

COMMISSION OF INQUIRY  
INTO FORENSIC DNA TESTING IN QUEENSLAND

Brisbane Magistrates Court  
Level 8/363 George Street, Brisbane

On Tuesday, 4 October 2022 at 9.30am

Before: The Hon Walter Sofronoff KC, Commissioner

Counsel Assisting: Mr Michael Hodge KC  
Ms Laura Reece  
Mr Joshua Jones  
Ms Susan Hedge

1 THE COMMISSIONER: Yes, Mr Hodge.

2

3 MR HODGE: We are now not going to continue with  
4 Ms Brisotto's evidence this morning. We will recall her at  
5 a later date. I think she is in the back of the courtroom  
6 at the moment.

7

8 THE COMMISSIONER: Yes.

9

10 THE COMMISSIONER: Mr Dean?

11

12 MR J N DEAN: Commissioner I seek leave to appear with my  
13 learned junior Ms Goldie, initials JN. We are instructed  
14 by Ashurst and seek leave to appear for Ms Paula Brisotto.

15

16 THE COMMISSIONER: You have leave. So, Mr Dean, as I  
17 understand it, and you heard Mr Hodge say that your client  
18 will be recalled at a later date.

19

20 MR DEAN: Yes.

21

22 THE COMMISSIONER: Do you have everything you need so far?

23

24 MR DEAN: We do. Thank you.

25

26 THE COMMISSIONER: Mr Hodge? Ms Hedge? One of you,  
27 Hodge/Hedge?

28

29 MS HEDGE: Thank you, your Honour. I call Mr Shaun  
30 Drummond.

31

32 <MR SHAUN DRUMMOND, AFFIRMED

33

34 <EXAMINATION-IN-CHIEF BY MS HEDGE

35

36 THE COMMISSIONER: Ms Hedge?

37

38 MS HEDGE: Q. Your name is Shaun Drummond?

39 A. Yes, it is.

40

41 Q. You are the acting Director-General of Queensland  
42 Health?

43 A. Yes, I am.

44

45 Q. For how long have you held that position?

46 A. From March this year. 14 March.

47

1 Q. Previously to that, you have worked as the chief  
2 executive officer and chief operations officer roles in  
3 public sector health systems in Queensland, New South  
4 Wales, Victoria and New Zealand; is that right?

5 A. Yes.

6  
7 Q. You have provided a statement to the Commission. It  
8 is [WIT.0039.0002.0001\_R]. That will be put on the screen.

9 A. Yes, that's my statement.

10  
11 Q. I tender that statement, Commissioner.

12  
13 THE COMMISSIONER: Exhibit 55.

14  
15 **EXHIBIT #55 - STATEMENT OF SHAUN DRUMMOND DATED 21**  
16 **SEPTEMBER 2022**

17  
18 MS HEDGE: Q. You have had a chance to look at that  
19 statement before coming to the hearing?

20 A. Yes.

21  
22 Q. Do you have any corrections or concerns about it?

23 A. No.

24  
25 Q. I turn to page 3 [WIT.0039.0002.0001\_R at 0003]. At  
26 paragraph 12, you say you have no DNA testing or analysis  
27 experience?

28 A. Yes, that's right.

29  
30 Q. But you do have some knowledge of DNA testing and  
31 analysis?

32 A. Yes.

33  
34 Q. Has that knowledge all arisen from your current role  
35 as acting Director-General or did you have some previous  
36 knowledge or exposure?

37 A. So, previous exposure in other health systems, both in  
38 New Zealand and in New South Wales.

39  
40 Q. What was the context of that?

41 A. In New Zealand, that was to do with the National Gene  
42 Testing Facility was part of Capital & Coast District  
43 Health Board, of which I was the chief operating officer  
44 and in the chief executive. So certainly around the gene  
45 sequencing and the DNA testing, but not in a forensic  
46 sense.

47

1 Q. That was for, perhaps, testing for genetic disorders?

2 A. Yes. So, scientifically, around the process of DNA  
3 testing.

4

5 Q. You mentioned another jurisdiction. Was that New  
6 South Wales?

7 A. New South Wales as well and Western Sydney Local  
8 Health District, which again did a similar clinical role  
9 around DNA testing and analysis.

10

11 Q. So prior to coming into the role Of Acting  
12 Director-General, did you have exposure to or interaction  
13 with a forensic DNA laboratory?

14 A. (No audible response).

15

16 Q. Now, you identify in your statement that - can we turn  
17 to the next page, please, [WIT.0039.0002.0001\_R at 0004] -  
18 that on 8 March, which is about a week before you became  
19 the acting Director-General, you were involved in a  
20 meeting. You were an ad hoc attendee at a meeting?

21 A. Yes.

22

23 Q. That had a relationship to the Forensic laboratory in  
24 Queensland?

25 A. Yes.

26

27 Q. Could I just ask you, in the middle of that paragraph,  
28 do you see the sentence starting:

29

30 *Professor McNeil advised that the FSS*  
31 *laboratory was accredited by the National*  
32 *Association of Testing Authorities (NATA)*  
33 *and this amounted to external valuation of*  
34 *the FSS systems and processes.*

35

36 A. Yes.

37

38 Q. And was that the basis for the next sentence:

39

40 *He did not consider an independent review*  
41 *was necessary.*

42

43 A. Absolutely.

44

45 Q. Was there any other basis for his view that he told  
46 you that he didn't consider any independent review was  
47 necessary?

1 A. So the advice that had been provided up to that point,  
2 both to my understanding, to both the minister's office and  
3 to the Director-General, was that this was the result of a  
4 disaffected employee and that their scientific processes  
5 had been continuously validated through this period of  
6 time.

7

8 Q. When you say "this", are you referring to the media  
9 interest?

10 A. Yes.

11

12 Q. Arising out of a podcast?

13 A. Yes.

14

15 Q. But also media interest in relation to thresholds?

16 A. Yes.

17

18 Q. Were those the two topics you were talking about in  
19 terms of what was in play?

20 A. Yes.

21

22 Q. I understand. Did you at that time have an  
23 appreciation or familiarity with what NATA does?

24 A. Yes. In my role as chief executive of the Metro North  
25 Hospital and Health Service, that is a number of NATA  
26 accredited services that come in periodically and evaluate  
27 the soundness of our scientific processes.

28

29 Q. That general understanding, was that your  
30 understanding about what accreditations the Forensic  
31 laboratory held?

32 A. Yes.

33

34 Q. In the sense of you might not have not known the  
35 specific ISO standard or Australian Standard which NATA was  
36 accrediting for?

37 A. Yes, that's right. So I would be aware around the  
38 accreditation process, not what was specific to that type  
39 of scientific area with regards to the components of their  
40 scientific process.

41

42 Q. Can I just ask in the hospital sphere, do you consider  
43 a NATA accreditation to be sufficient as the only type of  
44 external review of scientific processes, or in the hospital  
45 sphere, do you personally believe that other external  
46 reviews are necessary as well?

47 A. So NATA accreditation is one component of what we do

1 for accreditation and health services. So we will do NATA  
2 accreditation, particularly where we produce a therapeutic  
3 good. We have also got oversight by the Therapeutic Goods  
4 Administration, so that was one of the areas that was being  
5 NATA accredited, was the production of  
6 radio-pharmaceuticals inside Metro North Hospital and  
7 Health Services, and then also hospital accreditation,  
8 which actually has a look at all of the basket of clinical  
9 services and scientific services you provide as a hospital  
10 and health service.

11  
12 Q. Did you understand in this conversation whether NATA  
13 was the only external review of the forensic laboratory or  
14 whether it was just part of the system?

15 A. So my understanding or what was put forward was that  
16 it was "the", or the singular accreditation.

17  
18 Q. And what did you think of that?

19 A. So my view of NATA accreditation, having been  
20 experienced with it in the past, is it provides a  
21 high-level overview of scientific process. It doesn't go  
22 into the absolute minutia of that, but it does have a look  
23 at do you have sound policy around that governance,  
24 management of the service that was actually being provided,  
25 and it will use content experts to actually have a look at  
26 that, but it doesn't go down to an exceptionally fine  
27 detail.

28  
29 THE COMMISSIONER: Q. Is it your understanding that NATA  
30 will look at whether there are appropriate rules and  
31 regulations and procedures in place, but does not examine  
32 whether those rules, regulations and procedures are being  
33 followed?

34 A. So part of accreditation should be adherence, testing  
35 on whether they are being adhered to.

36  
37 Q. Yes.

38 A. And all our standard forms of scientific and clinical  
39 accreditation. But, again, a lot of that is by observation  
40 or documentation. So if there isn't documentation around  
41 non-compliance with those policies at a high level, they  
42 will be assuming that they are complied with.

43  
44 Q. That's what I mean. So if there are, as there are at  
45 FSS, of course, documents in place to record problems that  
46 arise and failures to follow processes that arise, but  
47 apart from the scrutiny of the record, does NATA go in and

1 actually see what's actually being done?

2 A. So they will do - as part of accreditation they do  
3 on-site visit to actually explore whether there is  
4 compliance with the processes/policies inside that area,  
5 but what they are doing is they're not making a  
6 determination on whether they should be - you know, whether  
7 the scientific process should be applied. They are testing  
8 on: are we adhering to that scientific process that we have  
9 the policy and the operational protocols around do we have  
10 compliance with that.

11

12 Q. Yes.

13 A. And so, one of the issues that, I suppose,  
14 paragraph 14 is trying to highlight and was my concern out  
15 of that meeting of 8 March, is the issue in contention was  
16 at that point in time not that there was a problem with the  
17 scientific process, it was whether we were applying it --

18

19 Q. Yes.

20 A. -- in the right circumstances. And that was the issue  
21 that was effectively in the public arena, and so saying  
22 NATA accreditation is an answer is to that is fundamentally  
23 flawed. It's fundamentally flawed, because NATA  
24 accreditation is saying we have good processes and  
25 protocols around the scientific process, not whether we  
26 were applying those thresholds or where we were applying -  
27 making the decisions to apply that scientific process.

28

29 Q. Yes.

30 A. That is not the role of NATA.

31

32 Q. Yes, I understand.

33

34 MS HEDGE: Q. Thank you. You say at the bottom of that  
35 paragraph that your view, coming out of that meeting, was  
36 that the issue was far more significant than had been  
37 presented at that point in time?

38 A. Yes.

39

40 Q. And you thought the Minister needed to be briefed?

41 A. Yes. And that comes to the point I just made. NATA  
42 accreditation is about the scientific process, but the  
43 issue that we were being challenged on was not that. It  
44 was whether we were applying it in the circumstances that  
45 we should.

46

47 Q. Yes. Effectively, a mixed science and policy

1 decision, is that fair?

2 A. Yes.

3

4 Q. If we can scroll down to paragraph 15 now. 14 March  
5 2022, that would have been your first day as acting  
6 Director-General; is that right?

7 A. Yes, it was.

8

9 Q. So this issue, which ended up here in a Commission of  
10 Inquiry, was front and centre of your mind from - well,  
11 I am sure with many other issues, but one of the issues  
12 from the start of your time as acting Director-General?

13 A. Absolutely.

14

15 Q. On that meeting you had a meeting about the  
16 independent systems and processes review, what I might call  
17 an "internal review". Are you content with that  
18 phraseology?

19 A. Absolutely.

20

21 Q. In the middle of that paragraph, it indicates that:

22

23 *Professor McNeil continued to reflect the*  
24 *perspective of the FSS scientific*  
25 *leadership that the system and process*  
26 *review was not necessary as the laboratory*  
27 *held NATA accreditation.*

28

29 That was the same point made in the previous paragraph?

30 A. Yes.

31

32 Q. And Professor McNeil was one of your Deputy  
33 Director-Generals?

34 A. Yes.

35

36 Q. Were you told who the FSS scientific leadership were  
37 who were expressing that view?

38 A. Certainly that was put forward that it was Cathie  
39 Allen, and through Cathie to Lara Keller as Executive  
40 Director. And as put there, what was being put forward to  
41 us, that it was a slightly over 1 per cent issue with  
42 regards to what would benefit on this issue of testing  
43 threshold. And subsequently from the 8 March meeting, we  
44 then started to get documentation which put forward that  
45 the 1 per cent might actually be 5 per cent, and so - but  
46 certainly at that time what we were being told and the  
47 advice that we were giving the Minister was we were NATA



1 accredited and it affected a very small amount of samples  
2 that would benefit from any additional process.  
3

4 Q. All right. You said in that answer, "From 8 March  
5 meeting", but I perceive you might have meant 2 June?

6 A. Sorry, the 2 June meeting, yes.  
7

8 Q. Just from your statement. At the bottom of this page,  
9 we see that there was another meeting on 2 June. And if we  
10 turn to the top of the next page, [WIT.0039.0002.0001\_R at  
11 0005], we see those numbers of 1 per cent and 5 per cent  
12 about 10 lines down? That's what you were referring to  
13 there?

14 A. That's right. Absolutely. And so at that point in  
15 time in both those March meetings, we were being very  
16 clearly told this was a 1 per cent issue.  
17

18 Q. Yes. I am sorry, just one moment. In that meeting,  
19 do you see about five lines down from the top where it  
20 starts:  
21

22 *Lara Keller discussed variances ...*  
23

24 A. Yes.  
25

26 Q. Now, Lara Keller was the executive director of FSS at  
27 that time?

28 A. Yes.  
29

30 Q. Acting executive director. And she discussed:  
31

32 *... variances in laboratory data about*  
33 *samples that would benefit from further*  
34 *testing, including concentration, being 1%*  
35 *on one hand and 5% on the other ...*  
36

37 A. Yes.  
38

39 Q. Where did you understand - did you understand those  
40 numbers came from a 2018 study and an updated 2022 study?

41 A. Yes, so 1 per cent from the 2018 and then the  
42 5 per cent from what they put forward was a small sample in  
43 the 2022 review.  
44

45 Q. Yes. And Lara Keller also mentioned that NATA  
46 accreditation was a reason not to be concerned  
47 scientifically?

1 A. Yes.

2

3 Q. Would it be right that you would have told Lara your  
4 view that you have just expressed here today that NATA  
5 doesn't relate to policies and decisions, but only to  
6 scientific processes?

7 A. Yes.

8

9 Q. Was she convinced by that?

10 A. There was certainly still the view that a review was  
11 not operationally necessary --

12

13 Q. All right.

14 A. -- but accepting of that it is the decision of the  
15 system manager, the Director-General of Queensland Health  
16 to make a call.

17

18 Q. Yes. I understand. In the next paragraph at the  
19 bottom of that page, please, operator, you identify that  
20 after that meeting there was an email sent to you that  
21 attached the first Options Paper from 2018?

22 A. Yes.

23

24 Q. And a 2022 Review Paper?

25 A. Yes.

26

27 Q. As well as an email from a QPS officer Dale Frieberg?

28 A. Yes.

29

30 Q. Did you understand at that time the Options Paper and  
31 the email from Dale Frieberg was the "decision-making  
32 process", if I can put it like that, in 2018?

33 A. Yes.

34

35 Q. And then 2022 was an updated data analysis?

36 A. Yes.

37

38 Q. All right.

39 A. That was triggered by some concerns being raised by  
40 QPS. Now, the review was in response to that there was now  
41 starting to be noise from Queensland Police.

42

43 Q. When you say "noise", do you mean the Queensland  
44 Police submission to the Women's Safety and Justice  
45 Taskforce?

46 A. No, because when they started asking for that  
47 information, you know, the noise was before the submission

1 to the task force, by the nature of the request that they  
2 were asking for information to actually look into this.

3

4 Q. Were you told that the police had internally been  
5 requesting information from the laboratory about the  
6 percentage of samples that might benefit from testing that  
7 are under the threshold?

8 A. Yeah. So when we were advised about the Review  
9 Paper --

10

11 Q. Yes?

12 A. -- we were told that Queensland Police had asked for a  
13 wide range of information around testing thresholds.

14

15 Q. Were you told that the update paper, the 2022 paper,  
16 was only done to respond to the police questions?

17 A. No, but it was the environment of the fact that that  
18 information had started to be asked by Queensland Police.

19

20 Q. All right.

21 A. Cynically, you could believe that - well, actually not  
22 necessarily cynically - that once those questions were  
23 starting being raised, that it was appropriate to start  
24 looking at the same information internally.

25

26 Q. Did you read the Options Paper and the 2022 Update  
27 Paper?

28 A. Yes, I did.

29

30 Q. When you read them, did you understand that the  
31 1 per cent figure was the important figure from the Options  
32 Paper and that the 5 per cent figure was the important  
33 figure from the Update Paper?

34 A. Yes, that was constantly the numbers that were  
35 referred to us of what was in contention.

36

37 Q. All right.

38 A. Sorry. At that time, that's what I understood.

39

40 Q. All right. Do you have a different view now?

41 A. Absolutely.

42

43 Q. Right. Tell us what your view is now.

44 A. So it was never highlighted to myself or the advice  
45 that we gave to the Minister that the 1 per cent only  
46 related to where it was effectively cold link cases. And  
47 the conversation I had at the time was to say even

1 1 per cent on a cold link case did not sit comfortably with  
2 me; I didn't agree with that as a policy decision. But  
3 when you consider that there was a 10 per cent where  
4 there's a potential person of interest, and that had been  
5 put forward to us in March, we would have had a very  
6 different response. That is a fundamentally huge  
7 difference in proportionate matters that would have  
8 benefited from this.

9

10 Q. Right. You now understand that there is a 10 per cent  
11 figure, 10.6 per cent in the Options Paper?

12 A. Yes.

13

14 Q. Which is about overall success --

15 A. Yes.

16

17 Q. -- to compare a DNA profile from a crime scene sample  
18 to a reference sample?

19 A. Yeah. You know, I find it is disingenuous to  
20 constantly put to us that it is 1 per cent but it is only  
21 what is referred as a cold link to the National Database,  
22 because that is a significantly different position that we  
23 would have had in front of us.

24

25 Q. Do you say it's disingenuous on the basis that the  
26 person saying that would have known that that was not the  
27 only relevant figure?

28 A. Absolutely. Yes.

29

30 Q. Who was the person who put forward the 1 per cent in a  
31 way that you consider to be disingenuous?

32 A. Well, that was effectively both Dr McNeil and Lara  
33 Keller on the information that had been provided to them,  
34 which was actually through Cathie Allen. So I believe they  
35 were representing a position that either had not been  
36 explained to them, to understand that 10 per cent is a  
37 relevant number. So somewhere in that line somebody was  
38 not representing the correct facts to us.

39

40 Q. Since you became aware that this 10 per cent number is  
41 a relevant number, have you made any investigation into  
42 what Professor McNeil or Lara Keller knew?

