From: Justin Howes <[REDACTED]>
 Sent: Friday, 8 April [REDACTED]
 To: Josie Entwistle <[REDACTED]>
 Subject: RE: CTS sample [REDACTED]

Hi Josie

At D3, I did [REDACTED] make a note for this locus as I considered the possibility of n-1 and n-2rpt stutters contributing to the pk ht of the 14 [REDACTED]. For this sample at PDA, I didn't consider a rework necessary as it was amp'd at optimum and was a good quality profile; I didn't see any analytical considerations that would lead me to think it needed a rework. I think from a risk point of view, whether 3p or 2p, there will be no effect on LR's, NCIDD is not relevant, and the final outcome would be unchanged. I think it can be reasonably explained as a min number of 2p which is where my opinion went here.

The SS high stutter work was a guideline only as it may not fit with all profiles and the weight scientists put to different aspects observed in the profile eg additional s/t peaks, no. stutters, location of stutters etc. This is what I considered for D1 in this sample which was viewed in context with the rest of the evidence in the profile ie. in combination with observations (...or lack of observations really...) elsewhere in the profile.

Please let me know if this makes sense here.

Thanks for checking in with me on it.

Justin



Justin Howes

Team Leader - Forensic Reporting and Intelligence Team
 Forensic DNA Analysis, Police Services Stream, Forensic & Scientific Services
 Prevention Division, Queensland Health



e [redacted] w www.health.qld.gov.au/fss

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From: Josie Entwistle <[redacted]>
Sent: Friday, 8 April 2022
To: Justin Howes <[redacted]>
Subject: CTS sample [redacted]

Hi Justin,

I'm wondering if you'd consider reworking this one? If I was considering this as a casework sample, I would be considering this as a possible 3mx given the high stutter @D3 as we currently don't have an allowance for high stutter in mixtures as we do for single source. Let me know.

Thanks

Josie



Josie Entwistle
Reporting Scientist - Forensic Reporting & Intelligence Team
Forensic DNA Analysis, Forensic & Scientific Services
Prevention Division, Queensland Health
p (07) 3096 2990



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RE: Report

From: Lara Keller <[REDACTED]>
To: Emma Caunt <[REDACTED]>
Date: Tue, 26 Apr 2022 07:12:16 +1000

Hello Emma

I have read the report and make these suggestions:

- * In the Discussions section, I suggest you follow each series of statements, e.g. when you state that a large proportion of the profiles did not meet expectation, with a 'conclusion'-type statement, e.g.
 - * Conclusion: Unacceptable performance.
- * Be very firm in your final recommendations, as you and Cassie are the authors and your reputation is important. If you do not consider the kit should be implemented, be clear.

If the report is then changed, at least you will have documented your recommendations very clearly.

Thanks and Kind Regards
Lara



Lara Keller B App Sc (MLS), Grad Cert Health Mgt, MAIMS, CMgr FIML
A/Executive Director
Forensic and Scientific Services
Prevention Division, Queensland Health

[REDACTED]

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From: Emma Caunt <[REDACTED]>
Sent: Thursday, 21 April 2022 10:00 AM
To: Lara Keller <[REDACTED]>
Subject: Report

Good morning Lara

Yesterday I gave you a copy of the draft STRmix report for the Verifiler project. If you get a chance to read it, I would really appreciate any feedback that you may have.

Many thanks

Emma



Emma Caunt
Scientist
Forensic DNA Analysis, Police Services Stream, Forensic & Scientific Services
Prevention Division, Queensland Health

[REDACTED]