43 A. No, because very clearly, with the Commission of  
44 Inquiry going on, we did not want to do anything that is at  
45 odds or that could actually cross into the area of the  
46 Commission, but subsequently this will be a matter for  
47 Queensland Health to address.

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Q. I presume you mean subsequently to the Commission of Inquiry?

A. Yes.

Q. So at this time you are not aware of who knew that the 10 per cent number mattered?

A. Yes.

Q. Speaking of that 10 percent number and the comparison for reference sample, are you aware that in the majority of major crime cases, which are offences against a person, that that is the number that matters?

A. I am now, but at that time, no.

Q. All right. Do you know what the equivalent number is in the 2022 paper? I think was about 25 per cent?

A. Look, I don't want to quote that off the top of my head, but it was significantly higher than the 10 per cent, many times that. So at that point in time in the Review Paper again what was not highlighted to us - and I believe it was about a quarter of the cases would have been benefited. And, again, if that had been highlighted to us as the relevant number, there would have been a very different response even then.

Q. All right. When did you become aware that the 10 per cent number in the Options Paper was a relevant, highly relevant, number? .

A. Actually, once the Police had put their submission through to the task force and they were very clear in the number that they were highlighting was not the 1 per cent or the 5 per cent number, it was all of the cases. At that point in time, it started to dawn on myself that, in fact, there's two relevant numbers here, and the second one we were not getting put forward.

Q. The submission to the task force, can we turn forward to page 0006 of the statement [WIT.0039.0002.0001\_R at 0006]. In paragraph 19, you indicated that that submission to the task force was discussed in the meeting of 2 June.

A. Yes.

Q. I understood that you just said you found out about the 10 per cent number from the submission, but that was before this meeting of 2 June. I'm just clarifying was this in fact a later time that you found out about the

1 10 per cent number?

2 A. So the 10 per cent was later, right? But at that  
3 point in time was the first time that we started to become  
4 aware of that there's two different numbers here.

5

6 Q. I understand. So you were saying in the meeting of  
7 2 June --

8 A. Yes.

9

10 Q. -- you had the 1 per cent and 5 per cent being  
11 provided to you by FSS?

12 A. Yes.

13

14 Q. The Police were providing a very different number?

15 A. Absolutely.

16

17 Q. In fact, 30 per cent for all samples and 66 per cent  
18 for sexual assaults?

19 A. Yes.

20

21 Q. But you understood those numbers weren't directly  
22 comparable, because Police had chosen which samples to  
23 retest?

24 A. They were part of a subset of the activity.

25

26 Q. Yes. So to come back to my question, when did you  
27 become aware that the 10 per cent number mattered?

28 A. That would be - oh, probably when we started the  
29 conversation around re-instituting the previous thresholds.  
30 So in response to the initiation of a Commission of  
31 Inquiry, obviously not in a position to make a decision  
32 around what we should be testing now.

33

34 Q. Yes.

35 A. And at that point in time were the observations made  
36 internally to say there is two different numbers here that  
37 were actually going to benefit from this.

38

39 Q. When you say that, that's around 6 June that you made  
40 that decision?

41 A. Yes.

42

43 Q. Is it right that you had an interview with the  
44 Commission?

45 A. Yes.

46

47 Q. Myself?

1 A. Yes.

2

3 Q. That was about mid-August?

4 A. Yes.

5

6 Q. Did you know about the 10 per cent number at that  
7 time?

8 A. We hadn't pulled the 10 per cent at that point in  
9 time, but started knowing that there's actually different  
10 numbers that we're talking about, and that none of our  
11 briefing material had it provided clarity or in the  
12 conversation between the different numbers.

13

14 Q. Yes.

15 A. And so that's - it started to raise this issue of what  
16 was the number that we're actually talking about in grey,  
17 prior to that.

18

19 Q. Yes.

20 A. Then when I did my interview, it was absolutely clear  
21 at that point in time around what was the difference  
22 between the two numbers.

23

24 Q. I see. So it was sometime after the interview in  
25 mid-August, between then and now --

26 A. Yeah.

27

28 Q. -- that really it clarified in your mind that the  
29 10.6 per cent number mattered?

30 A. Absolutely.

31

32 Q. All right. So when you say, you know, "Going back, we  
33 would have done quite different things", it's quite a long  
34 time afterwards that you were advised of that?

35 A. Absolutely.

36

37 Q. All right. And were you advised of the 10 per cent by  
38 someone or did you discover that reading material or --

39 A. Yes, so I then went back and had a look at the  
40 material that we had.

41

42 Q. Yes.

43 A. And it is in there. Even in the 2018 paper it is in  
44 there.

45

46 Q. Yes.

47 A. And it is in the review paper. And it's not the

1 highlighted figure. And so, it was subsequent to my  
2 interview that I went and actually had a look at the  
3 percentages. And that's when, I suppose, the penny dropped  
4 that this is a significantly different percentage.

5  
6 Q. I understand. Just going back to something you  
7 answered a few minutes ago, you said even if it was  
8 1 per cent would you have had a problem with that or a  
9 concern about that. I'm sorry, I can't remember the exact  
10 words you used.

11 A. Yes.

12  
13 Q. Could you just explain that?

14 A. For a resourcing decision, which against the whole of  
15 the Queensland Health budget, which is just shy of  
16 \$24 billion, that we have made a resourcing decision that  
17 meant that 1 per cent of cases could have been supported by  
18 better evidence, it is my opinion that we should have been  
19 doing that. The financial impact of resourcing to that  
20 level against the size of that entity is an insignificant  
21 amount of funding. You know, subsequently it's worked out  
22 it's less than \$1 million per annum to have been able to  
23 carry on the testing at the pre-2018 threshold.

24  
25 Q. Less than \$1 million per annum?

26 A. Less than \$1 million per annum for us to be able to  
27 support that level of work. And if we couldn't cover that  
28 internally, we would have been in a position to put a  
29 budget request through the budget process. But we would  
30 have been able to support that internally.

31  
32 Q. Is that true of 2018? You were aware of the budget  
33 position in 2018?

34 A. Absolutely. As a Chief Executive inside Queensland  
35 Health at that time, absolutely. We were still running a  
36 surpluses system. We were carrying forward budget  
37 underspends from year to year.

38  
39 Q. And so hypothetically, had you been the  
40 Director-General and had you been asked to make a decision  
41 on the Options Paper and told the number was 1.45 per cent,  
42 the key number --

43 A. Yes.

44  
45 Q. -- what do you say your decision would have been?

46 A. I would have said to resource that and to do the  
47 testing at that threshold. As the majority of my career



1 has been in clinical service provision, we would not accept  
2 a 1 per cent failure rate where it's a small amount of  
3 resourcing that could support, you know - appropriate  
4 whether it was clinical outcome or screening, you wouldn't  
5 accept that.

6  
7 Q. Perhaps the answer is obvious, but what about if you  
8 were told it was 10 per cent?

9 A. If it was 10 per cent on that first meeting that we'd  
10 had in March, when I was DD on the 14<sup>th</sup> I would have  
11 actually done it then. Or even historically if I was told  
12 it was 10 per cent in 2018 and I was Director-General,  
13 I would have absolutely made the decision to say, "We must  
14 support this." Whether we were funded through a treasury  
15 submission or not, we had the means to do that, and that is  
16 a significant impact in our role in supporting the justice  
17 system.

18  
19 Q. What considerations are you drawing into that view in  
20 terms of the criminal justice system?

21 A. Well, two-fold. For, effectively, justice for a  
22 victim, but also the potential that somebody may have been  
23 found guilty of a crime, that that evidence might have put,  
24 you know, reasonable doubt on that. And so, in those  
25 circumstances, it is absolutely important that we are  
26 providing the best strength and the science that we do in  
27 support of our system to actually make sure that nobody is  
28 convicted incorrectly or where somebody - it would have  
29 provided clear evidence, that we should have done that.

30  
31 Q. Right.

32 A. It's a community obligation.

33  
34 Q. Yes. Can we deal with a few questions about what  
35 happened in 2018. You're aware that it was a  
36 Superintendent of Police who was the decision-maker for the  
37 Options Paper in 2018?

38 A. Yes. That was provided as part of an email saying,  
39 "Yes, I support that option".

40  
41 Q. Yes. Could we turn to paragraph 78 of your statement  
42 [WIT.0039.0002.0001\_R at 0020] --

43  
44 THE COMMISSIONER: Q. Just before you go there - no, you  
45 deal with that, Ms Hedge, and then I'll come back.

46  
47 MS HEDGE: Q. You say that in your view, the decision

1 should have been passed up for resourcing and support to  
2 both the Deputy Director-General and the Director-General  
3 for consultation?

4 A. Absolutely.

5

6 Q. On the next page, the top of page 21,  
7 [WIT.0039.0002.0001\_R at 0021] you identify the Deputy  
8 Director-General or equivalent was the person who should  
9 have made the decision?

10 A. Yes.

11

12 Q. You say there:

13

14 *It had a significant impact on the*  
15 *department fulfilling their responsibility*  
16 *for the services to the criminal justice*  
17 *system.*

18

19 And you do not regard this as an "officer level" decision?

20

21 A. This is both - the resourcing on this is the smaller  
22 part of this decision. It's a policy decision that  
23 fundamentally impacts on our role as a scientific support  
24 for Queensland Police. And that is a policy decision, not  
25 a resourcing decision first. And that's why it needs to be  
26 passed up to either a Deputy Director-General level or  
27 Director-General level.

28

29 Q. When you say "policy", are you referring to a policy  
30 of having the highest quality science prepared for courts?

31

32 A. Absolutely.

33

34 Q. Right.

35

36 A. Yes.

37

38 Q. That is what you are saying is more important than  
39 resourcing?

40

41 A. Absolutely.

42

43 Q. You say there you don't regard this as an officer  
44 level decision. What is officer level?

45

46 A. That would be, for example, a director of a clinical  
47 unit or, in this case, the director of a DNA Analysis area.  
I would not have put it at that level or at the Executive  
Director of FSS level. So an officer would be,  
effectively, a manager or director of a service.

48

49 Q. Right.

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THE COMMISSIONER: Q. Sorry, Ms Hedge.

Q. Mr Drummond, you mentioned a figure of \$1 million before?

A. Yes.

Q. How did you arrive at that figure? How do you know it's that?

A. So when I made the request to resume the pre-2018 thresholds --

Q. Yes.

A. -- I asked around what was the resourcing necessary to support that level of activity, and when that came back to me that had an estimation of the clinical or scientific consumables we would use and the number of staff, that represented under \$1 million recurrent to have supported that threshold.

Q. Was that in writing somewhere, in an email?

A. It came through as a brief.

Q. Yes.

A. I requested that after the meeting in the beginning of June, but the brief didn't come through until many weeks later. But --

Q. No, that's all right.

A. -- I think there was an email - there may have been an email, I think. I will just have to go and check that. But it was discussed that it required approximately 6 FTE and under 100,000 consumables. Actually, it's in the Option 1 and 2.

THE COMMISSIONER: Have you got that, Ms Hedge? Have you seen that?

MS HEDGE: We do. The briefing note, we do.

THE COMMISSIONER: With that estimate?

MS HEDGE: As I understand it.

THE COMMISSIONER: Yes, all right, thanks.

MS HEDGE: I will look it up.

1 A. Sorry, when I was told the number of FTE, I know what  
2 the costing is of that FTE.

3  
4 Q. What is FTE?

5 A. Oh, sorry, full-time equivalent. So when they talked  
6 about - because we may use more head count to fill the  
7 establishment than what the full-time equivalent is, so we  
8 might use 10 people to fill six full-time equivalents.

9  
10 THE COMMISSIONER: Q. The Options Paper, of course, was  
11 directed towards a solution to - was directed towards  
12 saving resources?

13 A. Yes.

14  
15 Q. But it didn't contain any data at all about resources?

16 A. Absolutely. It didn't cost what it would have been,  
17 which should ultimately have been part of the  
18 decision-making, not the determinant, but contributing to  
19 what the decision should have been made. What would it  
20 have cost us to support that? And then, even though we  
21 didn't have a current MOU with Police, the only one that we  
22 did have signed on record actually put forward that if we  
23 needed more resourcing --

24  
25 Q. That's right?

26 A. -- then we could put that to Police, and the Police  
27 could actually take that through to the budget process.

28  
29 Q. Yes, that's right.

30 A. But we never availed ourselves of that pathway.

31  
32 Q. Yes. Nobody asked for more money?

33 A. Yes.

34  
35 Q. Or said they needed more money?

36 A. Not that came through the formal channels of the  
37 process. I can't say whether there was conversation that  
38 had gone on, and there was overall global requests for  
39 increased budget for Health Support Queensland, but this  
40 issue within it was not one of the highlighted issues.

41  
42 Q. Yes, thank you. Yes, Ms Hedge.

43  
44 MS HEDGE: Thank you.

45  
46 Q. Just focusing here on the Deputy Director-General or  
47 equivalent being the appropriate decision-maker, would a

1 Deputy Director-General in Queensland Health have the  
2 ability to balance Queensland Health risks and benefits and  
3 criminal justice system risks and benefits?

4 A. As a senior public servant, yes. I would expect that  
5 they can. Now, they may seek advice from the  
6 Director-General who sits on the leisure board of all of  
7 the agencies across Queensland, and therefore has that  
8 opportunity to have discussion, whether it is the  
9 Director-General of Justice and Attorney Generals or  
10 whether it's a Commissioner of Police. That, at the DG  
11 level, could have that conversation. But they are - all of  
12 the Deputy Director-Generals are required to consider what  
13 we operate inside the wider public system. That is part of  
14 their requirements for their role.

15  
16 Q. Is the DNA Analysis Unit - it's a fairly small part of  
17 Queensland Health in total, is that fair?

18 A. Yes. Very fair to say that.

19  
20 Q. Both in terms of staff and funding and in  
21 location/buildings?

22 A. I mean, to put it into perspective, it's got about 60  
23 staff. That's not the exact number, but approximately  
24 60 staff against today Queensland Health has 125,000 people  
25 in it.

26  
27 Q. There is also the Clinical Forensic Medical Unit?

28 A. Yes.

29  
30 Q. And it is also a small part of Queensland Health?

31 A. Yes.

32  
33 Q. Other than those two, are there other parts of  
34 Queensland Health that primarily serve the criminal justice  
35 system?

36 A. Well, so the coronial components of what we provide.

37  
38 Q. Yes.

39 A. Absolutely as well, which is part of FSS.

40  
41 Q. FSS as a whole?

42 A. So FSS is about 300 staff --

43  
44 Q. Yes.

45 A. -- all up. With regards to the other parts, some of  
46 the health services provide a component with collection.

1 Q. Yes.  
 2 A. So they have some role outside of FSS, but that is a  
 3 very small part --  
 4  
 5 Q. Yes.  
 6 A. -- of the overall components.  
 7  
 8 Q. All right. For example, a nurse taking a blood sample  
 9 after a car accident where it is expected that there might  
 10 be blood in the system, for example?  
 11 A. Yes.  
 12  
 13 Q. The reason I ask that --  
 14  
 15 THE COMMISSIONER: You mean where it is expected there  
 16 might be alcohol in the system?  
 17  
 18 MS HEDGE: Yes. Did I say blood?  
 19  
 20 THE COMMISSIONER: Mm.  
 21  
 22 MS HEDGE: Yes, blood and alcohol in those veins.  
 23  
 24 Q. The reason I ask, is it true that most Deputy  
 25 Director-Generals are unlikely to have come from a forensic  
 26 part of Queensland Health, if they have worked in  
 27 Queensland Health before their appointment, but are more  
 28 likely to have come from hospital services?  
 29 A. Absolutely.  
 30  
 31 Q. And so, they would not have personal experience with  
 32 the criminal justice system?  
 33 A. Yes.  
 34  
 35 Q. Generally?  
 36 A. Yes.  
 37  
 38 Q. That's probably true of Directors-General as well?  
 39 A. Yes.  
 40  
 41 Q. You believe that can be mitigated or assisted by  
 42 advice?  
 43 A. Yes.  
 44  
 45 Q. You mentioned the Queensland Police?  
 46 A. Yes.  
 47

1 Q. Who else should such a person seek advice from or  
2 consult with if they were going to make this sort of  
3 decision that affects a multi-disciplinary area?

4 A. Well, Justice and Attorney-Generals as well. The two  
5 primary partners in that are going to be Queensland Police  
6 and Justice.

7  
8 Q. Thank you. Can we move on then from the Options Paper  
9 to come back to 2022 when you were making decisions, and  
10 can we turn back to page 4 of the statement, the bottom of  
11 page 5 [WIT.0039.0002.0001\_R at 0005]. This is  
12 paragraph 16b. You received two emails from Lara Keller;  
13 we have dealt with the first one.

14  
15 The second one was a forward of documents,  
16 timeline and number of requests, and can we turn on to the  
17 next page, which included an email from Cathie Allen  
18 attaching a timeline of communications and an Excel  
19 spreadsheet?

20 A. Yes.

21  
22 Q. Can we look at that. If you turn to  
23 [WIT.0039.0007.0001]. Do you recognise that email as one  
24 from Lara Keller to yourself, Simon Zanatta and Matthew  
25 Rigby?

26 A. Yes.

27  
28 Q. Matthew Rigby is in your office?

29 A. Yes, he is the executive director of the Office of the  
30 Director-General.

31  
32 Q. And Simon Zanatta is in the ministerial office, is  
33 that right?

34 A. Yes.

35  
36 Q. If we turn to [WIT.0039.0008.0001] --

37  
38 THE COMMISSIONER: What exhibit is that to Mr Drummond's  
39 statement?

40  
41 MS HEDGE: It's SD-02.

42  
43 Q. This is the timeline that you were sent of contact  
44 with the QPS regarding DNA insufficient process?

45 A. Yes.

46  
47 Q. All right. This is in order of date. So the first

1 thing we see there, 1 December 2021, is the first date in  
2 this document?

3 A. Yes.

4

5 Q. You weren't advised of any contact pre-1 December 2021  
6 regarding the DNA insufficient process?

7 A. No.

8

9 Q. Are you now aware that there was issues raised right  
10 back to the end of 2018 by the Police?

11 A. Yes.

12

13 Q. All right. And that that wasn't explained to you when  
14 this was sent to you?

15 A. No.

16

17 Q. Can we turn to the last page - sorry, I have a  
18 document that doesn't have a number on it. Does that  
19 document have four pages? Could we try  
20 [WIT.0039.0009.0001]. Does that document have two pages?  
21 Sorry, Mr Drummond. I am sorry, that's not it.

22

23 Do you have your statement in front of you?

24 A. Yes, I do.

25

26 Q. I believe all the parties here have it. I am sorry,  
27 Commissioner, it doesn't have a number, but I am sure I  
28 will be assisted with one if possible, but it is the last  
29 page of SD-02, and on my copy, it has - it is an Excel  
30 spreadsheet with a barcode number on the far left and some  
31 coloured rows.

32 A. Yes.

33

34 Q. Do you see that?

35 A. Yes.

36

37 Q. [WIT.0039.0010.0001]?

38 A. Yes.

39

40 THE COMMISSIONER: This is part of exhibit 2 to  
41 Mr Drummond's statement?

42

43 MS HEDGE: Could we redact column A and also column C?  
44 Thank you.

45

46 Q. We just removed the barcode numbers and case numbers  
47 because that's confidential information, but otherwise that



1 is how you saw it?

2 A. Yes.

3

4 Q. This is the spreadsheet that Ms Allen prepared and  
5 provided on 2 June 2022, and do we see there that there is  
6 a number of - that in what is column B now, the second  
7 column on the original, is:

8

9 *New / No new DNA profiles*

10

11 Do you see that?

12

13 A. Yes.

14

15 Q. And when one looks down that column, there are no  
16 samples of new DNA profiles being obtained in this subset  
17 of cases?

18

19 A. Yes.

20

21 Q. Are you aware that from about November 2021, other  
22 staff in the laboratory were preparing a spreadsheet of  
23 cases where a new DNA profile was obtained from a retesting  
24 of a DIFP sample?

25

26 A. No, I wasn't aware.

27

28 Q. Was this spreadsheet where all of the examples  
29 resulted in no new DNA profiles, was that sold to you or -  
30 I shouldn't use that word - described to you as the whole  
31 of data analysis that had been done by the laboratory at  
32 that time?

33

34 A. Yes, so I was provided that, again, as an example,  
35 that these thresholds were appropriate because where that  
36 further testing was occurring, we were not getting new  
37 evidence.

38

39 Q. Did anyone directly say that this was all of the  
40 samples that they had retested in DIFP, or was that the  
41 impression you were left with?

42

43 A. That was the impression.

44

45 Q. Thank you. In your statement, you deal at length with  
46 a decision you made on 6 June 2022 to remove the  
47 thresholds --

48

49 THE COMMISSIONER: Could you just pause for a moment,  
50 Ms Hedge? Sorry.

51

52 Q. I see, Mr Drummond's impression is based upon what we

53

1 see at the foot of document [WIT.0039.0007.0001], the email  
2 from Ms Allen of 2 June 2022. The Excel spreadsheet was a  
3 review of whether processing DNA insufficient samples gave  
4 a new DNA profile that hadn't been seen before, and she  
5 hadn't finished, but that's what she had so far. Is that  
6 the point about the impression, Ms Hedge?

7 A. Yes, because --

8

9 Q. Mr Drummond?

10 A. -- it is putting forward that when we've examined that  
11 again internally we're not going back --

12

13 Q. With any --

14 A. -- with this proportion of problem that is being  
15 identified.

16

17 Q. Thank you. I understand. Yes, Ms Hedge.

18

19 MS HEDGE: Q. And it was stated there that it wasn't  
20 finished, so it wasn't comprehensive yet?

21 A. But the fact there had been no - none in that sample -  
22 while it might not have been statistically significant,  
23 because of the small number of them against the total  
24 volume, you know, the inference is that there's again  
25 nothing to see here.

26

27 Q. But you understood it was comprehensive at least to  
28 the extent of what had been done so far?

29 A. Yes.

30

31 Q. Thank you. If we can turn to paragraph 30 of your  
32 statement, which is [WIT.0039.0002.0001\_R at 0008] --

33

34 THE COMMISSIONER: What is the exhibit?

35

36 MS HEDGE: Part of his statement.

37

38 THE COMMISSIONER: What paragraph?

39

40 MS HEDGE: Paragraph 30, page 8.

41

42 MS HEDGE: Q. Could we just scroll up slightly,  
43 operator, so we've got the question there. In bold are the  
44 questions the Commissioner asked you to respond to?

45 A. Yes.

46

47 Q. And in question 7 it splits what happened on 6 June

1 into two decisions: One, the removal of the DIFP  
2 threshold - are you comfortable with me calling it the DIFP  
3 threshold?

4 A. Yes.

5

6 Q. And secondly, what will happen with those samples in  
7 terms of their process directly for amplification rather  
8 than for concentration. Did you consider that as two  
9 separate decisions or did you see that as one decision?

10 A. So one decision, yes.

11

12 Q. What was that decision?

13 A. So the decision was to go with Option 1, which was put  
14 forward as the return to the pre-2018 threshold where we  
15 would exhaust scientifically what was possible with regards  
16 to our concentration and amplification, but if the  
17 concentration - sorry, I've just got to make sure I get  
18 this right. If the concentration would result in using up  
19 all of the sample, which was what is actually put into  
20 Option 2 under those, we would not do that.

21

22 Q. So that's the second one, the choice between Option 1  
23 and 2. What I'm just seeking --

24 A. Oh, sorry. On 6 June, all I was asking was return to  
25 the pre-2018 threshold.

26

27 Q. And process?

28 A. Yes.

29

30 Q. All right. So did you view this as return to 2018 --

31 A. Yes.

32

33 Q. -- with all the falls?

34 A. Yes.

35

36 Q. Everything?

37 A. Yes.

38

39 Q. Everything they did then, we want to do now?

40 A. Yes.

41

42 Q. So there might have been two decisions but they were  
43 part, in your mind, of one consideration?

44 A. Of one consideration, yes.

45

46 Q. Is that a fair summary?

47 A. Yes.

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Q. The primary basis of that decision that you made came from an email dated 3 June 2022?

A. Yes.

Q. That was sent to you. Can we look at that. It is SD-06, and it is [WIT.0039.0015.0001\_R]. This was an email sent from Ms Keller to yourself on 3 June at 5:09 pm. You asked Ms Keller to provide to you options for returning to the pre-2018 process; is that right?

A. Yes.

Q. Why did you ask for options? By that, I mean if your plan was simply to return to the pre-2018 process, would there not have only been one way of doing that because there would have only been one process in place pre-2018?

A. Well, that's what I was expecting when I asked that. When it came back, what was thrown in is that issue around the risks around if we were going to concentrate and process. So my understanding from the pre-2018 was that we were effectively processing to the best of our ability everything between 0.001 and 0.0088. So where we could concentrate, we were actually concentrating.

Option 2 then greyed that by saying that if you do revert to that, that there is an issue that didn't exist in 2018 with regards to what our decision-making was, that at that point in time we were doing everything that we could, and in that we hadn't considered those risks if we revert back to that. And that is what was being put forward.

Q. All right. So on 3 June, is your evidence that you told Lara Keller you just wanted to be advised what the pre-2018 process was?

A. Yes.

Q. And were you expecting just, "This was the process"?

A. Yes.

Q. You didn't ask for options?

A. I didn't ask for options. I asked for a return to the pre-2018 testing regime.

Q. But then you received this email which had options in it?

A. Yes.

1 Q. And you understood the reason for that was because of  
2 a change in concentration methods since 2018? Or what was  
3 the reason that there would be options?

4 A. So what was put forward was that there was an inherent  
5 risk that QPS were no longer comfortable with, which is the  
6 second point under the "Risks", that pre-2018 we might have  
7 been automatically concentrating, but QPS now did not  
8 support that.

9

10 Q. So the thing that was said to you to have changed  
11 since 2018 was a QPS approach to exhaustion of samples?

12 A. Yes.

13

14 Q. You weren't advised of any change to concentration  
15 process?

16 A. No.

17

18 Q. You weren't advised of any change to instruments in  
19 the laboratory?

20 A. No.

21

22 Q. Or any change to other processes being conducted in  
23 the laboratory that might influence concentration?

24 A. No.

25

26 Q. That's not specifically written in here, and I  
27 understand in your statement you say that you spoke to  
28 Ms Keller over the weekend.

29 A. Yes.

30

31 Q. So this is a Friday. Monday, 6 June is when you make  
32 the decision. Does that mean she told you over the  
33 weekend?

34 A. Yes.

35

36 Q. Did you have that information from anywhere else or  
37 just from Ms Keller?

38 A. No.

39

40 Q. You explain concentration in your statement and you  
41 say that that came from conversations with Ms Keller also  
42 and Professor McNeil?

43 A. Yes.

44

45 Q. Do you remember which of them explained concentration  
46 to you?

47 A. I don't.

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Q. All right. I'll just take you to that, just to confirm. If we turn to page 12 of the statement [WIT.0039.0002.0001\_R at 0012]. Paragraph 48, at the bottom of the page, the second sentence.

THE COMMISSIONER: Sorry, I am not with you yet. Paragraph 48? Yes

MS HEDGE: So you say there that:

*[You were] advised for option 2, there may not be an opportunity after testing to do additional testing.*

That's the point you just made.

A. Yes.

Q. You say:

*My preference would have been to concentration everything if that was considered to improve the chances of a DNA profile being obtained, however, I was influenced by the advice about completely using the sample which is what option 2 presented.*

A. Yes.

Q. So you did understand that the concentration step would generally improve the chances of getting a usable DNA profile?

A. Yes.

Q. So that was a benefit of the concentration step?

A. Yes.

Q. And Ms Keller was the one who explained that to you or Mr McNeil?

A. It was probably Lara, but I can't hand-on-heart say which explained that to me.

Q. Okay. From your previous experience with gene testing, did you have any familiarity with what a concentration step was and why it mattered in DNA testing?

A. So generally in clinical, we might do amplification.

1 You don't tend to do concentration.

2

3 Q. All right. But I suppose it is a scientific word that  
4 you would be familiar with?

5 A. Yes.

6

7 Q. The idea of concentrating something?

8 A. Absolutely. I understood what they were talking  
9 about, that post-amplification, the concentration by, you  
10 know - well, concentrating the sample to give it a greater  
11 strength.

12

13 Q. Can we go back to that email which is  
14 [WIT.0039.0014.0001 \_R], SD.06. This is the email. This  
15 is the primary basis of your decision on 6 June?

16 A. Yes.

17

18 Q. These options. Can I ask about some things that are  
19 not in this email.

20 A. Yes.

21

22 Q. Firstly, there's no reference in the email about some  
23 quantification of the level of benefit from concentrating  
24 in Option 2 versus Option 1? For example, 50 per cent  
25 better chance of a good profile or even a higher or, you  
26 know, a significant chance of a better profile, or anything  
27 of that nature; is that fair?

28 A. Yes, that's correct.

29

30 Q. So although you understood concentration in Option 2  
31 to have some benefit, you weren't advised of the level of  
32 that benefit?

33 A. No, I was not.

34

35 Q. Is that true also of the conversations that you had  
36 with Ms Keller and Professor McNeil? They also didn't  
37 advise you of the level of benefit?

38 A. Yes.

39

40 Q. Similarly, for the risk number 2 that you have  
41 identified or made reference to, the sample exhaustion  
42 risk?

43 A. Yes.

44

45 Q. Similarly, you weren't told the level of risk that  
46 existed?

47 A. No, I was not.

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Q. Or the percentage of cases in which that risk matters, for example?

A. No, I was not.

Q. All right. Were you aware at that time that it is possible to concentrate to different levels?

A. No, I was not.

Q. Are you aware of that now?

A. Yes.

Q. And that some might exhaust and others not?

A. Yes.

Q. There was also no advice in that email about changes that had been made since 2018; is that right?

A. That's right.

Q. You were advised orally about the QPS position?

A. Yes.

Q. But you were not advised either in this email or orally about the introduction of a machine called the 3500?

A. No.

Q. Which has a higher sensitivity than previous machines, including the one used in 2017; is that fair?

A. No, I was not advised.

Q. Could you speak a little bit louder?

A. Sorry. No, I was not advised.

Q. Thank you. Are you now aware of the introduction of that machine?

A. Yes, I am.

Q. All right. And do you think - let's go through those three things in turn. Do you think you should have been told?

A. Yes, I do, because it comes to the heart of what's going to happen in the concentration step. The higher sensitivity machine, then the benefits of concentration improve.

Q. The second - I should say the first thing that isn't in here that I identified to you was the level of



1 improvement seen by concentration. Do you think you should  
2 have been told some figures or some quantification around  
3 that?

4 A. Yes, I should.

5

6 Q. All right. And the second thing was the level of risk  
7 of exhaustion. Do you think you should have been told the  
8 level of that?

9 A. Yes.

10

11 Q. And so, is that a hindsight view that you should have  
12 been told those things?

13 A. Yes, it is, because subsequently in the  
14 decision-making that Dr David Rosengren was involved with,  
15 these issues started getting highlighted to him.

16

17 Q. Did either of those three questions; that is, level of  
18 benefit of concentration; level of risk of exhaustion; new  
19 instruments - if I can put it like that - those three  
20 things, would you have asked those questions of the people  
21 advising you to find out those things?

22 A. In hindsight, probably. I took the advice at face  
23 value. What I didn't want to do was to procrastinate  
24 around the decision-making and exacerbate the fault in what  
25 we were doing.

26

27 Q. Looking at this email, you noticed - did you notice at  
28 the time that the risks and the benefits are all - putting  
29 exhaustion to one side, the rest of the risks and benefits  
30 are about turnaround times, backlog, cost, staff?

31 A. Yes.

32

33 Q. The focus is on resourcing and output, is that fair?

34 A. Yes.

35

36 Q. There's little focus on the benefit of the scientific  
37 process or of the quality of results in this email?

38 A. Yes.

39

40 Q. Is that something you have noticed in hindsight also,  
41 that - would you have asked about that --

42 A. So in hindsight, bearing in mind that my  
43 decision-making was - effectively, the algorithm in a  
44 clinical service is pretty straightforward: do we have a  
45 problem? Yes, we have an identified problem. Are we able  
46 to revert to the process before that problem? And what was  
47 then being put forward to me was to say, well, process 1 is

1 an appropriate end match to what we were doing previously.  
2 And then option 3: can we resource it?

3  
4 And by "resource it", that is actually not about  
5 funding. I was not concerned about the funding. The  
6 conversation I had with Lara was to say, "Can we recruit  
7 the scientists to do this work?" Because that will most  
8 often be our rate limiting step, not funding, are the  
9 people available to conduct this process.

10  
11 Q. All right.

12  
13 THE COMMISSIONER: Q. It is odd, isn't it, Mr Drummond,  
14 because in 2018 they were doing this with the same number  
15 of people that they have, and now they say they need more  
16 people to do the thing that they were doing?

17 A. Though volume over time may have been creating that  
18 pressure.

19  
20 Q. Yes, yes. The work might have increased, you mean?

21 A. Yes.

22  
23 Q. Quite right.

24  
25 MS HEDGE: Q. So you say you probably should have  
26 asked, but could I ask from the other perspective: would  
27 you have expected to have been told by Ms Keller those  
28 things that we have just discussed: level of risk; level of  
29 benefit; and changes to process since 2018?

30 A. I would have expected that if it was relevant to the  
31 decision-making, they should have put that forward. That's  
32 their obligation. Right. Queensland Health is an  
33 absolutely mammoth entity, and you will never know every  
34 question that you need to ask on a particular topic in  
35 front of you. You must rely on the officers and the advice  
36 that they are giving the comprehensive picture for you, and  
37 you can't afford to go and get a second and third opinion  
38 on every piece of advice that's provided to you to say, "Is  
39 there something missing?", because the paralysis that that  
40 would actually create in decision-making would be  
41 phenomenal in our system.

42  
43 Q. You mentioned the methodology of decision-making. Can  
44 we look at that. It is in your statement at  
45 [WIT.0039.0002.0001\_R at 0009] at paragraph 35. These are  
46 the three questions you have just lined?

47 A. Yes.

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Q. And the first one, you had a view from March that that there was an issue there; is that fair?

A. Yes.

Q. The second one, I wanted to understand if we were able to revert the testing workflow in place immediately before the identified issue arose.

Is it fair to say that you asked Ms Keller for what the pre-2018 process was?

A. Yes.

Q. And then you got options back?

A. Yes.

Q. And you understood that option 1 was the reversion to the pre-2018 process?

A. Well --

Q. Perhaps if I can --

A. So at that time, that's what I had asked. And I hadn't asked for options; I had asked to revert to the pre-2018 work flow.

Q. Yes.

A. And when the two options were put to me, there was a variance between those options. And what was put forward, that I probably wasn't cognisant of at the time, was - that subsequently came out and then went to David - I understood we were concentrating everything we could at that point at 0.001 to .0088 range. If we could concentrate it, we were. And this was actually saying, "Well, no. We shouldn't do that anymore." And in that, there were those two bullet points. So I did understand that it was offering some variation against that, that there might be a technological platform that could actually test where we wouldn't before and that QPS had a concern around the exhaustion of a sample, which is that sort of 1 and 2. So I understood there was a variance, but a small variation on that.

Q. I see. Just going back to the email [WIT.0039.0014.0001 \_R], zooming in on those two options, it says there immediately under Option 1:

*Revert to pre 2018 workflow ...*

1 But is it the case that you understood that it was not  
2 exactly the pre-2018 work flow?

3 A. So I thought Option 1 was exactly that.

4  
5 Q. All right.

6 A. And Option 2 was a different one to that.

7  
8 Q. I see. So you understood --

9 A. Sorry, Option 2 was exactly it; Option 1 was not  
10 exactly it. Sorry, I am getting them round the wrong way.  
11 So Option 2 was concentrating everything, which is what we  
12 were doing, and Option 1 was not to concentrate everything.  
13 Now I'm getting myself confused.

14

15 Q. So under Option 1 where it says:

16

17 *Revert to pre-2018 work flow.*

18

19 Are you saying you knew that was wrong on 3 June when you  
20 got this email?

21 A. No. Sorry, I am confusing myself here. So Option 1  
22 which, as you said, was to revert to the 2018 profile, and  
23 that's what we were going to do. And Option 2 - because I  
24 had actually put to them, "just concentrate everything",  
25 right? But there were some they were not concentrating in  
26 under Option 1.

27

28 Q. All right.

29 A. In the pre-2018 work flow, there were a small range of  
30 samples that we weren't concentrating, and I had put  
31 forward to them, "Why don't we just concentrate  
32 everything given to us?" Even it was a quant value of  
33 zero, let's concentrate everything. That's the best thing  
34 that we could actually do for them scientifically.