Your invitation - Forensic DNA Workplace Harmony Survey

From: Lara Keller <[REDACTED]>

To: Abigail Ryan <[REDACTED]> Adam Kaity <[REDACTED]> Adrian Pippia
 <[REDACTED]> Alanna Darmanin <[REDACTED]> Alicia
 Quartermain <[REDACTED]> Allan McNevin <[REDACTED]>
 Allison Lloyd <[REDACTED]> Amy Cheng <[REDACTED]> Amy Morgan
 <[REDACTED]> Angela Adamson <[REDACTED]> Angelina Keller
 <[REDACTED]> Belinda Andersen <[REDACTED]> Biljana Micic
 <[REDACTED]> Cassandra James <[REDACTED]> Cecilia Flanagan
 <[REDACTED]> Chantal Angus <[REDACTED]> Chelsea Savage
 <[REDACTED]> Cindy Chang <[REDACTED]> Claire Gallagher
 <[REDACTED]> Deborah Nicoletti <[REDACTED]> Emma Caunt
 <[REDACTED]> Generosa Lundie <[REDACTED]> Helen Williams
 <[REDACTED]> Ingrid Moeller <[REDACTED]> Jacqui Wilson
 <[REDACTED]> Janine Seymour-Murray <[REDACTED]> Josie
 Entwistle <[REDACTED]> Julie Brooks <[REDACTED]> Justin Howes
 <[REDACTED]> Kerry-Anne Lancaster <[REDACTED]> Kevin
 Avdic <[REDACTED]> Kim Estreich <[REDACTED]> Kirsten Scott
 <[REDACTED]> Kristina Morton <[REDACTED]> Kylie Rika
 <[REDACTED]> Lai-Wan Le <[REDACTED]> Lisa Farrelly
 <[REDACTED]> Luke Ryan <[REDACTED]> Madison GULLIVER
 <[REDACTED]> Maria Aguilera <[REDACTED]> Matthew Hunt
 <[REDACTED]> Megan Mathieson <[REDACTED]> Melissa
 Cipollone <[REDACTED]> Michael Goodrich <[REDACTED]>
 Michael Hart <[REDACTED]> Michelle Margetts <[REDACTED]>
 Naomi French <[REDACTED]> Nicole Roselt <[REDACTED]> Paula
 Brisotto <[REDACTED]> Penelope Taylor <[REDACTED]> Phillip
 McIndoe <[REDACTED]> Pierre Acedo <[REDACTED]> Rhys Parry
 <[REDACTED]> Ryu Eba <[REDACTED]> Sandra McKean
 <[REDACTED]> Sharelle Nydam <[REDACTED]> Sharon Johnstone
 <[REDACTED]> Stephanie Waiariki <[REDACTED]> Suzanne
 Sanderson <[REDACTED]> Tara Prowse <[REDACTED]> Tegan
 Dwyer <[REDACTED]> Thomas Nurthen <[REDACTED]> Valerie
 Caldwell <[REDACTED]> Vicki Pendlebury-Jones <[REDACTED]>
 <[REDACTED]> Wendy Harmer <[REDACTED]> Yvonne Connolly
 <[REDACTED]>

Cc: Cathie Allen <[REDACTED]>

Date: Tue, 26 Apr 2022 10:52:27 +1000

Dear Valued Forensic DNA Colleagues

I would like to invite each of you to undertake a Forensic DNA Analysis staff engagement survey.

I have undertaken these surveys at Gold Coast and Robina, with great success. They are much more targeted than the Working for Qld surveys, and are issued on a team by team basis. My plan is to roll out the surveys across all of FSS in the coming months. The first 3 will go out this week.

The primary purpose of the survey is to get more information about the health of your workplace. I am keen to understand your views so we can continue to build an inclusive, safe workplace where everyone can do their best work.

Your views may lead to an improvement in workplace culture, or perhaps Forensic DNA Analysis is already a positive, happy and inclusive workplace?

Your response will be **de-identified and confidential** – you do not need to put your name on the survey. Please consider participating, as this is not meant to be a “ABC said....” exercise. I will be looking for themes in responses, rather than to identify respondents. The questions are the same for every FSS team.

The only people who will have access to the raw data are me, Trish Murphy (as coordinator of survey) and Josleen Daher from HR. Once I have the de-identified data, the focus will be on analysis of the data (to gain insight) and the development of relevant programs to ensure improvement in employee engagement and workplace culture.

Your engagement and satisfaction at work are **very** important to me. I want to help Cathie as your Managing Scientist to continue to build a positive culture that empowers you and rewards strong performance.

Please provide as much objective, professional feedback as possible, especially in the free-form section. I firmly believe that it is critical that we continue to work towards improving staff engagement and satisfaction across our departments.

Here are your survey link: [FSS Workforce Survey - ALL](#)

NOTE: For the purposes of the survey your:

- * Line Manager is the person you report directly to.
- * Leadership Team Member is Cathie Allen.
- * Executive Director is me, and
- * If any other Manager is not listed, you can reference comments in the freeform section.