35

36 That's when then in Option 2 was put forward to say,  
37 well, that was more than what was the 2018 workflow and  
38 that would create a problem of exhausting samples. And so  
39 Option 1, which is the 2018 work profile, I had asked, "Why  
40 don't we concentrate everything?", right? That's the best  
41 that we could actually do. And then it was put back to me  
42 under Option 2 that if we did that, these things would be a  
43 problem.

44

45 THE COMMISSIONER: Q. It seems from this email that, as  
46 I understand it, you said, "Why don't we concentrate  
47 everything"?

1 A. Yep.

2

3 Q. And, "I want to revert to" - but you also said, "I  
4 want to revert to the pre-2018 process" --

5 A. Yes.

6

7 Q. -- because we will just go back to the position that  
8 existed before this problem arose, until we sort out the  
9 problem?

10 A. Yes.

11

12 Q. So you are given this. Option 1, "revert to pre-2018  
13 workflow" suggests that they're describing what you asked  
14 to be done, go back to the pre-2018 process?

15 A. Yeah.

16

17 Q. And that's a process in which all samples within the  
18 range, the relevant range, are processed; that is, a  
19 profile - they try to get a profile from all of them, but  
20 they will only concentrate those that are identified as  
21 worthy of concentration?

22 A. Yes.

23

24 Q. So that's the pre-2018 process you are being told.  
25 You now know that the pre-2018 process was actually called  
26 the auto-microcon process. Namely, they're all processed  
27 fully to try and get a profile, and in the course of it,  
28 they are all micro-concentrated?

29 A. Yes, which is --

30

31 Q. So Option 1 as represented doesn't appear to be true?

32 A. No. So I had asked for - I had put to them that we  
33 should concentrate everything, and which was - their  
34 response on that was the Option 2, to say that was a  
35 problem.

36

37 Q. We could do that, but we haven't - that's right.

38 A. And then in fact Option 1 was the pre-workflow where  
39 it wasn't all concentrated. Now, subsequently I then found  
40 out, well, we were concentrating. And --

41

42 Q. We see under Option 2, paragraph 2:

43

44 *2. in previous discussions, the QPS did not*  
45 *support an automatic concentration*  
46 *process ...*

47

1 Do you recall what you understood by that?

2 A. That was really the last part of that, and the issue  
3 around they owned the evidence and the sample, and if it  
4 was exhausted, it is their property.

5

6 Q. Yes, but your understanding was that QPS - I shouldn't  
7 put these things to you.

8 A. Yes.

9

10 Q. You tell me what your understanding is. When did they  
11 represent this attitude, QPS? Did you have any impression  
12 about that?

13 A. So during this conversation --

14

15 Q. Yes.

16 A. -- that they had been engaging with Police.

17

18 Q. Yes. To resolve this issue?

19 A. To resolve this issue.

20

21 Q. Did you understand that the discussions that are  
22 referred to in paragraph 2 under Option 2 are discussions  
23 with QPS during the currency of seeking a solution to the  
24 then-problem?

25 A. Yes.

26

27 Q. Thank you.

28

29 MS HEDGE: Q. Can I just put things in the timeline?

30 A. Yes.

31

32 Q. So you had a conversation before this email --

33 A. Yes.

34

35 Q. -- where you said, "I want to know what the pre-2018  
36 process is"?

37 A. Yes.

38

39 Q. Then you got the email. And was it then conversations  
40 after that, over the weekend, where you said, "what about  
41 just concentrating everything"?

42 A. So in fact I'd said concentrating - so when I asked  
43 Lara to submit around this, I had said to her, "Revert to  
44 the pre-2018 workflow; that we should concentrate  
45 everything".

46

47 Q. So you said that in your conversation before this

1 email?

2 A. Yes. So when I requested this, I put forward that we  
3 should just concentrate everything, not realising that that  
4 was the pre-2018 workflow till afterwards.

5  
6 Q. All right.

7 A. So what I put forward I thought was going beyond or at  
8 an increased level of threshold for us, and - which was  
9 that concentrate and process under Option 2. But when I  
10 received this, it was put forward that that was not what we  
11 were doing in 2018 and there's a reason I shouldn't support  
12 that.

13  
14 Q. All right. When you first suggested that, you  
15 understood you were suggesting a change to the pre-2018  
16 process?

17 A. Yes.

18  
19 Q. Had you already been told what the pre-2018 process  
20 was?

21 A. No.

22  
23 Q. How did you know about the change?

24 A. No, that was only subsequent that I found out that  
25 proposing - sorry. I didn't - at that point in time, it  
26 was put forward to me that we were not concentrating  
27 everything.

28  
29 Q. All right.

30 A. In that conversation.

31  
32 Q. Before this email?

33 A. Yes.

34  
35 Q. So before the email, you were told - you said, "What  
36 was the process pre-2018?"

37 A. Yes.

38  
39 Q. You were told, "We're not concentrating everything"?

40 A. Yes.

41  
42 Q. And then you said, "What about concentrating  
43 everything"?

44 A. Yes.

45  
46 Q. Then you get the email?

47 A. Yes.

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Q. I understand. So before you got this email, would you have been content to make a change to the pre-2018 process if it was a positive change?

A. Yes.

Q. In your mind?

A. Yes.

Q. So you didn't feel confined by what had been happening back then; you were open to changes?

A. Yes.

Q. All right.

A. And --

Q. I'm sorry?

A. And I put forward as a minimum we should revert to the 2018, but I also put forward: can we do better, which was "concentrate everything".

Q. Did you ask whether there were other ways to do better?

A. No, that's what I put forward.

Q. Did you ask whether the pre-2018 process was best practice in the area of forensic science?

A. No.

Q. Did you ask whether your suggestion of concentrating everything that was best practice in forensic science?

A. So I asked whether that was possible, as opposed to saying, you know, is that what we should be doing? I posed it as a question.

Q. All right. Can we turn to paragraph 57 of your statement which appears at page 15 of the statement [WIT.0039.0002.0001\_R at 0015]. You say here:

*The scientific debate was not a factor in my decisions. The question to answer was whether I could reinstate the pre-2018 testing workflow while the issue is considered by the Commission of Inquiry ...*

Do you see that?

A. Yes.



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Q. But you are content to add to that, or a better workflow if one had been suggested to you?

A. Yes.

Q. When you say the "scientific debate", what are you referring to, though?

A. Around when the threshold should be applied. I did not need the question answered whether it should be testing at the .001 to .0088, whether that was right or wrong, which was obviously in dispute between the scientists inside the service. What I needed to know was could we return to the point before this argument started occurring, which is the pre-2018 workflow, because we had already agreed that there would be a Commission of Inquiry and it would explore - it, effectively, would explore what is the scientific debate in this matter.

Q. When you said, "within the scientists" - "between the scientists there is debate between scientists in the service" --

A. Yes.

Q. -- you mean with the scientists working in the lab?

A. Well, no. Sorry, we had external plus the Police that were putting forward that we were, by applying a different threshold, impacting the number of profiles that we were able to develop. What was then subsequently clear, as this rolled on, is that there was significant debate internal to the service over that as well.

Q. Just focussing on 3 June, did you know about any of the internal debate then?

A. No.

Q. So you understood there to be debate between the management of the lab, say, Cathie Allen?

A. Yes.

Q. And scientists who might be speaking to the media?

A. Yes.

Q. And QPS?

A. Yes.

Q. But not any views about what internal staff working in the lab thought?

1 A. No.  
2  
3 Q. All right.  
4 A. That had not been put forward to us.  
5  
6 Q. In paragraph 58 immediately below that, which is on  
7 the screen, Ms Keller told you that there were discussions  
8 with FSS DNA Analysis Unit management and scientific staff?  
9 A. Yes.  
10  
11 Q. And that was about whether the - you can see the  
12 question there?  
13 A. Yes.  
14  
15 Q. Prior to the announcement of the decisions on 6 June,  
16 the options were communicated or discussed?  
17 A. Yes.  
18  
19 Q. Did you understand that had been discussed with  
20 scientific staff at levels below - well, perhaps I should  
21 rephrase it that way. Did you understand there was Cathie  
22 Allen and below that two team leaders, Paula Brisotto and  
23 Justin Howes?  
24 A. My understanding was at that manager and senior  
25 scientists level. So those two senior scientists that sit  
26 below Cathie.  
27  
28 Q. So Justin Howes and Paula Brisotto?  
29 A. Yes.  
30  
31 Q. I think their title is team leader, though?  
32 A. Yes.  
33  
34 Q. I understand who you mean. So you understand those  
35 three were consulted or discussed?  
36 A. Yes.  
37  
38 Q. After - do you understand, have you ever been told,  
39 that after the decision you made on 6 June that there was a  
40 variety of opinions expressed by staff within the lab,  
41 including people who disagreed with whether your decision  
42 was best practice?  
43 A. Yes.  
44  
45 Q. When were you told about that?  
46 A. Probably David was the first person who highlighted  
47 that to me when I spoke to him when I was on leave, where

1 he said there's significant view on this within the broader  
2 scientific staff.

3  
4 Q. David Rosengren?

5 A. Yes.

6  
7 THE COMMISSIONER: Q. He said that there was significant  
8 what?

9 A. Well, difference of opinion in the broader scientific  
10 staff.

11  
12 MS HEDGE: Q. So at this time you understood there was  
13 no controversy within the lab about the threshold?

14 A. Absolutely. Sorry, yes.

15  
16 Q. Either - I'm sorry?

17 A. Yes.

18  
19 Q. Either between 2018 and 2022 or after your decision  
20 had 2022?

21 A. Both.

22  
23 Q. Yes. After you made that decision on 6 June, and  
24 assume for me that some of those scientists expressed  
25 disquiet with your decision immediately to Justin Howes,  
26 Cathie Allen, Lara Keller - when I say "immediately", in  
27 the couple of weeks after, perhaps - would you expect that  
28 to have been briefed back to you, that there was that  
29 disquiet?

30 A. Yes, particularly because we hadn't received the  
31 resourcing brief. We'd said, "Go ahead with it, but  
32 prepare the resourcing brief and put that in there", and  
33 that would be part of any normal briefing. You would put  
34 in what's the consultation going on and whether there was a  
35 difference of opinion.

36  
37 Q. All right. Now it is probably convenient to come back  
38 to that resourcing brief that you mentioned earlier to the  
39 Commissioner. Could we have this document  
40 [FSS.0001.0051.7337]. You read this Briefing Note?

41 A. Sorry, I am just waiting for it to come up to make  
42 sure it is the right one. If it's the brief that came to  
43 me, yes.

44  
45 Q. Does it come to you like that as a draft?

46 A. I can't remember whether that first came as a draft or  
47 whether it was the final version, but that's the brief that

1 I received.

2

3 Q. All right. Under that "RECOMMENDATION", I assume,  
4 given you have given that number of \$1 million, that these  
5 numbers aren't confidential?

6 A. No.

7

8 Q. So in that, we see the recommendation and we see that  
9 number, the over \$500,000 --

10 A. Yes.

11

12 Q. -- for the temporary HP3 scientists; \$55,000 for  
13 consumables; \$78,000, approximately, to meet overtime  
14 costs. That's the numbers you were speaking about earlier?

15 A. Yes, though that represents to 31 March, so you just  
16 have to extrapolate that to a full-year impact. And it  
17 still comes in under \$1 million.

18

19 Q. I see. That is to 31 March, speaking in financial  
20 years?

21 A. Yes, sorry, financial years. Our financial year is to  
22 end of June, so you have to add another three months on to  
23 that in cost.

24

25 Q. Yes. I tender that draft briefing note, Commissioner.

26

27 THE COMMISSIONER: Yes, exhibit 56.

28

29 **EXHIBIT #56 DRAFT BRIEFING NOTE ON ADDITIONAL RESOURCES TO**  
30 **SUPPORT DNA ANALYSIS**

31

32 MS HEDGE: Q. Can we go back to your statement, page 15,  
33 where we were [WIT.0039.0002.0001\_r at 0015]. At  
34 paragraph 59 at the bottom of that page, you were asked  
35 about consultation or discussion. Could we just have the  
36 question too there, please, operator. Thank you.

37

38 You were asked about consultation, explanations,  
39 discussion with the Queensland Police Service, and you said  
40 it was Ms Keller's responsibility to communicate with  
41 internal and external partners such as the FSS team and the  
42 Queensland Police?

43 A. Yes.

44

45 Q. Are you aware that the Queensland Police weren't  
46 advised of the change in process from 6 June until 21 June  
47 2022?

1 A. I am now, yes.

2

3 Q. Now, as I say that question to you?

4 A. Yes.

5

6 Q. Or "now" as in previously it was?

7 A. No, it previously hasn't been put to me that the first  
8 discussion wasn't until 21 June.

9

10 Q. All right. If that is the case - obviously there will  
11 be more evidence before the Commission, but if that is the  
12 case, that it wasn't advised until 21 June, do you think  
13 that is an acceptable level of explanation and discussion  
14 with the Queensland Police?

15 A. No.

16

17 Q. What would you have expected to happen?

18 A. I would have expected in that period while we were  
19 establishing what should be the resourcing for this, that  
20 that conversation would have been going on for police to  
21 say, "We're going to revert to our 2018 workflow," so that  
22 the issue in contention between us is temporarily resolved.

23

24 Q. So you would have expected there to be consultation  
25 between, say, 2 June and 6 June?

26 A. Yes.

27

28 Q. All right.

29 A. Given what was going on then, around 6 June when the  
30 decision was being made, I would have absolutely expected  
31 that, so that if there was a problem highlighted from  
32 Police, given that we were talking about the end of the  
33 week and beginning of the new week, there would have been  
34 that opportunity at any time to come back and say there is  
35 a problem, because it would take us a while to get  
36 resources in place to do this.

37

38 Q. I should clarify my question and what I said. This  
39 was, as I understand it, formal communication to the  
40 Queensland Police. They were, of course, aware of a  
41 decision because of a press conference held by the Minister  
42 and the Premier?

43 A. Yes.

44

45 Q. As you explained in your statement, you advised  
46 Ms Keller, and others, of your decision before that press  
47 conference?

1 A. Yes.

2

3 Q. And that was by videoconference on 6 June?

4 A. Yes.

5

6 Q. And that was the way that you advised of your  
7 decision, in that teleconference? There was no formal  
8 memorandum or email?

9 A. So it was an instruction issued verbally by myself  
10 with a requirement for them to provide the brief for that  
11 resourcing, and then that would be the formal sign-off as  
12 soon as the brief had arrived, but they were instructed to  
13 proceed on that basis now.

14

15 MS HEDGE: I am about to move on to a difference topic,  
16 Commissioner?

17

18 THE COMMISSIONER: Yes.

19

20 MS HEDGE: Is now a convenient time for a break?

21

22 THE COMMISSIONER: Yes. We will adjourn for 20 minutes.

23

24 **SHORT ADJOURNMENT** [10.58am]

25

26 THE COMMISSIONER: Ms Hedge.

27

28 MS HEDGE: Q. I am moving, Mr Drummond, to the  
29 19 August decision made by Dr Rosengren?

30 A. Yes.

31

32 Q. You say in your statement that you had some  
33 conversations with Dr Rosengren immediately before and  
34 after, but you did not make the decision or tell him to  
35 make the decision?

36 A. That's correct.

37

38 Q. Could we look at the memorandum that he sent on  
39 19 August 2022. It is [WIT.0032.0062.0001\_R].

40

41 THE COMMISSIONER: Exhibit? Is it part of Mr Drummond's  
42 statement?

43

44 MS HEDGE: No, it is not, I'm sorry. It is part of  
45 Dr Rosengren's statement.

46

47 THE COMMISSIONER: I don't have that yet. But that's all

1 right. I'll look at the screen.

2

3 MS HEDGE: Thank you.

4

5 Q. You've read this memorandum?

6 A. Yes, I have.

7

8 Q. Did you understand that the impetus for this was a  
9 recognition that what had been written in that email of  
10 3 June about what was a reversion to the pre-2018 process  
11 was wrong?

12 A. Yes.

13

14 Q. You had been given - you had been told you have been  
15 given inaccurate advice back on 3 June 2022?

16 A. Yes.

17

18 Q. Did you understand that the purpose of this was to  
19 correct that?

20 A. Yes.

21

22 Q. And so did you - is your understanding that the  
23 purpose of this memo was to revert, truly revert, to the  
24 pre-2018 process?

25 A. Yes.

26

27 Q. Can we just zoom in on the paragraph:

28

29 *If further amplification is considered ...*

30

31 Just below the bold:

32

33 *... and if this process will exhaust the*  
34 *remaining sample volume, then written*  
35 *approval must be obtained from the*  
36 *Queensland Police Service (QPS) prior to*  
37 *this process being initiated.*

38

39 A. Yes.

40

41 Q. Are you aware that that was not part of the pre-2018  
42 process?

43 A. No.

44

45 Q. Are you aware that that idea, "written approval from  
46 the Queensland Police Service to exhaust a sample", has in  
47 fact, to the current knowledge of the Commission, never

1       been part of a process at the lab?

2       A.    No.

3

4       Q.    Can we take off that zoom-in, please, operator. I  
5       should ask, if that is true - assume that what I have told  
6       you is true, that that was not part of the process - do you  
7       expect someone should have told you that when you returned  
8       from leave, that there had actually been a change to the  
9       pre-2018 process by this memorandum?

10      A.    Yes.

11

12      Q.    Who should have told you that?

13      A.    Well, at that point in time, I would expect it coming  
14      through Keith or Lara rather than David.

15

16      Q.    Is that because he went back to his other roles?

17      A.    Yes.

18

19      Q.    And is his other role - he's chief opening officer?

20      A.    Yes, and Prevention Division, which has pathology and  
21      FSS under it, does not sit under the chief operating  
22      officer's portfolio. It sits - that DDG reports directly  
23      to the Director-General.

24

25      Q.    That is Dr Rosengren in his role?

26      A.    So - sorry. So Professor McNeil, who is the DDG of  
27      Prevention Division, which PQ and FSS sits under, reports  
28      directly to the Director-General. It doesn't go through  
29      David's role at this point in time. On 17 October it  
30      changes, but at that point in time, my expectation would be  
31      that that issue should come through Keith or Lara to me.

32

33      Q.    If they are aware of it, I assume?

34      A.    Yes.

35

36      Q.    Are you aware that scientists within the lab have  
37      expressed concerns about this process that's been put in  
38      place by this memorandum in terms of their view that it  
39      does not maximise the chances of getting a useful profile?

40      A.    I suppose through conversation, I am now aware that  
41      there is ongoing debate with regards to this as an  
42      alternative as well.

43

44      Q.    When you say "conversation", conversation with who?

45      A.    So that has occurred with, well, David and Matt Rigby  
46      subsequently.

47



1 Q. After 19 August?

2 A. Yes.

3

4 Q. And before, is that fair?

5 A. Before 19th? Yes, because the initiator for revising  
6 this was the fact that there was disharmony amongst the  
7 scientists inside our service around what we were doing,  
8 and so that's why David had to review that and effectively  
9 reverse the earlier memorandum, my one.

10

11 Q. I understood you to say a few minutes ago that the  
12 impetus for this was because you were provided inaccurate  
13 advice --

14 A. Yes.

15

16 Q. -- about what the pre-2018 process was.

17 A. Yes, but then David got - so David got that corrected  
18 advice, which came up through the scientific ranks, at that  
19 point in time, yes.

20

21 Q. All right. How does the disharmony fit into that?

22 A. Well, because again we've got dispute between,  
23 effectively, the people that have previously given us  
24 advice, which was to say this was the process. And now the  
25 scientists that were involved in doing the process now  
26 saying that's different.

27

28 Q. I see. So the disharmony you are referring to is  
29 scientists saying, "That is not in fact a pre-2018  
30 process"?

31 A. Yes.

32

33 Q. All right. You are not referring to disharmony about  
34 whether there should be an automatic or discretionary  
35 concentration process?

36 A. So now I am aware, subsequently, around - since  
37 19 August - around the view that there should be scientific  
38 discretion around the concentration process, yes.

39

40 Q. How did you find out about that?

41 A. Oh, gosh. It is in one of the conversations that I've  
42 had, and it was probably - that would be with, probably,  
43 the task force, in conversations with our task force in  
44 responding to this.

45

46 Q. This is the task force that responds to the Commission  
47 of Inquiry?

1 A. Yes.

2

3 Q. Are you aware that professor Linzi Wilson-Wilde and  
4 Dr Bruce Budowle are two experts, one interstate and one  
5 international, who gave evidence at the Commission last  
6 week?

7 A. Yes.

8

9 Q. Are you aware they gave evidence that best practice is  
10 to have a discretion in whether things are concentrated?

11 A. Yes.

12

13 Q. Did you become aware of that through the hearings or  
14 were you aware of that from material provided in advance?

15 A. So I was advised that through the briefing on what had  
16 come out during the hearings.

17

18 Q. Sorry, say --

19 A. So I was advised that through the summary that I get  
20 of what's come up during the hearings.

21

22 Q. Okay. Those two pieces of information that the  
23 scientists in the lab, some believe that there should be  
24 discretion, and that these two experts have talked about  
25 discretion, do you have any current plan or intention to  
26 consider that issue?

27 A. So at this point in time, we have supported the  
28 requests that police have put to us with regards to our  
29 testing regime, and so we will, at this point in time,  
30 given that we've had, effectively, a cascading change in  
31 the advice that we were giving the scientific services,  
32 it's not our intention to change that again other than to  
33 comply with the requests that we've got from Queensland  
34 Police Service.

35

36 Q. When you say, "to comply with the requests", do you  
37 mean when they request to exhaust - when they have given  
38 their approval to exhaust a sample?

39 A. Yes.

40

41 Q. Could we just zoom in on that paragraph again about  
42 the QPS. Yes. I am sorry, operator, could we have the  
43 paragraph above it as well, with the bold. The bolded  
44 paragraph, it identifies what samples this memo relates to?

45 A. Yes.

46

47 Q. Is it your understanding that this memorandum only

1 relates to those samples, that is Priority 1 and 2 with a  
2 quantitation result within that certain range?

3 A. Yes.

4

5 Q. Are you aware that, given that to be true, that the  
6 lab may exhaust samples that are P1 and P2 outside of that  
7 range without approval from the QPS?

8 A. No, I wasn't really cognisant of it, but that makes  
9 sense because we're actually saying that within this range,  
10 that that can't happen without their approval. So we have  
11 not commented on samples outside that. So, yes, it could  
12 be exhausted.

13

14 Q. But then at the moment there's two different regimes  
15 for when approval is obtained from QPS to exhaust a sample,  
16 depending on the quant range?

17 A. Yes.

18

19 Q. Do you think that's a good process?

20 A. Well, the likelihood of a profile above the 0.0088 is  
21 so significantly different, then I would have to consider  
22 that. I'd like to know what the percentage difference is.

23

24 THE COMMISSIONER: I don't know that that is a question to  
25 ask Mr Drummond, Ms Hedge, because while he might give an  
26 opinion that in general there ought to be the same regime  
27 in relation to exhaustion of samples for all samples,  
28 whatever the range, whatever the quant, it may be, as we  
29 keep discovering, that there are different ramifications  
30 depending upon a quant and other considerations, and he  
31 wouldn't be expected to have a grip on those things without  
32 seeking advice.

33

34 MS HEDGE: I am happy to move on from it. Thank you.

35

36 Q. Could I ask about something that occurred last week, I  
37 understand on Friday, that you ordered a pause in testing?

38 A. Yes.

39

40 Q. At the laboratory?

41 A. Yes.

42

43 Q. I will just see if we have that document available.  
44 I think it was emailed to the operator and provided to the  
45 parties this morning. If we could just redact that phone  
46 number under, "Inquiries to." Thank you.

47

1 This is the memorandum that you - there should be a  
2 second page. Could we scroll to the second page, so we can  
3 see - can we redact that signature and email. Thank you.  
4 But we see this is a memorandum signed by you last Friday,  
5 30 September?

6 A. Yes.

7

8 Q. Back to the first page, please. It says in the first  
9 line:

10

11 *It has been brought to my attention that*  
12 *Queensland Police Service (QPS) have*  
13 *formally requested, by email on*  
14 *20 September 2020, that FSS temporarily*  
15 *pause testing.*

16

17 A. Yes.

18

19 Q. Is the email you're referring to an email from  
20 Inspector David Neville?

21 A. Yes.

22

23 Q. You have seen that email?

24 A. Yes.

25

26 Q. How did you become aware of that email?

27 A. Through my office.

28

29 Q. What date last week? Well, what date did you become  
30 aware of that email?

31 A. It was probably the day after 20 September.

32

33 Q. The day after the 20th, so the 21st?

34 A. Is the 21st a weekend or a - honestly, I --

35 Q. 26th was a Monday, so 25th and 24th were a weekend?

36 A. Yes, yep. So it was the day after that email.

37

38 Q. That email went to Ms Keller; is that correct?

39 A. Look, I can't remember who that was addressed to. It  
40 was not Ms Keller who brought it to my attention.

41

42 Q. All right.

43 A. It was Matthew Rigby.

44

45 Q. Do you know how Matthew Rigby had the email?

46 A. I believe that it might have been supplied by Lara.

47

1 Q. To him?

2 A. To him.

3

4 Q. All right. So it was briefed up through Queensland  
5 Health, to your understanding?

6 A. Yes.

7

8 Q. What did you do between 21 September and 30 September  
9 to assist in making this decision to acquiesce to the  
10 request to pause?

11 A. So I sought advice again from our task force  
12 responding to this to say, "Is this appropriate to issue an  
13 instruction?", to that effect. After I received that  
14 advice from them, which was to say, "Yes, you must", I did.

15

16 Q. So advice from people in the task force within  
17 Queensland Health responding to the Commission?

18 A. Yes.

19

20 Q. Are they lawyers? So I don't ask you anything that is  
21 privileged.

22 A. Yes.

23

24 Q. Okay. Did you seek scientific advice about what a  
25 pause in testing might mean?

26 A. So what was very clear in their advice to me was that  
27 it was their property. And so, regardless of the  
28 scientific process, if they had issued a formal instruction  
29 to us, it is their evidence and we can't process it without  
30 their authority.

31

32 THE COMMISSIONER: Q. I guess that's right, isn't it, in  
33 that Queensland Police ask you to test things and it's the  
34 duty of FSS to test them, according to proper scientific  
35 principles and processes, when asked. But unless you're  
36 asked, you've got no business taking samples and doing  
37 anything with them?

38 A. It is a situation where we're damned if we do, damned  
39 if we don't.

40

41 Q. I don't know that you are damned at all. What I mean  
42 is I am agreeing with you that, rather than talk in terms  
43 of whose property something is, the samples are things that  
44 Police ask you to test or they don't ask you to test.

45 A. Yes.

46

47 Q. And without a request --

1 A. Yes.

2

3 Q. -- there's nothing for you to do, is there?

4 A. Yes. Absolutely. But that comes to that difference  
5 in that 2018 threshold where there was this environment  
6 where they could still request them to be concentrated and  
7 tested, but the argument from Police is that, effectively,  
8 that was discouraged.

9

10 Q. Yes. But that's a different thing?

11 A. No --

12

13 Q. And that becomes - anyway, I was just remarking on  
14 your answer that you felt that you were obliged to stop  
15 testing if Police asked you to stop testing.

16 A. Yes.

17

18 Q. And at the moment, I don't see how you could test  
19 something unless police asked you.

20 A. Our role is to support them as their scientific  
21 service, where they request us to do so.

22

23 MS HEDGE: Q. You say in the second paragraph there:

24

25 *Before resuming testing, QPS are seeking*  
26 *advice from FSS as to whether these*  
27 *concerns are valid.*

28

29 Do you understand the scope of that advice?

30 A. Yes, sorry, my understanding is they're going to  
31 independent expert scientific opinion with regards to that,  
32 and then that will be provided to us once they've had that  
33 advice. Sorry, the outcome of that. Not necessarily the  
34 specific advice.

35

36 Q. That is, FSS are seeking that advice?

37 A. No, no. Queensland Police Service are looking at - so  
38 my understanding is that Police are now going to seek  
39 expert independent scientific advice as well as advice from  
40 FSS.

41

42 Q. Okay. So the QPS independent expert advice is not  
43 referenced in this memorandum?

44 A. No.

45

46 Q. I am not suggesting it should be --

47 A. No.

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Q. -- but it's just not. So do you know what advice they are seeking from the FSS?

A. Yes. So around what's the likelihood of lost samples and therefore the impact on evidence if we've done a blanket volume of concentration.

Q. But is the two hypotheses then considered a blanket volume of X and a blanket volume of Y?

A. Yes.

Q. So there's no consideration in this of discretion being given to scientists as to what concentration might happen?

A. Yes.

Q. It is all about just different blanket volumes?

A. Yes.

Q. From the FSS perspective, how long do you expect that advice to take to be given?

A. I think it should be happening immediately. So that we should - within the week, if it's possible, we should be providing that advice.

Q. Have you been told how long it will take?

A. No, I haven't at this point in time.

Q. All right. Are you aware that Ms Gregg, who was acting in Ms Keller's role, indicated prior to the pause that it might take months to look at different blanket volumes?

A. Yes, but I don't think we have the luxury of taking months, because the backlog at that point in time and, therefore, the impact on timely testing, is significant. And given that other jurisdictions have different testing and concentration thresholds, I would have thought that we'd be able to go to some of those laboratories and say, "Well, what is the proportion of samples that are used?" That might be naive, and that's why, I suppose, I am assuming that we should be able to give an answer at least to initially advise Police sooner than months, which might be a thorough analysis of our own work, but we've got laboratories in Australia that are concentrated at different thresholds, and without going to the specific outcomes of those, we must know what proportion, we must be able to ask them what proportion would be exhausted.

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Q. Have you told those ideas of how they might go about providing this advice to Ms Keller or to Ms Allen?

A. I haven't had that direct conversation with the quants.

Q. -- or - not Ms Allen. Ms Keller? No, all right. Or to anyone down the chain towards the lab?

A. I just talked within my office to say, "Surely we must be able to get advice without having to have done a complete scientific review," because that at least gives us an indication whether there is an absolute need to spend months making this decision or whether there is an ability to make a decision earlier.

Q. All right.

A. So it doesn't necessarily give us a definitive answer, but it might give us the ability to say, "Can we make a definitive evidence answer on the evidence of other laboratories?" And if we can't, then we have to spend the months. But if we can, then that's what we should do, because I am concerned around the backlog and, therefore, the delay in testing with any new matter.

Q. Are you going to be involved in determining how FSS give advice? Or is that for people at a lower level than you?

A. People at a lower level.

Q. Okay. So these are your ideas, but you're not going to give a direction about that? All right.

Can I ask about something else in terms of funding. As part of your inquiries into the DNA Analysis Unit since this Commission started, is it right that you asked some of your staff to look into historical records as to what funding requests have been made?

A. Yes, I have.

Q. That was mentioned briefly with the Commissioner earlier, and you said that there had been no requests through formal channels for extra funding for the DNA Analysis Unit?

A. That's correct.

Q. All right. How far back do those records go that you were able to --



1 A. So I asked them to check back to the financial year of  
2 2017-18, whether there had been any requests at any time  
3 before that or after.

4  
5 Q. If the laboratory is underfunded to provide a quality  
6 service or quality profiles, would there be any proper  
7 reason not to request funding?

8 A. No.

9  
10 Q. Can I go back a little to the time of about March this  
11 year. Were you told around that time - you had those two  
12 meetings we discussed, 8 and 14 March. Were you advised by  
13 anyone at that time that individual scientists had taken  
14 concerns about the DIFP threshold to Ms Keller directly?

15 A. No.

16  
17 Q. Were you advised that on behalf of --

18  
19 THE COMMISSIONER: When are you speaking about, Ms Hedge?

20  
21 MS HEDGE: March this year.

22  
23 THE COMMISSIONER: Yes, thank you.

24  
25 MS HEDGE: 2022.

26  
27 Q. Were you advised that Ms Keller had passed on, or on  
28 behalf of those scientists, made a submission to the  
29 Ethical Standards Unit for a public interest disclosure?

30 A. So, I became aware of that last week.

31  
32 Q. All right. Have you had the chance to look at the  
33 documentation around that?

34 A. So, I've seen a summary from the Ethical Standards  
35 Unit with regards to the matter raised.

36  
37 Q. Can we put that on the screen. It is  
38 [FSS.0001.0067.2677].

39  
40 MS HEDGE: I don't believe it's attached, Commissioner,  
41 to any of the statements you have.

42  
43 Q. While that is coming up, so you were told last week --

44 A. Yes.

45  
46 Q. -- that that existed?

47 A. And I was given this summary from the Director of

1 Ethical Standards Unit and what had happened.

2

3 Q. So you were told then that the Public Interest  
4 Disclosure was refused --

5 A. Yes.

6

7 Q. -- and referred back to Ms Keller?

8 A. Yes.

9

10 Q. Could we scroll down to page 2, please [FSS..0067.2677  
11 at 2678]. Is this the document that you were shown last  
12 week, or something in a different form?

13 A. No, that - that looks like it, yes.

14

15 Q. In the second paragraph there, we see the concerns  
16 raised that:

17

18 *- Their feedback was not incorporated, and*  
19 *their name was removed from the signatory*  
20 *list for the final version.*

21

22 *- They went on to question the science on*  
23 *two other occasions, but without success.*

24

25 And then:

26

27 *Complainant 2 has provided examples of*  
28 *criminal cases requiring DNA testing ...*  
29 *that [have] elicited results.*

30

31 Do you see that?

32 A. Yes.

33

34 Q. You were told about this last week?

35 A. Yes.

36

37 Q. You previously have never been told about this by  
38 anyone? Sorry, you will have to say out loud for the  
39 transcript.

40 A. Sorry, no.

41

42 Q. If we scroll down a little bit, operator, do you see  
43 that paragraph there:

44

45 *The ESU also considered if the concerns*  
46 *would amount to a PID [Public Interest*  
47 *Disclosure] ...*

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Do you see that?

A. Yes, I do.

Q. In the five, the fifth dot point down, do you see the one that says:

*- Developments since the process change have highlighted that, in hindsight, the feedback provided by Complainant 1 (and others) may have been valid.*

Do you see that?

A. Yes, I do.

Q. So the Ethical Standards Unit considered that the feedback provided on - did you understand that this was the feedback provided on Project #184, which led to the Options Paper?

A. Yes. Well, I believe so.

Q. That might be too much detail, so --

A. Again, I was provided this as a summary last week.

Q. Yes. ?

A. You know, part of my role is to not interfere in the evaluation by our Ethical Standards Unit on the nature of these, because in fact that is inappropriate. That has to be independent of any direction by officers. So when this is provided to me, I've looked at that, I've read it. But, you know, I don't - I am not involved in the process of assessment of these matters.

THE COMMISSIONER: Q. I guess we can look at the legislation and sort it out, and we'll do that, but I am interested in your understanding. Your understanding is that, in terms of good management from the position you occupy, you don't have standing to raise questions about this process? Other people may have standing, but you're not one of them?

A. Sorry, yes. I don't have the ability to, you know, change the decision on whether this is a PID or not or whether this is a matter of conduct. That is for the officers and that role. And so while the head of Ethical Standards Unit does have a reporting relationship with myself, that is on operation of the function --

1 Q. Yes.

2 A. -- not on the evaluation and the PID status of  
3 individuals inside any matter raised with them.

4  
5 Q. I understand.

6  
7 MS HEDGE: Q. Could I direct you to the second-last dot  
8 point:

9  
10 *Nevertheless, the results themselves are*  
11 *used as circumstantial evidence only. The*  
12 *results in isolation, do not themselves*  
13 *prove guilt, they are simply used (in some*  
14 *circumstances) in conjunction with*  
15 *additional evidence as part of an overall*  
16 *justice process.*

17  
18 A. Yes.

19  
20 Q. Do you agree with that statement?

21 A. No, I don't.

22  
23 Q. Are you aware of cases in which the DNA evidence is  
24 the only piece of evidence that might implicate a person in  
25 a crime?

26 A. Absolutely.

27  
28 Q. Taking into account those last four dot points, as  
29 well as tell us if you shouldn't answer this because of  
30 what you have said about not overseeing the Ethical  
31 Standards Unit, but do you think those last four dot points  
32 are an appropriate response?

33  
34 THE COMMISSIONER: I don't think it is fair to ask  
35 Mr Drummond that, because what's the use of his opinion to  
36 me? He is a man who occupies a position where if he had  
37 read that at any relevant time and had come to the view  
38 that those four dot points, or anything in there, is wrong,  
39 there's nothing he can do about it. I guess he could raise  
40 it informally with somebody, but what are you seeking to do  
41 with this that assists me in my task?

42  
43 MS HEDGE: The purpose would be that Mr Drummond is in a  
44 position where he has sufficient knowledge of the Health  
45 impacts and the criminal justice impacts to be drawing  
46 those high-level policy decisions. So he may have a view  
47 about whether this balancing that appears to have occurred

1 in these dot points is appropriate or not. But I am happy  
2 to move on.

3  
4 THE COMMISSIONER: I think you should move on, Ms Hedge.