I am available anytime if you want to chat about this process first – I understand that there may be some reservation about participation.

Please complete the survey no later than 15th May 2022.

Thank you for your commitment to improvement and for your contribution to making Forensic DNA Analysis a fantastic place to work!

Thanks and Kind Regards

Lara



Lara Keller B App Sc (MLS), Grad Cert Health Mgt, MAIMS, CMgr FIML
A/Executive Director
Forensic and Scientific Services
Prevention Division, Queensland Health

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Referral - Forensic DNA Unit (FSS)

From: Lara Keller [REDACTED]
To: CO_Complaints [REDACTED]
Date: Fri, 24 Jun 2022 11:05:46 +1000
Attachments: 20220617 Meeting notes AK LK.pdf (5.9 MB)

Good morning All

Attached are notes from a meeting with a third member of the Forensic DNA team, Angelina Keller (no relation) who is raising concerns about the threshold limits for DNA quantification.

This staff member is concerned that management knew that the new technology (referred to as the 3500) was more sensitive but did not revise the quantification thresholds. She adds that there was an email of 6 June 2022 which she considers stops staff from requesting rework despite them having concerns about their statements.

There were 2 previous referrals from this team in March (Ingrid Moeller, Kylie Rika).

For consideration, thank you.

Thanks and Kind Regards

Lara



Lara Keller B App Sc (MLS), Grad Cert Health Mgt, MAIMS, CMgr FIML

A/Executive Director

Forensic and Scientific Services

Prevention Division, Queensland Health

[REDACTED] 8

Referral of Angelina KELLER concerns ESU Ref: # [REDACTED]

From: CO_Complaints <[REDACTED]>
 To: Lara Keller <[REDACTED]>
 Date: Thu, 30 Jun 2022 15:49:41 +1000
 Attachments: Referral - Forensic DNA Unit (FSS) (6.03 MB)

Hi Lara,

Thank you for your referral to the Ethical Standards Unit (ESU) for assessment of this matter.

Précis

This matter relates to similar concerns in relation to the process for validating DNA samples that have been raised and assessed previously in QESU0010408 (not suspected corrupt conduct).

On 17 June 2022, the complainant, Ms Angelina Keller, raised concerns that:

- * after being subpoenaed for a case, the complainant requested the case samples were reworked with the new technology (the 3500). The result showed more evidence was available than originally identified; and*
- * concerns that an email was sent on 6 June 2022 which the complainant perceived as a request to stop staff from requesting testing rework despite them having concerns about their statements*

Assessment undertaken

The ESU has assessed this matter to determine whether the information may constitute corrupt conduct pursuant to the *Crime and Corruption Act 2001* or a public interest disclosure pursuant to the *Public Interest Disclosure Act 2010*.

Assessment decision - *Crime and Corruption Act 2001*

The delegate has determined the matter **does not raise a reasonable suspicion of corrupt conduct** pursuant to s15(1) of the *Crime and Corruption Act 2001*. This decision was reached due to the alleged conduct:

- not adversely affecting, directly or indirectly, the performance of duties or exercise of powers of the department or a public officer
- not resulting, directly or indirectly, in the improper performance of duties in a way that would be considered dishonest, a breach of trust, or a misuse of information
- would not, if proven, be a criminal offence or serious enough to warrant dismissal.

As such, there is no requirement for the matter to be reported to the Crime and Corruption Commission (CCC).

Assessment decision – *Public Interest Disclosure Act 2010*

The delegate has also determined the information is not a public interest disclosure pursuant to Chapter 2 of the *Public Interest Disclosure Act 2010*. This decision was reached due to:

- the information not being considered public interest information pursuant to sections 12 or 13 of the PID Act.

The ESU gave specific consideration to whether the information would amount to *maladministration that adversely affects a person's interests in a substantial and specific way* [s13(1)(a)(ii) of the PID Act] or whether the information would amount to a *substantial and specific danger to public health and safety* [s13(1)(c) of the PID Act]. The ESU considered this assessment to be consistent with previous assessments in respect to the application of sections s13(1)(a)(ii) and s13(1)(c) of the PID Act.

Action required

As this matter has not been identified as possible corrupt conduct or a public interest disclosure, it is referred back to the division for any necessary action that may be required. The matter may be addressed using the relevant management strategy as deemed appropriate by the division.