5  
6 MS HEDGE: Thank you. We can take that down from the  
7 screen.

8  
9 Q. Can I ask about the culture inside the forensic DNA  
10 laboratory. Have you been briefed on cultural issues  
11 existing at the DNA Analysis Unit?

12 A. So I have had not a formal briefing but conversations,  
13 certainly with both Keith McNeil and Lara, around the  
14 problems that exist between staff.

15  
16 Q. Between staff?

17 A. That have been ongoing, yes.

18  
19 Q. All right. Do you see that - could you explain that  
20 answer further. Do you see that just as individual  
21 problems or a widespread cultural problem?

22 A. So it's widespread, and that there have been  
23 interventions in the past. Obviously not particularly  
24 successful, because the disharmony continues and the  
25 cultural problems between that.

26  
27 Inside the Health system, where we have highly  
28 educated, highly specialised people, we often see  
29 personality conflicts and cultural conflicts occur between  
30 people in very specialised areas, and their strength of  
31 belief around differences around how service should be  
32 conducted, or when, often results in a cultural conflict.  
33 This area is one of many examples that occur inside the  
34 Health system.

35  
36 Q. From your understanding of this lab and other areas,  
37 do you say the cultural problems are on par with other  
38 areas or worse there? Or you can't judge that?

39 A. So against the continuum of what we see, it's on the  
40 serious end, but it's not the worst. That's not saying  
41 that we aren't intervening in those other areas, because by  
42 the time they come to me, it's because there is a  
43 significant intervention happening because most of these  
44 services and issues - and in amongst 125,000 staff, the  
45 majority of them are within the system within Hospital and  
46 Health Services, and so by the time it comes to the  
47 Department, it is a very serious issue. So on the spectrum

1 of things I tend to see the very serious. And the same as  
2 the chief executive in the Health service. You see the  
3 very serious end; you don't see the lower end. So it sits  
4 in that basket around, you know, significant disharmony  
5 that is impacting on the ability to work well together.

6  
7 Q. When was it briefed to you that there were cultural  
8 issues inside this laboratory?

9 A. So probably in that conversation post 8 March, the  
10 first meeting that we had, subsequently I talked to the  
11 Chief Human Resources officer, Theresa Hodges, who had  
12 highlighted that they had had ongoing cultural issues and  
13 that they, over time, had been supporting the service and  
14 trying to resolve those.

15  
16 Q. And are you aware that a number of previous executive  
17 directors have attempted to put programs in place or make  
18 changes to try and improve the culture?

19 A. So, yes, Theresa highlighted that with me.

20  
21 Q. You understood the cultural problems existed over a  
22 long period, is that fair?

23 A. Yes.

24  
25 Q. And now there is some extra pressure, perhaps, from  
26 the Commission of Inquiry?

27 A. Absolutely. It's going to be exacerbated in these  
28 heightened circumstances.

29  
30 Q. What do you understand - do you understand whether  
31 particular steps are being taken now to deal with the  
32 cultural problems as you see it?

33 A. So there is a range of activities that have been  
34 supported post that - Theresa gave me a highlight for. I  
35 can't remember what they all are off the top of my head;  
36 I'd have to go back and have a look at what she told me at  
37 the time. But during this period, during this year, there  
38 has been continuing work to try and support, during this  
39 calendar year.

40  
41 Q. All right. But you don't know the specific details of  
42 that? I am not suggesting you should, but that's for  
43 people slightly below you?

44 A. Yes.

45  
46 Q. Do you think that a cultural issue in a workplace like  
47 the forensic laboratory might be slightly different to some

1 other areas because of the ever-evolving nature of the  
2 science in that area?

3 A. No more than a clinical area where - you know,  
4 clinical science evolves every year and we do see this  
5 disharmony between, you know, what might be traditional  
6 practice and what's contemporary practice. That creates  
7 conflict in a clinical environment as well as a scientific  
8 environment.

9

10 Q. In both of those environments, the scientific and the  
11 clinical, do you believe that a good culture is necessary  
12 to create robust discussion around scientific issues?

13 A. Absolutely.

14

15 Q. And that a lack of robust and open discussion about  
16 issues might actually result in degradation of the science  
17 or the clinical environment?

18

19 THE COMMISSIONER: Ms Hedge, I don't know if this is  
20 helpful. These are questions which the answer must be  
21 "yes." I don't know that Mr Drummond has greater expertise  
22 to answer that question than, for example, I do. It must  
23 be the case that a good culture will promote robust  
24 discussion.

25

26 MS HEDGE: I don't disagree with you, Commissioner, but  
27 Ms Drummond does have experience of a scientific  
28 environment that might assist the Commission --

29

30 THE COMMISSIONER: All right. You go ahead.

31

32 MS HEDGE: -- rather than a legal environment. But I am  
33 content to move on.

34

35 THE COMMISSIONER: No, I just mean these are - you go  
36 ahead if you think these will help me. I will trust your  
37 judgment.

38

39 THE WITNESS: So if I can answer: yes. It takes, from  
40 light bulb moment of invention of, effectively, new process  
41 or new opportunity, about 15 years in the Health system to  
42 implement something so that it's normal practice, right?  
43 If we don't have good communication, good culture, good  
44 discussion around that, that's why it takes 15 years, on  
45 average, because those clinical areas or scientific areas  
46 that have good robust internal communication, resolution of  
47 that, change to latest contemporary practice at a far

1 faster rate for that.

2  
3 So there is absolutely a benefit in a clinical area or  
4 scientific area in Health in having that good culture of  
5 discussion, because it allows the change process to occur.

6  
7 MS HEDGE: Q. And from what you have been advised about  
8 this lab, have you seen evidence that a culture has  
9 resulted in degradation of quality of outcomes or of the  
10 science?

11 A. Yes, evidence by what has been - you know, why we are  
12 in a Commission of Inquiry now, and the constant debate  
13 over every decision that's made, there is not harmony with  
14 regards to the decision-making or the way forward that is  
15 resulting in everybody going in the same direction, and a  
16 good culture would be not everybody has to agree with the  
17 individual merits of the decision-making, but they support  
18 what is the decision made.

19  
20 What we find here is, you know, constant argument over  
21 the decisions that are made. There's not that ability to  
22 coalesce people under the same direction.

23  
24 Q. What do you think is the management responsibility at  
25 the level of Ms Cathie Allen, and the managing scientists  
26 level, to ensure or propagate good culture?

27 A. That's a primary responsibility of any director or  
28 manager and so the system.

29  
30 Q. And how should that be done?

31 A. That is engagement with people, transparency around  
32 decision-making, honesty, engagement. You know,  
33 fundamentally it comes down to the conversations that you  
34 have within the team around the decisions that you are  
35 making, how, and their ability to participate in good  
36 decision-making.

37  
38 Q. And that is that the staff members who might be  
39 described as lower down are able to participate?

40 A. Yes, absolutely. The grassroots of the organisation  
41 needs to actually understand the decisions that we are  
42 making, the directions that we're going and participate in  
43 how we make those decisions.

44  
45 Q. What about at the level of Mr Howes and Ms Brisotto,  
46 that team leader level? Is it the same or is it a  
47 different responsibility?



1 A. The obligation is still there, but it's on a different  
2 scale. I mean, that's within the harmonisation within  
3 their teams and then the harmonisation between themselves  
4 and their peers. So if we think about, you know, in a  
5 complex diagram, they need to be able to be supporting  
6 their teams so their participation and understanding is  
7 high, but then they need to be able to operate with their  
8 peers and the harmonisation around what they are doing as a  
9 peer group that then leads up to, effectively, you know,  
10 the managing scientists and then through to the Executive  
11 Director. Everybody has got a cascading responsibility of  
12 not just working with their teams but also working across  
13 the organisation to their peers and then also working up,  
14 in a hierarchy sense. It is up, down and sideways.

15  
16 Q. And at the Executive Director level, does that all  
17 apply also?

18 A. Absolutely.

19  
20 Q. If an Executive Director is not involved in the  
21 scientific decisions within the lab, how should they be  
22 involved in managing the culture?

23 A. So, they don't have to be involved in the decision  
24 -making. What they need to do is to be very clear that the  
25 people that they report to them are behaving in that way  
26 around the behaviours that lead to good engagement; good  
27 consultation. That's their responsibility, effectively, in  
28 their human resource management responsibilities as a  
29 director, to ensure that that leadership is behaving in the  
30 way that actually builds to the strongest decision-making  
31 or culture.

32  
33 Q. Have you, as of yet, had any consideration of whether  
34 the people in those positions, Ms Keller, Ms Allen,  
35 Mr Howes, Ms Brisotto, are meeting their obligations or  
36 responsibilities as you have outlined them?

37 A. I have my concerns.

38  
39 Q. Can you tell us what those concerns are?

40 A. I mean, obviously what's evidenced through this is, as  
41 this has developed, clarity around the removal of people  
42 from some of the decision-making, the removal of people  
43 from - you know, that were signatories that would otherwise  
44 have been a signatory if they didn't have a dissenting  
45 opinion. That's in the evidence that we have recently been  
46 given. That leads me to significant questions around how  
47 do we find ourselves in that circumstance, and what's the

1 role of the managers and those senior people in that.

2

3 Q. So that's relating to that ESU brief that we looked at  
4 earlier?

5 A. Yes, absolutely.

6

7 Q. Have you investigated other aspects of management's  
8 dealing with the culture issues?

9 A. So, other than the briefing that I'd had with Theresa  
10 Hodges, who did come and talk to me around what we had  
11 actually been doing.

12

13 Q. I see. But did that briefing go into the details of  
14 particular specific instances in which there was a failure  
15 to comply or failure to manage those obligations?

16 A. No. No, it doesn't. No, it doesn't.

17

18 Q. It was more general than that?

19 A. And I would not get involved in that level of detail,  
20 you know, 125,000 people inside our system, and sad -  
21 I don't know whether I should say "sadly", but the  
22 Director-General is the employer of all bar the senior  
23 medical officers and the executive service, so you have to  
24 work in a distributed fashion with that many people you are  
25 responsible for who are over the detail. You can't get  
26 involved with that because of the sheer volume of employees  
27 we have.

28

29 Q. Can we go back to that ESU brief. It doesn't need to  
30 be on the screen, but is it your understanding whether  
31 there was any other process? I'll start again.

32

33 Once the Ethical Standards Unit said that it wasn't a  
34 public interest disclosure, that was communicated to the  
35 scientists, you understand?

36 A. Yes.

37

38 Q. All right. Are you aware of any other process that  
39 those scientists could have taken to escalate those  
40 concerns after being told it was not a Public Interest  
41 Disclosure?

42 A. So the fact that it might not be a Public Interest  
43 Disclosure doesn't mean that there isn't an issue that  
44 needs investigation and resolution, because there are  
45 things that are not CCC matters that we are required to  
46 respond and act on.

47

1 Q. Yes. And so, Ms Keller was in possession of the  
2 information that led to that?

3 A. Yes.

4

5 Q. So was it her responsibility to investigate that?

6 A. Yes. Yes, it is.

7

8 Q. Have you made any investigation into whether Ms Keller  
9 did investigate those issues?

10 A. So I've literally had this shared with me last week.  
11 And, again, at this point in time with everything going on,  
12 if advice was sought from me, I'd say, "What do you need to  
13 do to ensure no further damage?" But if you tried to  
14 investigate the issue while we have a Commission of Inquiry  
15 on, that could be prejudicial.

16

17 Q. Right. Can we deal with what Ms Keller should have  
18 done to investigate. Should she have briefed up the chain  
19 to Professor McNeil or to yourself?

20 A. Well, it wouldn't be to myself because every human  
21 resource matter going on where there might be a conduct  
22 issue that is not a corrupt conduct issue - sorry, a  
23 misconduct issue - doesn't get briefed to the  
24 Director-General, nor would it necessarily be briefed to a  
25 Deputy Director-General. In this case, because of what is  
26 going on and the nature of what is publicly going on, there  
27 should be at least conversation if not formal brief with  
28 the Deputy Director-General.

29

30 Q. What about investigating? Should Ms Keller, in your  
31 view, should she have conducted some investigation to  
32 interview people or gather other information about the  
33 issue after the Ethical Standards Unit said it wasn't a  
34 PID?

35 A. Given that, I believe, March they got that - is it  
36 March that they got the answer back from Ethical Standards  
37 Unit, and we weren't in a Commission of Inquiry at that  
38 point in time. Yes.

39

40 Q. Is it anyone else's responsibility other than  
41 Ms Keller's?

42 A. Well, the complaint went to her.

43

44 Q. Yes.

45 A. So it is her responsibility to resolve that. As to  
46 whether there is something further that should happen that  
47 is outside the CCC process to resolve. She may need advice

1 from it from the human resources branch inside the  
2 Department and support for that, but it is the required  
3 to - if I think about my career, I have had a number of  
4 things which are behavioural problems that are not corrupt  
5 conduct that we still actually had to investigate and  
6 answer.

7

8 Q. Yes. Now, this issue, the one raised with Ms Keller  
9 and the Ethical Standards Unit, was a mixed issue, wasn't  
10 it, not just of behaviour or conduct but also of science?

11 A. Yes.

12

13 Q. In the sense that the scientists were saying that the  
14 DIFP threshold was inappropriate for obtaining quality  
15 results; is that fair?

16 A. Yes.

17

18 Q. And so, we have dealt with the behaviour conduct, but  
19 should Ms Keller have been investigating whether that  
20 threshold was appropriate?

21 A. I believe so, once it was raised internally.

22

23 Q. Right.

24 A. And the reason - the reason why I am making that  
25 statement is we should always trust our staff until we have  
26 reason, you know, not to. And then that's when you get a  
27 second opinion, third opinion, to say, "If we've now got  
28 conflicting evidence within the group, then you need to do  
29 some verification on that."

30

31 Q. Yes.

32 A. When you don't have conflicting evidence, there is no  
33 reason why you would be going and getting a second or a  
34 third opinion, but given that this was actually raising up,  
35 the obligation then becomes, as a Director, to say, you  
36 know, you need to have that answered for yourself.

37

38 Q. All right. And would you understand - you understand  
39 Ms Keller's scientific experience is not in DNA analysis?

40 A. Yes. So she would have to go to another person to  
41 actually get that supported.

42

43 Q. Yes. And would that other person be outside the  
44 laboratory?

45 A. Yes, because the difference of opinion is within the  
46 laboratory.

47

1 Q. So your expectation, having received this information,  
2 would be that an external independent opinion was sought  
3 about it?

4 A. Yes.

5

6 Q. Are you aware that Ms Keller has been told a number of  
7 things by different staff about different topics, which I  
8 won't go into in detail now? But are you aware it's not  
9 just this one?

10 A. Yes.

11

12 Q. And so is that your view for any scientific issue that  
13 came up to Ms Keller, that there should be some  
14 investigation and consideration, at least, of an external  
15 report?

16 A. So I think that comes down to why I certainly  
17 initially supported a review, because some of this, there  
18 needs to be that independent advice, given that we've got a  
19 difference of opinion. Now, originally, that was based on  
20 that that difference of opinion was external. As it has  
21 developed, through this, we now find there is significant  
22 difference internally, and that sort of doubles down on the  
23 need to have brought in independence to give view and  
24 surety for us on what we should be doing.

25

26 Q. Do you perceive there's some difficulty with the  
27 structure of the FSS that above the managing scientists,  
28 there is no one in the structure that has deep DNA analysis  
29 knowledge?

30 A. No. No, I don't. I'm not a clinician, but I've been  
31 a chief executive for more than 20 years. You can make the  
32 decision and get advice. Your ability to be able to  
33 understand and interpret the advice that you're given is  
34 what is important, and where it's not clear, you continue  
35 to pull a thread.

36

37 Q. Right. So the scientists who took this matter to  
38 Ms Keller, that was the appropriate way to raise the issue?

39 A. Yes.

40

41 Q. All right.

42 A. But given that where they - the difference of opinion  
43 was with their managers, and so staff or any employee needs  
44 that ability to escalate above that level where they have,  
45 effectively, a difference of opinion.

46

47 Q. Thank you.

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MS HEDGE: Those are my questions.

THE COMMISSIONER: Thank you. Who is next? Does anybody want to ask any questions? Mr Rice?

MR RICE: I do. I would prefer to go last.

THE COMMISSIONER: You'd like to go last? Yes.

MR HICKEY: I have a few questions.

THE COMMISSIONER: Yes, Mr Hickey.

**<EXAMINATION BY MR HICKEY**

MR HICKEY: Mr Drummond, you gave some evidence a few moments ago in response to some questions from my learned friend about Ms Keller, and in particular you said that it would have been prejudicial to have initiated investigations into what steps, if any, Ms Keller did or ought to have taken in response to the things she came to know in March. Do you recall what I'm talking about?  
A. Yes. Sorry, to just clarify, once we had a Commission of investigation - you know, a Commission of Inquiry started. Not before that, when we were actually considering a review. Then, absolutely, we were in a position at that point in time that we wouldn't be effecting another process.

Q. All right. When you say, "when the Commission of Inquiry started", do you mean when the Commissioner was appointed and the Terms of Reference were published in the Gazette? Is that what you mean?  
A. Yes.

Q. You don't mean when the hearing started, you mean when the Commission had started it work?  
A. Yes.

Q. And that's because you accept, do you, that to interfere with internal processes, once the Commission had got going, would inevitably be prejudicial to the work of the Commission?  
A. That the ability for people to actually respond while they're going through a Commission of Inquiry is impacted significantly, and so their ability to have fair

1 opportunity to respond to what might be a conduct issue  
2 through a normal Human Resource management pathway, while  
3 they're also involved in responding to the Commission of  
4 Inquiry, it is not fair, I believe, to draw on both of  
5 those things at once.

6

7 THE COMMISSIONER: Mr Hickey, why would it interfere with  
8 my work if they changed scientific processes?

9

10 MR HICKEY: I am not putting that as a proposition. I am  
11 asking him was that his concern in not initiating those  
12 investigations.

13

14 THE COMMISSIONER: I thought you said "would you agree"  
15 that that's so? Anyway, are you not putting to him.

16

17 MR HICKEY: I am not suggesting it.

18

19 THE COMMISSIONER: That's fine.

20

21 MR HICKEY: I'm trying --

22

23 THE COMMISSIONER: No, no. You go ahead. I understand,  
24 thank you.

25

26 MR HICKEY: Q. Without identifying them, because I don't  
27 believe it is in evidence at the moment, you are aware,  
28 aren't you, that two senior scientists within the lab were  
29 suspended the week before these hearings of this Commission  
30 commenced?

31

A. Yes.

32

33 Q. Were you involved in that decision?

34

A. Yes.

35

36 Q. Were you the person who --

37

38 A. No, I was not the person who took the decision. I was  
39 involved in the discussion around it. I was not the  
40 decision-maker. That is the delegate, the Human  
41 Resources - you know, the delegate under that, and I  
42 believe the delegate at that time was Mick Steele.

42

43 THE COMMISSIONER: Q. The Commissioner of Police?

44

45 A. Mick Steele, who was acting for the - as the - I don't  
46 know, I might - so sorry. I was not the delegate. I would  
47 need to go back and check who was the delegate at that  
time. It might not have been Mick.

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MR HICKEY: Q. Whose idea was it to initiate that process?

A. I think that was probably quite a general conversation amongst the leadership in the team at that point in time, that where there was identified issues going on. Bearing in mind that, you know, this is subject to a process. I'm not quite sure what I am or aren't allowed to answer with regards to that, but there was a discussion with the leadership team around that. But ultimately, that was the delegate. And it was - actually, it would have been Lara Keller who was the delegate for suspension.

Q. All right. So was it Ms Keller's idea?

THE COMMISSIONER: What do you mean by "idea"?

MR HICKEY: Q. Who initiated the decision to suspend those two senior scientists?

A. So that was a --

THE COMMISSIONER: You mean who first proposed --

MR HICKEY: Yes.

THE COMMISSIONER: -- that that ought be considered?

MR HICKEY: That's right. That's what I'm after. Thank you, Commissioner.

THE COMMISSIONER: Q. To your knowledge, Mr Drummond?

A. To the best of my knowledge? Look, I was involved in that discussion, around whether or not that should be considered, and I was probably the first person to say that that needs to be considered. Not the decision to actually suspend, but that it must be considered, given the issues that were now being raised.

MR HICKEY: Q. Was that Mr Drummond because that was suggested to you by the Minister?

A. No. The Minister did not have anything to do with that decision, but given that it was going to be a significant, you know, public matter, the Minister was informed that the Department had taken that decision.

Q. After the decision had been taken?

A. As it was happening, because it would have got into



1 the media immediately.

2

3 Q. All right. Did you hold the view at the time the  
4 decision was being considered that it might be prejudicial  
5 to the ability of those two people to respond to the  
6 Commission about a decision to be taken?

7 A. No. In fact, I believed that it provided, probably, a  
8 space for them to be able to answer, because at that point  
9 in time they were still holding other responsibilities and  
10 they were having to give significant input and responding  
11 to the Commission of Inquiry. Having them having to  
12 perform other tasks during this time must have a  
13 significant impact on them.

14

15 Q. Did you, or anybody else, raise those issues with  
16 those two people before they were suspended?

17 A. I can't say what conversation - I wasn't party to a  
18 conversation with them.

19

20 Q. Were you aware that those two people were in fact  
21 involved in meetings to respond to inquiries by the  
22 Commission of Inquiry at the moment they were informed that  
23 their employment had been suspended?

24 A. No.

25

26 Q. And were you aware that they were given five minutes  
27 to leave the premises, notwithstanding the fact that they  
28 were involved in those meetings, at that time?

29 A. No.

30

31 Q. All right. Do you agree that if Ms Keller was aware  
32 of the matters that she was aware in March 2022 about the  
33 concerns that had been raised about culture and science,  
34 those are things which ought to have been escalated to you  
35 then?

36 A. No.

37

38 Q. You don't think Ms Keller ought to have raised those  
39 issues with you in March?

40 A. So, not directly.

41

42 Q. All right. With whom should she have raised?

43 A. As I have already said, with her Deputy  
44 Director-General around the complexities of those, because  
45 often she might need some advice on what's the pathway to  
46 navigate there. One of the reasons that I'm not involved  
47 in that decision-making is I'm the final right of appeal

1 inside the system if somebody wants to challenge a  
2 decision. Above myself, you know, we have the Minister or  
3 the Premier. So in fact, that's one of the reasons that  
4 it's very clear that I don't get involved in those  
5 decisions, because if an employee needs the right to  
6 challenge that, they need to be able to go to the  
7 Director-General.

8  
9 Q. In 2018, when the Options Paper was provided to the  
10 Queensland Police, the Commission has received evidence  
11 that Mr Paul Csoban knew about the contents of the Options  
12 Paper. Were you aware of that?

13 A. No.

14  
15 Q. Well, is this the first time you've heard it suggested  
16 that Mr Csoban was aware of the Options Paper?

17 A. Look, I've had summaries of that. I just - you're  
18 asking me. I can't comment on that at the moment. That  
19 may have been in a piece of information that I've read.

20  
21 Q. All right.

22 A. But I don't want to answer around a specific name, a  
23 specific role, to say yes. Was I aware of that before  
24 this, before these hearings? No.

25  
26 Q. You know who I mean when I refer to Paul Csoban?

27 A. You'd have to tell me what his position was for me  
28 to --

29  
30 Q. Paul Csoban was the person to whom, at the relevant  
31 time, Cathie Allen reported.

32 A. Okay.

33  
34 Q. He held that position.

35 A. I've vaguely seen something with regards to that.

36  
37 Q. Could I ask you to assume then that Mr Csoban was in  
38 that position at that time, at that time the Options Paper  
39 was provided to Queensland Police?

40 A. Sorry, can I just check. I've got a --

41  
42 THE COMMISSIONER: Q. We are just asking you to assume  
43 he was in that position.

44 A. Sorry, yes. So we will assume that he was in that  
45 position.

46  
47 MR HICKEY: Q. Assume he was in that position --

1 A. Yes.

2

3 Q. -- and he attended a meeting with the person within  
4 Queensland Police who was considering what was within the  
5 Options Paper?

6 A. Yes.

7

8 Q. I want you to assume he knew --

9 A. Yes.

10

11 Q. -- what was in the Options Paper and he was in a  
12 meeting where it was explained to Queensland Police.

13 A. Yes.

14

15 Q. Is that something that, in your view, he ought to have  
16 briefed up to somebody senior to him?

17 A. Yes.

18

19 Q. All right. And to whom would he have briefed that?

20 A. Ultimately, through to the Deputy Director-General in  
21 that area.

22

23 Q. Thank you.

24 A. Or chief executive, I think, of Health Support  
25 Queensland, it would have been at that time.

26

27 THE COMMISSIONER: Thank you, Mr Hickey. Yes,  
28 Ms Cartledge.

29

30 <EXAMINATION BY MS CARTLEDGE

31

32 MS CARTLEDGE: Q. You've given evidence that your first  
33 awareness around the issue of thresholds and concentration  
34 came about around March in this year; is that correct?

35 A. Yes.

36

37 Q. At that point in time, you were aware there was some  
38 discrepancy between FSS and QPS as to the actual percentage  
39 of samples that would benefit from micro-concentration; is  
40 that correct?

41 A. That was raised in the first meeting of 8 March --

42

43 Q. Yes.

44 A. -- that there was disagreement.

45

46 Q. You mentioned in your evidence earlier that QPS were  
47 "making noise" before that, for their in my submission to

1 the task force. Do you recall talking about that?  
2 A. Yes, because they had requested the information to be  
3 able to do some analysis themselves.  
4  
5 Q. When you are referring to that QPS were making noise,  
6 when did you first become aware of that?  
7 A. I can't give you an exact date.  
8  
9 Q. But your understanding is, or your evidence, that the  
10 making noise was in relation specifically to this threshold  
11 issue?  
12 A. Yes.  
13  
14 Q. At that stage, that is in around March of this year,  
15 you haven't seen the Options Paper?  
16 A. Yes.  
17  
18 Q. You ended up receiving that from Lara Keller?  
19 A. Yes.  
20  
21 Q. And she had forwarded you correspondence from Cathie  
22 Allen?  
23 A. Yes.  
24  
25 Q. And it was Lara Keller who drew your attention to that  
26 1 per cent figure?  
27 A. Yes.  
28  
29 Q. And she had previously drawn your attention to it  
30 prior to that email; is that the case?  
31 A. So it was both herself and Professor McNeil.  
32  
33 Q. Yes.  
34 A. I am not saying it was only Lara, because it was in  
35 conversation with both of them.  
36  
37 Q. I understand. So you had a conversation with both of  
38 them, which was followed up by an email from Lara Keller --  
39 A. Yes.  
40  
41 Q. -- where she again outlines that 1 per cent figure.  
42 Okay. And so your understanding around the science and the  
43 figures related to thresholds really came from Lara Keller;  
44 is that correct?  
45 A. Yes.  
46  
47 Q. And it's the case, is it, that your attention was

1 never drawn to the significance of the 10 per cent figure  
2 from the Options Paper?

3 A. Yes.

4

5 Q. And that's despite knowing that QPS were making noise  
6 at that point in time about the figures? Okay. So your  
7 understanding that the noise they were making was in  
8 relation to this 1 per cent --

9 A. Yes.

10

11 Q. -- and potentially the 5 per cent figure from the  
12 Review Paper? Okay. Now, turning to the 3 June email  
13 which led to your decision on 6 June, your understanding of  
14 the process all came from that email from Lara Keller; is  
15 that correct?

16 A. Yes.

17

18 Q. And you had expressed - you said in your evidence you  
19 expressed to her that you wanted to revert back to 2018 --

20 A. Yes.

21

22 Q. -- of what was happening prior to that threshold  
23 Options Paper?

24 A. Yes.

25

26 Q. And you had also mentioned that you wanted to possibly  
27 concentrate everything; is that correct?

28 A. Yes. Could we do better.

29

30 Q. And not knowing at that time that that was the  
31 pre-2018 process; is that correct?

32 A. Yes. That's right.

33

34 Q. The email response you received back, we have gone  
35 through, that has those two options there, I just want to  
36 clarify your view at least at that time about those  
37 options. Is it the case that at that time Option 1 was  
38 firstly your understanding of how things were prior to  
39 2018?

40 A. Because it does have an in-bracket, like, "(pre-2018  
41 workflow)".

42

43 Q. That's right.

44 A. Yes

45

46 Q. Yes, so your understanding is Option 1 was how things  
47 were pre-2018?

1 A. Yes.

2

3 Q. And secondly, was it your view at that time that that  
4 was a process that QPS were supportive of?

5 A. Yes.

6

7 Q. And Option 2 at that time you were presented with it,  
8 you were of the view that that was a step further than what  
9 was happening in pre-2018?

10 A. Yes.

11

12 Q. And also was it your view that QPS did not support  
13 that further process?

14 A. Yes, because in one of the bullet points in there, it  
15 does say around the concerns around the consumption of a  
16 sample.

17

18 Q. Is it accurate to say that your decision that you made  
19 on 6 June was based on, firstly, what had already been  
20 happening prior to 2018 and, secondly, an understanding  
21 that police were supportive of that? Okay.

22

23 Would you have expected Lara Keller to be in contact  
24 with the QPS surrounding this decision to change the  
25 process back?

26 A. If not personally, verified with her that the  
27 conversations had actually happened. So it's one of those  
28 things where, you know, depending on what's going on, and  
29 her responsibilities isn't purely for the DNA Analysis Lab,  
30 either ensure that the conversation had occurred or her to  
31 conduct them herself.

32

33 Q. So not necessarily that she was the person  
34 responsible, but at least that she had made sure --

35 A. Verified that it occurred.

36

37 Q. Yes. So your understanding was the two options  
38 presented to you in your email were done so with at least  
39 the knowledge of QPS?

40 A. Yes.

41

42 Q. Now, had you known that Option 1 in that email was not  
43 in fact what occurred prior to 2018, would you have made  
44 the decision you did regarding it?

45 A. No, I would have gone - I would have taken Option 2,  
46 which was closer to, if not exactly the pre-2018 workflow.

47

1 Q. And had you known that QPS had not been consulted  
2 regarding the options at all, would you have been  
3 comfortable making the decision to move forward using  
4 Option 1?

5 A. I would have expected the conversation had occurred  
6 with them.

7  
8 Q. Just to clarify, moving on to that point in time --

9 A. Sorry, can I just add on that? Even if a conversation  
10 had taken three or four days, as long as we weren't  
11 delaying, you know, months, then we could have had the time  
12 to have that conversation with them. If it hadn't occurred  
13 on that day, it still could have happened in a few days.

14  
15 Q. I understand. Just turning to the memo you were taken  
16 to, which was dated Friday, most recently Friday, in  
17 relation to pausing the testing in relation to those  
18 threshold samples, you gave some evidence that QPS were  
19 seeking independent advice in addition to FSS providing  
20 advice. Is that an assumption that you have made?

21 A. No, so I - it was put to me that they would be seeking  
22 some independent advice as well. Now, I don't know where  
23 that came from. Oh, gosh, I can't remember. Sorry, you  
24 know, often in these conversations we might have three or  
25 four people and somebody said that they will be seeking  
26 their own independent advice as well as ours on this.

27  
28 Q. But you have no direct recollection of that?

29 A. No.

30  
31 Q. But you did understand that QPS were seeking advice  
32 from FSS about that issue?

33 A. Yes.

34  
35 Q. And just finally, as part of your evidence, you said  
36 that in your view the original Options Paper, having now  
37 read it, and of course with the benefit of hindsight, is  
38 something that went beyond the office level of decision  
39 making?

40 A. Yes.

41  
42 Q. And it should have been briefed up; is that the case?

43 A. Yes.

44  
45 Q. And you have given evidence that your view is that  
46 even with the low percentages that were presented in that  
47 Options Paper, you would have sought the resourcing

1 necessary to continue with micro-concentrating; is that  
2 correct?

3 A. Yes.

4  
5 Q. Because in your view, that was a small amount of  
6 resourcing; is that correct?

7 A. Yes.

8  
9 Q. Is it the case then that your view is that the Options  
10 Paper should never have gone to QPS for a decision?

11 A. I think it should have gone for consultation and after  
12 the Department had made a decision that that is,  
13 effectively, a policy position that we want to put forward  
14 to them. Then it would have been appropriate to put to  
15 them.

16  
17 Q. And is that because, essentially, Queensland Health  
18 had the ability to resource to continue the threshold --

19 A. Yes.

20  
21 Q. -- and testing at that point and, at least on that  
22 basis, that part of it was the internal matter for  
23 resolving before going to the QPS?

24 A. Absolutely.

25  
26 THE COMMISSIONER: Thank you, Ms Cartledge.

27  
28 Mr Rice? There was nobody else before Mr Rice? No,  
29 thank you.

30  
31 **<EXAMINATION BY MR RICE**

32  
33 MR RICE: Q. Just a couple of things, Mr Drummond. You  
34 were referred to your most recent memorandum concerning the  
35 temporary pause to testing?

36 A. Yes.

37  
38 Q. Which you issued to staff on - or at least issued to  
39 Ms Keller on 30 September. Just to complete the picture on  
40 that, you also had some communication with Queensland  
41 Police concerning that outcome?

42 A. Yes.

43  
44 Q. Did you in fact personally write a letter to the  
45 Queensland Police Service Commissioner on 29 September --

46 A. Yes.

47



1 Q. -- in which you notified or made reference to  
2 Inspector Neville's request --

3 A. Yes.

4  
5 Q. -- to pause testing?

6 A. Yes.

7  
8 Q. And in acknowledgement of that, you notified her you  
9 had agreed to do that?

10 A. Yes.

11

12 Q. And directed staff to proceed accordingly?

13 A. Yes.

14

15 Q. You were asked, in terms of the timing of the  
16 underlying communication from Mr Neville, as to when that  
17 was brought to your attention?

18 A. Yes.

19

20 Q. See if this assists you. In your correspondence,  
21 can I suggest you said:

22

23 *Correspondence has been brought to my*  
24 *attention today that Inspector Neville has*  
25 *requested via emails on 20 September to*  
26 *request pause [et cetera].*

27

28 Your letter suggest that that was the day on which these  
29 underlining emails were brought to your attention. Does  
30 that help you with the timing?

31 A. Well, it does because - and it will be a matter of,  
32 effectively, email record of when it was actually sent to  
33 me. I suppose what I'm referring to is Matthew Rigby had  
34 talked to me around that there were still underlying  
35 concerns from Police that he had had contact from and then  
36 had referred Inspector Neville back to the Forensic and  
37 Scientific Services. So that is probably what I was  
38 referring to, not the specific issue of ceasing then,  
39 because if that's what I put in the letter, that would have  
40 been the day that I was notified.

41

42 Q. When you refer in your letter to correspondence having  
43 been brought to your attention that day concerning this  
44 matter, is that likely then the occasion on which the  
45 emails --

46 A. That would be the day that I was actually given it to  
47 read.

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Q. Thank you. Did you also tell the Commissioner words to the effect that you would have Queensland Health staff liaise with Queensland Police to determine a suitable way forward?

A. Yes.

Q. And is it your expectation that that will be occurring if it's not occurring already?

A. Yes.

Q. Thank you.

MR RICE: Thank you, Commissioner.

THE COMMISSIONER: Thank you. Ms Hedge?

MS HEDGE: I just have one question

**<FURTHER EXAMINATION BY MS HEDGE**

MS HEDGE: Q. Mr Rice just indicated that in the letter you've said that you first became aware of Inspector Neville's correspondence on 30 September 2022. Does that assist with who brought it to your attention now that that has been refreshed as to when it was?

A. So absolutely I think at that point in time it would have been Jasmina Joldic, who is Associate Director-General of Strategy, Policy and Reform, who the task force responds to. She is the DDG responsible for our response, and she brought that to my attention and to say that we need to have a response, and that I would get advice on that response, which then resulted in the letter.

Q. Are you aware that Inspector Neville gave evidence about that email in a public hearing on the Wednesday, 28 September?

A. His email?

Q. Yes. His email requesting the pause.

A. On the following day when I got a summary?

Q. Yes.

A. Yes, yeah.

Q. So you were told on the 29th by virtue of a summary of public hearings that Inspector Neville had requested a

1 pause?

2 A. That he raised some issues around that.

3

4 Q. Okay.

5 A. I might not have - see, again, I get a summary the  
6 following day. Depending on what my day is, I may have  
7 read that the day after.

8

9 Q. I understand.

10 A. Not the day I actually got that.

11

12 Q. So was Jasmina Joldic, was she telling you about the  
13 summary or was she bringing it totally separately?

14 A. So she was sending the summary to me.

15

16 Q. Okay.

17 A. At the end of each day, I get a summary sent to me.  
18 That doesn't mean that I read that on that day.

19

20 Q. Yes.

21 A. And she brought the issue of needing a response to  
22 Police on this for my decision.

23

24 Q. But that's how it was raised, through a summary of the  
25 public hearings to the Commission?

26 A. No, no, no. It was separate to that. No, no. It was  
27 a separate conversation to that.

28

29 Q. Okay.

30 A. I am just saying that it would have appeared in that  
31 summary on that day as well.

32

33 Q. But it was raised separately to that?

34 A. It was raised separately to that.

35

36 Q. And do you know --

37 A. And this was part of the fact that Matthew had raised  
38 with me over a few days that he'd had Inspector Neville  
39 contact him with regards to testing thresholds and he'd  
40 redirected that to Lara.