Should additional information be discovered during your enquiries that may alter ESU's decision in this matter, FSS should contact this office for advice. Please note there is no requirement for FSS to notify ESU of the outcome of this matter.

Please do not hesitate to contact me if you wish to discuss this matter further.

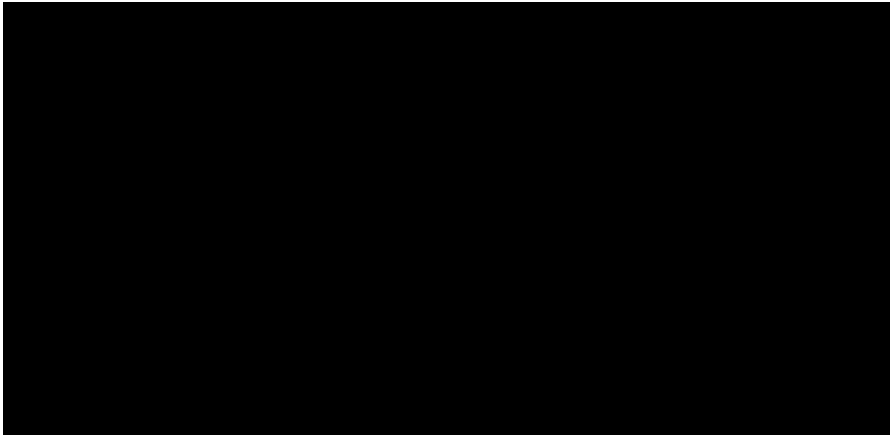
Regards

Ashley Macfarlane



Principal Complaints Officer

Ethical Standards Unit,
Human Resources Branch, Corporate Services
Division | Queensland Health



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**CLEAN HANDS
SAVE LIVES** Wash your hands regularly to stop the spread of germs



Health acknowledges the Traditional Custodians of the land across Queensland, and pays respect to First Nations Elders past, present and future.

Complaint assessment form

Assessment officer

Ashley MACFARLANE, Principal Complaints Officer, ESU

Complaint details

Date received	24 June 2022	Subject officer/s	Sharon JOHNSTONE, Senior Scientist
Division	Forensic and Scientific Services, Pathology Queensland, Prevention Division	Complainant/s	Angelina KELLER, Scientist

Precis of complaint

This matter relates to similar concerns in relation to the process for validating DNA samples that have been raised and assessed previously in QESU0010408 (issue).

On 17 June 2022, the complainant raised concerns that:

- after being subpoenaed for a case, the complainant requested the case samples were reworked with the new technology (the 3500). The result showed more evidence was available than originally identified; and
- concerns that an email was sent on 6 June 2022 which the complainant perceived as a request to stop staff from requesting testing rework despite them having concerns about their statements

The information does not amount to suspected corrupt conduct under section 15(1) of the *Crime and Corruption Act 2001* as it:

- does not adversely affect, directly or indirectly, the performance of duties or exercise of powers of the department or a public officer
- does not result, directly or indirectly, in the improper performance of duties in a way that would be considered dishonest, a breach of trust, or a misuse of information
- would not, if proven, be a criminal offence or serious enough to warrant dismissal.

The ESU also considered if the concerns would amount to a PID under section 13(1)(a)(ii) maladministration that adversely affects a person's interests in a substantial and specific way, or section 13(1)(c) being a substantial and specific danger to public health or safety. The ESU considered:

- Examples of criminal cases requiring DNA testing since this change process have raised questions about the thresholds previously set by FSS and whether it may be limiting the ability to successfully validate samples.
- The concerns regarding more evidence being available through the new technology, are a further possible example that the process change have highlighted that, in hindsight, the feedback provided previously by staff (QESU0010408) may have been valid. This would support that the new technology being implemented may be improving the validity of results.
- The ESU considered that this was insufficient to suggest that maladministration that adversely affects a person's interests in a substantial and specific way had occurred.
- Nevertheless, the results themselves are used as circumstantial evidence only. The results in isolation, do not themselves prove guilt, they are simply used (in some circumstances) in conjunction with additional evidence as part of an overall justice process.
- In the instance the results were able to secure a conviction through a prosecution process does not necessarily prove the offender would pose a substantial and specific danger to public health and safety.

- The ESU considered the contents of the email from 6 June 2022 appear to relate to an agreement with QPS in relation to instructions for the DNA processing (in cases where previous results were determined DNA insufficient). The email places the onus on having test results restarted on the QPS as opposed to retesting being initiated by FSS staff.

After considering these factors, the ESU determined the information does not amount to a public interest disclosure (PID) under the *Public Interest Disclosure Act 2010* as the information disclosed was not considered to satisfy the types of public interest information as outlined in sections 12 or 13 of the PID Act.

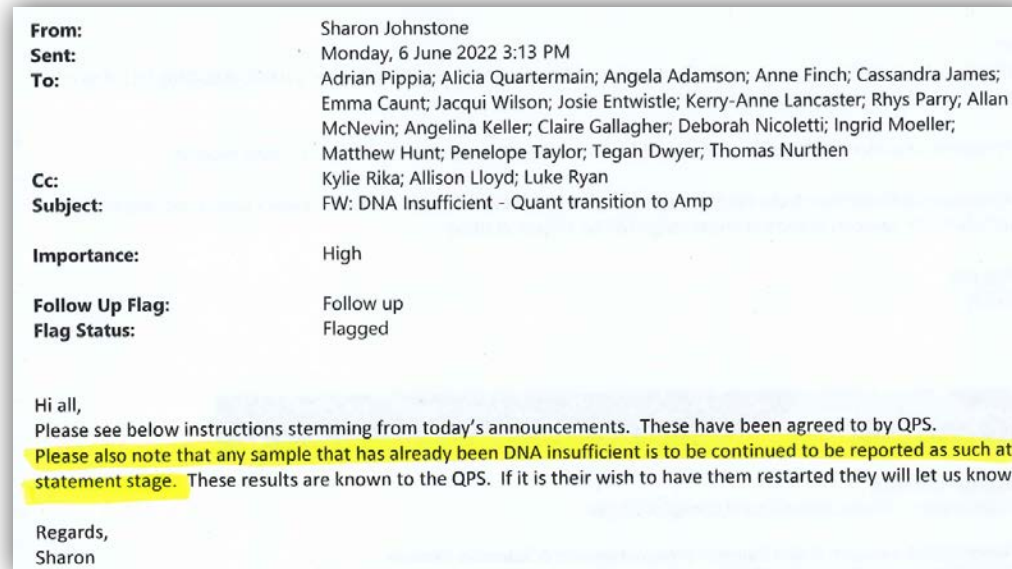
Further particulars

On 17 June 2022, the complainant raised concerns with Ms Lara Keller A/Executive Director of FSS about the threshold limits for DNA quantification.

The complainant raised concerned that FSS management knew that the new technology (referred to as the 3500) was more sensitive but did not revise the quantification thresholds. The complainant provided an example which was explained as pre- and post- 3500, showing that 3500 is more sensitive.

The complainant advised Ms Keller of a recent case where she had been subpoenaed for in August. In light of the knowledge above, the complainant asked permission to have 2% of the samples reworked (<0.088) on 2 June 2022, which was approved. The result showed more evidence was available.

The complainant adds that there was an email of 6 June 2022 which she considers stops staff from requesting rework despite them having concerns about their statements.



On 15 June 2022, the complainant spoke to the subject officer in relation to these issues. The complainant described in a file note:

- I was retrieving a case file for a case I have been subpoenaed to give evidence for in August.

- I told Sharon I had reworked two insufficient samples from a child SAIK where there was sperm (there actually wasn't – that was my mistake from memory) but insufficient and a statement had already been issued.
- She said I shouldn't have unless the police had requested this (they knew what we did and the old results still stand).
- I said I had reworked as I had doubt given all the information I had at this point in time and I wanted to do what was right for everyone.
- I had confidence at the time but I didn't have confidence now and it was in the post-implementation of the 3500.
- There was an email send on 6 June saying don't re-work insufficients.
- I let her know I had permission from my line manager and reviewer to rework prior to this email.

Information relied upon

- Email from Ms Lara Keller A/Executive Director of FSS to ESU dated 24 June 2022
- File note by Ms Lara Keller A/Executive Director of FSS from 17 June 2022
- Email to FSS Staff 15 June 2022

Other considerations

Has a criminal offence been identified?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Offence/s:
Are there possible registration issues?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Comments:
Is this a privacy complaint/breach?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Comments:
Is this a human rights complaint?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Section/s:

Corrupt conduct assessment

(Does the information raise a suspicion of corrupt conduct as defined in s15 of the Crime and Corruption Act 2001?)

Subject Officer	Allegation/issue	Application of CC Act	Corrupt conduct assessment	Notes/comments
Unknown	Concerns raised that after being subpoenaed for a case, the complainant requested the case samples were reworked with the new technology (the 3500). The result showed more evidence was available than originally identified;	Section 15(1) a) adversely affects the performance of functions or exercise of powers of: <input checked="" type="checkbox"/> a UPA; or <input type="checkbox"/> a person holding an appointment b) results in the performance of functions or the exercise of powers in a way that: <input type="checkbox"/> is not honest or impartial; <input type="checkbox"/> involves a breach of the trust placed in a person	<input type="checkbox"/> Corrupt conduct <input checked="" type="checkbox"/> Issue	The concerns regarding more evidence being available through the new technology, are a further possible example that the process change have highlighted that, in hindsight, the feedback provided previously by staff (QESU0010408) may have been valid.

		holding an appointment; <input type="checkbox"/> involves a misuse of information or material c) would, if proved, be: <input type="checkbox"/> a criminal offence; or <input type="checkbox"/> a disciplinary breach providing reasonable grounds for termination		However, the concerns are insufficient to amount to a breach of the trust placed in a person holding an appointment; or be considered criminal or dismissible.
Sharon JOHNSTONE	Concerns that an email was sent on 6 June 2022 which the complainant perceived as a request to stop staff from requesting testing rework despite them having concerns about their statements	Section 15(1) a) adversely affects the performance of functions or exercise of powers of: <input checked="" type="checkbox"/> a UPA; or <input type="checkbox"/> a person holding an appointment b) results in the performance of functions or the exercise of powers in a way that: <input type="checkbox"/> is not honest or impartial; <input type="checkbox"/> involves a breach of the trust placed in a person holding an appointment; <input type="checkbox"/> involves a misuse of information or material c) would, if proved, be: <input type="checkbox"/> a criminal offence; or <input type="checkbox"/> a disciplinary breach providing reasonable grounds for termination	<input type="checkbox"/> Corrupt conduct <input checked="" type="checkbox"/> Issue	The ESU considered the contents of the email from 6 June 2022 appear to relate to an agreement with QPS in relation to instructions for the DNA processing (in cases where previous results were determined DNA insufficient). The email places the onus on having test results restarted on the QPS as opposed to being retested by FSS staff. The concerns are insufficient to amount to a breach of the trust placed in a person holding an appointment; or be considered criminal or dismissible.

Application of CCC s40 Directions

<input checked="" type="checkbox"/> Not applicable <input type="checkbox"/> Referral from CCC <input type="checkbox"/> s40 (1) – immediate referral to CCC <input type="checkbox"/> s40(2) – reported to CCC on monthly schedule <input type="checkbox"/> s40(3) – no referral to CCC – subject to audit	Reason: Does not raise a reasonable suspicion of corrupt conduct pursuant to s15(1) of the Crime and Corruption Act 2001.
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PID assessment

(Does the information constitute a public interest disclosure pursuant to Chapter 2 of the Public Interest Disclosure Act 2010?)

The information has been disclosed by:	Name of discloser: Angelina KELLER, Scientist
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A public officer <input checked="" type="checkbox"/> Not a public officer <input type="checkbox"/>	
<p>If the discloser is a public officer, is the disclosure about any of the below:</p> <ul style="list-style-type: none"> <input type="checkbox"/> substantial and specific danger to health and safety of a person with a disability <input type="checkbox"/> the commission of an offence, or contravention of a condition imposed under a provision of legislation mentioned in Schedule 2 of the PID Act, if the offence or contravention would be a substantial and specific danger to the environment <input type="checkbox"/> reprisal connected to a previous PID <input type="checkbox"/> corrupt conduct <input type="checkbox"/> maladministration that adversely affects a person's interests in a substantial and specific way <input type="checkbox"/> a substantial misuse of public resources <input type="checkbox"/> substantial and specific danger to public health or safety <input type="checkbox"/> substantial and specific danger to the environment 	<p>Comments: The ESU also considered if the concerns would amount to a PID under section 13(1)(a)(ii) maladministration that adversely affects a person's interests in a substantial and specific way, or section 13(1)(c) being a substantial and specific danger to public health or safety. The ESU considered:</p> <ul style="list-style-type: none"> • Examples of criminal cases requiring DNA testing since this change process have raised questions about the thresholds previously set by FSS and whether it may be limiting the ability to successfully validate samples. • The concerns regarding more evidence being available through the new technology, are a further possible example that the process change have highlighted that, in hindsight, the feedback provided previously by staff (QESU0010408) may have been valid. This would support that the new technology being implemented may be improving the validity of results. • The ESU considered that this was insufficient to suggest that maladministration that adversely affects a person's interests in a substantial and specific way had occurred. • Nevertheless, the results themselves are used as circumstantial evidence only. The results in isolation, do not themselves prove guilt, they are simply used (in some circumstances) in conjunction with additional evidence as part of an overall justice process. • In the instance the results were able to secure a conviction through a prosecution process does not necessarily prove the offender would pose a substantial and specific danger to public health and safety. • The ESU considered the contents of the email from 6 June 2022 appear to relate to an agreement with QPS in relation to instructions for the DNA processing (in cases where previous results were determined DNA insufficient). The email places the onus on having test results restarted on the QPS as opposed to retesting being initiated by FSS staff. <p>After considering these factors, the ESU determined the information does not amount to a public interest disclosure (PID) under the <i>Public Interest Disclosure Act 2010</i> as the information disclosed was not considered to satisfy the types of public interest information as outlined in sections 12 or 13 of the PID Act.</p>
<p>If the discloser is a not a public officer, is the disclosure about any of the below:</p>	<p>Comments:</p>

<input type="checkbox"/> substantial and specific danger to health and safety of a person with a disability <input type="checkbox"/> the commission of an offence, or contravention of a condition imposed under a provision mentioned in Schedule 2 of the PID Act, if the contravention would be a substantial and specific danger to the environment <input type="checkbox"/> reprisal connected to a previous PID	
<p>Is it an appropriate disclosure?</p> <input type="checkbox"/> Does the discloser honestly believe on reasonable grounds that the information tends to show the conduct being disclosed? <input checked="" type="checkbox"/> Is there evidence which tends to show the conduct occurred (regardless of the discloser's belief)?	Comments:
<p>Has the disclosure been made to a proper authority?</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p>	Details of proper authority: Lara KELLER A/Executive Director of FSS
<p>Is the matter a PID?</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	After considering these factors, the ESU determined the information does not amount to a public interest disclosure (PID) under the <i>Public Interest Disclosure Act 2010</i> as the information disclosed was not considered to satisfy the types of public interest information as outlined in sections 12 or 13 of the PID Act.

Endorsement

(To be completed by delegate)

Date assessed	28/06/2022	
CRM attendees	<input checked="" type="checkbox"/> Jess Byrne, Director ESU <input checked="" type="checkbox"/> Ashley Macfarlane, Principal Complaints Officer <input checked="" type="checkbox"/> Rob Hunter, Principal Investigator <input type="checkbox"/> Alix Braidwood, Senior Complaints Officer <input checked="" type="checkbox"/> Rachael Swann, Principal Advisor, People and Performance	Discussion notes: Agree with assessment as outlined.
Conflict of interest declaration	<input checked="" type="checkbox"/> No conflicts of interest identified	Details:

	<input type="checkbox"/> Conflicts of interest identified	
Assessment decision:	Corrupt conduct Yes <input type="checkbox"/> No <input type="checkbox"/> PID Yes <input type="checkbox"/> No <input type="checkbox"/>	<input type="checkbox"/> Referral to CCC <input type="checkbox"/> Referral to Division <i>[insert division]</i> <input type="checkbox"/> ESU to deal with <input type="checkbox"/> ESU to monitor <input type="checkbox"/> Information only – no further action required
Additional advice:	FSS may wish to consider, in light of the commission of inquiry, whether additional advice or instructions need to be given to staff in relation to the process should be followed if staff are concerned about the testing results.	
Endorsed by:	Jess Byrne, Director ESU	 Date form signed: 4/07/2022