41

42 Q. Okay. And when Jasmina Joldic raised it with you on  
43 the 30th, do you know whether Lara Keller was involved in  
44 raising it with her? Or do you know how she came to be  
45 aware of it?

46 A. No, I don't know how she became aware of it.

47

1 Q. Right. Thank you.

2

3 MS HEDGE: Commissioner, I failed to tender two of the  
4 documents that I showed Mr Drummond. There was the ESU  
5 Summary. Could I tender that document.

6

7 THE COMMISSIONER: Yes, exhibit 57.

8

9 **EXHIBIT #57 - ESU SUMMARY**

10

11 MS HEDGE: And can I tender Mr Drummond's memorandum of 30  
12 September 2022 regarding pausing testing.

13

14 THE COMMISSIONER: Exhibit 58.

15

16 **EXHIBIT #58 - MEMORANDUM BY SHAUN DRUMMOND REGARDING**  
17 **PAUSING DNA TESTING, DATED 30/09/2022**

18

19 MS HEDGE: May Mr Drummond be excused?

20

21 THE COMMISSIONER: Yes. Thank you, Mr Drummond, for your  
22 assistance. You are free to go.

23

24 **<THE WITNESS WAS RELEASED**

25

26 MS HEDGE: I call Helen Gregg.

27

28 **<MS HELEN GREGG, AFFIRMED**

29

30 **<EXAMINATION BY MS HEDGE**

31

32 MS HEDGE: Q. Your name is Helen Gregg?

33

34 A. Yes.

35

36 Q. You are the quality manager of Forensic and Scientific  
37 Services within Queensland Health?

38

39 Q. You provided a statement to the Commission, which is  
40 [WIT.0032.0002.0001 \_R].

41

42 A. Yes.

43

44 Q. Do you recognise that statement?

45

46 A. Yes, I do.

47

Q. Can we turn to page --

1 THE COMMISSIONER: Do you want to tender that?

2

3 MS HEDGE: Yes. I will just clarify one aspect of it  
4 before I tender it. On page 15, [WIT.0032.0002.0001\_R at  
5 0015], do you see in that, "TAKEN AND DECLARED before me"  
6 section that there is no date there? It just says "##".  
7 Do you know when you signed that?

8 A. I can just refer to it here, I would have thought?

9

10 Q. Yes.

11 A. No, I'm sorry, I can't remember. I'd have to look at  
12 my diary.

13

14 MS HEDGE: All right. I tender that.

15

16 THE WITNESS: My apologies for that.

17

18 THE COMMISSIONER: Exhibit 59. .

19

20 **EXHIBIT #59 - STATEMENT BY HELEN GREGG**

21

22 THE COMMISSIONER: Q. You might send an email later,  
23 Ms Gregg, and let somebody know. Thanks.

24 A. Yes, I can.

25

26 Q. We'll note it.

27

28 MS HEDGE: Q. In paragraph 5 of your statement on the  
29 first page there, you have a bachelor of science and a  
30 Masters in Applied Science (Medical Laboratory Science) and  
31 a Diploma of Management?

32 A. Correct.

33

34 Q. And over the page, you set out your work history in  
35 paragraphs 9 to 12 [WIT.0032.0002.0001\_R at 0002]?

36 A. Yes.

37

38 Q. In paragraph 13, you say you have no previous  
39 experience with no DNA testing or analysis?

40 A. Correct.

41

42 Q. Can I take that statement to be personal experience  
43 performing those tasks of testing and analysis; is that  
44 fair?

45 A. Correct.

46

47 Q. Because you have had exposure to forensic DNA testing

1 analysis since you became a quality manager; is that fair?  
2 A. Yes, yes. People have talked to me about their  
3 methodology, but I haven't actually done the work myself.  
4

5 Q. I understand. But you're responsible for quality  
6 management of that section?

7 A. So the quality management system, I am responsible  
8 for --  
9

10 Q. Yes.

11 A. -- which is the policies and responsibilities and  
12 procedures throughout the whole of the organisation to  
13 comply with ISO:17025 for forensic DNA. So forensic DNA  
14 has a quality officer, and she is very knowledgeable in  
15 her - of the requirements of 17025. So I work sort of more  
16 an advisor to the forensic DNA analysis. So when they ask  
17 me for advice about the requirements, I can give it to  
18 them. If I'm asked to provide clarification or anything  
19 like that, that's what I do. I also assist with external  
20 accreditation assessments and things like that, so that's  
21 my role.  
22

23 Q. So you consider outside of your role is ensuring that  
24 the systems in place are best practice as to the science,  
25 which is a slightly higher level, isn't it, than ISO:17025?

26 A. It is ensuring that our procedures reflect the current  
27 processes that they have in place, so I can't actually  
28 answer whether they are best practice.  
29

30 Q. I see. So 17025, correct me if I am wrong, is a  
31 generic forensic laboratory standard that doesn't set out  
32 specifics of processes and how they should be done, but  
33 sets out having processes and complying with them and  
34 having a quality management system and having an  
35 information management system, and so on?

36 A. Yes.  
37

38 Q. So in that standard, it doesn't say, "This is how you  
39 should do concentration", "This is how you should do  
40 amplification", or "This is how you should work out an  
41 elution volume"; is that fair?

42 A. Correct.  
43

44 Q. And it doesn't say how you should do validations or  
45 the level of qualification of staff to do a valuation, for  
46 example?

47 A. No. There is some --

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Q. At a high level?

A. No, it doesn't say the level of qualification.

Q. Or even how to do a validation?

A. No.

Q. What it says is you should have a validation?

A. Correct.

Q. And when NATA comes to accredit against 17025, is it right they come and check you've got a process, a standard operating procedure, for each of these things that matter, like amplification, and so on?

A. Yes.

Q. And then they check that you're following it?

A. Yes, and they'll also bring along a technical assessor every second assessment.

Q. Yes.

A. And they will do a sampling exercise to not just ensure that we're following our procedures, but they're also the technical - they're technical experts in their field and can advise us on the appropriateness of what we're doing as well.

Q. And so they do a sampling exercise where they pick maybe - well, you tell me how many processes would a NATA accreditor pick to cover in that sampling exercise?

A. They do try and cover the whole of the scope. So - sorry. They do try and cover all of the types of methods that we do. So over the years, they would look at all of the processes that we have in place.

Q. I see. But would they not sample, say, three to five processes?

A. I can't actually answer. It would vary, depending on the amount of time that they've got. And it depends on the complexity of the testing that's done as well.

THE COMMISSIONER: Q. It varies depending on how much time they have. What do you mean?

A. Sometimes a technical assessor is only available for one day instead of two days, because they have other work commitments. The technical assessors are volunteers. So a technical assessor may only be available for that one day,

1 for example, so they will assess what they can in that one  
2 day. And if NATA believes that they need to stay longer or  
3 whatever, then they might ask them to, but they may not be  
4 able to for work reasons.

5

6 Q. I see. Thanks.

7

8 MS HEDGE: Q. Are you involved in the process of  
9 sending to the NATA assessors, both technical and general,  
10 the information that they request in advance of the visit?

11 A. Yes. So NATA asks for various documents. I send that  
12 out to the labs that are being assessed, they give it to  
13 me, and then I give it to NATA.

14

15 Q. So the most recent NATA accreditation was in July of  
16 this year?

17 A. Correct.

18

19 Q. So how many processes did they sample, did they ask  
20 for documentation about in advance?

21 A. So they asked for all of the methodology.

22

23 Q. Right.

24 A. As to how many methods they actually looked at,  
25 I can't answer off the top of my head, and I was also not  
26 the quality manager at that stage. I was acting as the  
27 Executive Director.

28

29 Q. I understand. So they asked for every standard  
30 operating procedure, did they?

31 A. For Forensic DNA.

32

33 Q. And you send them the 112-odd standard operating  
34 procedures?

35 A. All of them. Mmm-hmm.

36

37 Q. But which ones they sampled and looked at, you don't  
38 know?

39 A. No.

40

41 Q. So coming back to your role as Quality Manager, are  
42 you saying that Dr Scott, Dr Kirsten Scott, who is the  
43 Quality Manager within Forensic DNA, is she responsible for  
44 ensuring the processes in the lab are best practice? Or is  
45 she also just responsible for compliance with ISO:17025?

46 A. I would have said that all of the scientists are  
47 responsible for ensuring best practice in the laboratory.



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THE COMMISSIONER: Q. Well, yes, but you've got a quality manager, so how are they different from all the scientists?

A. I'm looking - I'm probably thinking about the expertise and knowledge of Dr Scott in that she would have, just like me, knowledge in some areas but not in all. So being able to determine what is best practice, she may be relying on other scientists to advise her what that is.

Q. And who are the other scientists? The people working in the lab?

A. In the lab, yeah.

Q. So if she is checking whether a particular scientist is working appropriately, she asks that scientists, who tells her whether that she thinks she is working appropriately?

A. And she will check it against the standard operating procedures, which should reflect what they're doing.

Q. Okay. Thanks.

MS HEDGE: Q. What about when new processes are coming in place in other laboratories, for example? Whose job is it to find out whether they should be implemented in Queensland?

A. So as part of the quality management system, if somebody has update responsibility for a document, which describes the process, we have, in our quality information system, a review period set out which may be 12 months, 18 months. So when that document comes up for review, it is that person's responsibility to look at what has been happening, what advances there have been in other jurisdictions or in publications, for example, and consider whether that needs to be taken into account and adopted as a standard operating procedure in the laboratory.

Q. Okay. So that might be 12 or 18 months after the time that it's implemented elsewhere, depending on if you are unlucky with the timing?

A. And they also have an opportunity to make those changes at any time as well.

Q. Okay. What about something totally new that is not in any standard operating procedure? Who is going to look at that?

1 A. Totally new? So say, for example, they wanted to  
2 introduce a new method within the laboratory?

3  
4 Q. Yes?

5 A. Okay. So that would be, I assume, they could bring  
6 that up as - and it would, according to the DNA procedures,  
7 they would create a project is my understanding.

8  
9 Q. Who is "they"? Whose responsibility is it to identify  
10 that new thing and considering it? Is that not a quality  
11 function?

12 A. If it came to my attention that there was a new  
13 technique out there, yes, but I would bring that to the  
14 attention of the management of the laboratory.

15  
16 As for whether I am the expert in that area,  
17 definitely not. So I would be raising it to say, "Have you  
18 seen this article that's been published?", or whatever, and  
19 it's then for them to consider.

20  
21 Q. When you first became Quality Manager, which was 2006,  
22 it says there in paragraph 11 [WIT.0032.0002.0001\_R at  
23 0002]?

24 A. Correct.

25  
26 Q. You previous to that had had no exposure to DNA  
27 analysis?

28 A. Correct.

29  
30 Q. And that's now 16 years. So what did you do when you  
31 became the Quality Manager to understand what Forensic DNA  
32 Analysis were doing, so you could perform your role?

33 A. I became familiar with the Standards that were  
34 required of them to comply with, and also sitting under  
35 that is NATA publishes requirements as well, so I became  
36 familiar with those. I've read their SOPs as to what their  
37 processes are at the time to make sure that I understood  
38 those as well. If I had any questions, obviously I reached  
39 out to somebody. And I also, if I had any - wanted to have  
40 a look at some of those processes in place, I could. So I  
41 had a tour of the laboratory so that I could try and  
42 understand what they did as well.

43  
44 Q. Have you updated that knowledge periodically since  
45 2006?

46 A. Yes, I believe I have.

47

1 Q. Do you say you have developed a good understanding of  
2 what they do in there? Obviously different to someone  
3 literally being in there working on the benches, but --  
4 A. I still find that there are parts of all of the  
5 science conducted at Forensic and Scientific Services,  
6 because it is quite specialised, that is new to me. When  
7 you get down into the details, you realise the complexities  
8 of what they do on that campus.  
9  
10 Q. So, for example, you know, in 2018 we have heard that  
11 the Options Paper was accepted and there was a threshold  
12 introduced for "DNA insufficient for further processing".  
13 Are you aware of that?  
14 A. I am aware of it now.  
15  
16 Q. Were you aware about it at the time?  
17 A. No.  
18  
19 Q. No-one sought your advice about it?  
20 A. No.  
21  
22 Q. You were the Quality Manager then?  
23 A. Correct.  
24  
25 Q. Was it never mentioned until this year to you?  
26  
27 THE COMMISSIONER: What wasn't mentioned, Ms Hedge?  
28  
29 MS HEDGE: The acceptance of the Options Paper and the  
30 DIFP threshold.  
31  
32 THE COMMISSIONER: Q. Yes, thank you.  
33 A. It may have been mentioned to me but I can't recall  
34 it.  
35  
36 MS HEDGE: Q. Never said to you in a way that stuck in  
37 your memory, you know, as a big thing that was happening in  
38 the laboratory?  
39 A. No.  
40  
41 Q. That was a pretty big change, wasn't it, how the  
42 laboratory functioned?  
43 A. I suppose I would have - if it had come to my  
44 attention, it's a change that happens across all  
45 laboratories, a change in the way that they process their  
46 samples.  
47

1 Q. Are you surprised that you weren't told about such a  
2 big change in the laboratory?

3 A. No, because, as I said, I'm more of an advisory role.  
4 So if required, and if they ask me for my input, I will  
5 give them my input.  
6

7 Q. Yes.

8 A. But I wasn't asked, so I didn't provide it.  
9

10 Q. So even right up to today, wouldn't expect to be told  
11 of a change of that magnitude in the laboratory?

12 A. No.  
13

14 Q. Unless they wanted your advice?

15 A. Yes. And it would become apparent as part of, you  
16 know, a NATA assessment or something like that. We would  
17 include that in the documentation that was brought to  
18 NATA's attention.  
19

20 Q. And that's a point, isn't it, because you have an  
21 obligation under NATA accreditation to tell them of  
22 significant changes in the laboratory?

23 A. Correct.  
24

25 Q. So did the lab tell them about the change in 2018?

26 A. I believe so.  
27

28 Q. All right. And you weren't even cc'd on that  
29 correspondence?

30 A. It would have been - sorry, no. It would have been  
31 part of the normal documentation that we provided --  
32

33 Q. Yes.

34 A. -- prior to an assessment.  
35

36 Q. So the assessment following, when it was accepted,  
37 would have said in that documentation, "We have changed  
38 this. We have this new threshold, this is what we are  
39 doing"? So if you --

40 A. I can't recall if the documentation says that.  
41

42 THE COMMISSIONER: Q. But isn't it - I take it it's now  
43 part of your job to make sure that the documentation  
44 matches reality?

45 A. Yes. So I would be looking at the scope of  
46 accreditation to make sure that that --  
47

1 Q. No, no, my question is different. If they change what  
2 they're doing in the lab, they are deciding that they will  
3 not process a certain category of samples, is that not  
4 reflected in a standard opening procedure somewhere?

5 A. Yes.

6  
7 Q. Go ahead, Ms Hedge.

8  
9 MS HEDGE: Q. So to your memory, you weren't aware of  
10 that change in procedure until this year?

11 A. Correct.

12  
13 Q. In the context of media issues --

14 A. Yes.

15  
16 Q. -- consideration of the internal review and so on?

17 A. Yes.

18  
19 Q. Were you consulted about having that internal review  
20 in about March this year?

21 A. No.

22  
23 THE COMMISSIONER: Q. So you weren't aware that that  
24 change had been made in early 2018 until this year?

25 A. Not in to my memory.

26  
27 Q. Yes.

28 A. No.

29  
30 Q. Thank you.

31  
32 MS HEDGE: Q. You mentioned you consider your role an  
33 advisor. So do I take it from that that you are reactive  
34 to their requests for assistance?

35 A. Yes.

36  
37 Q. You don't take a proactive role in quality management?

38 A. Sometimes.

39  
40 Q. All right.

41 A. It depends on the situation. A difficult question to  
42 answer.

43  
44 Q. Well, let's do an example. Can you give me an  
45 example, not this year, so before 2022, when you  
46 proactively asked for a report or advice from DNA Analysis  
47 about something they were doing?

1 A. I was considering looking - sorry, I'll take that  
2 back. I'll rephrase that. When the standard changed to a  
3 less prescriptive manner, to a more risk-based manner,  
4 I asked for their input into how we could look at adopting  
5 that across the whole of the FSS campus. Does that answer  
6 your question?

7

8 Q. That's when ISO:17025 changed?

9 A. Yes.

10

11 Q. Is that what you mean when you say the standard  
12 changed?

13 A. Yes.

14

15 Q. So it changed and you asked everyone across FSS how  
16 they might adapt to that change?

17 A. Well, I started with approaching Forensic DNA Analysis  
18 because I believed that they had a good approach to it, and  
19 sort of discussed that with the rest of the Quality  
20 contacts across the organisation.

21

22 Q. Is it fair to say that was reactive to the change in  
23 ISO:17025?

24 A. Yes. Yes, you're probably right.

25

26 Q. Do you have another example? Look, if there's none,  
27 you just tell us. We are just trying to understand your  
28 role. But do you have an example where you proactively  
29 went to the lab and said, "What are you doing about that?  
30 Let's find out whether that's best practice"?

31 A. I can't remember a situation.

32

33 Q. Right back to 2006 --

34 A. I can't remember.

35

36 Q. -- when you started there?

37 A. Yeah.

38

39 THE COMMISSIONER: Q. Ms Gregg, have you got your  
40 statement in front of you?

41 A. Yes, I to.

42

43 Q. If you look at paragraph 8 [WIT.0032.0002.0001\_R at  
44 0002], you describe your role there as being responsible:

45

46 *... responsible for maintaining and*  
47 *improving the organisation's quality*

1           *management system and managing the*  
2           *activities of the Scientific Support*  
3           *Services unit.*

4  
5           What is the Scientific Support Services unit?

6           A.    It's five units that I see actually providing support  
7           to the laboratories. It's probably easier, Commissioner,  
8           if I explain who they are.

9  
10          Q.    Yes.

11          A.    So there is the library, there is the forensic  
12          property point, the public health property point, the  
13          training unit, and our liaison unit.

14  
15          Q.    So you manage those and you maintain and improve FSS's  
16          quality management system; is that right?

17          A.    Yes.

18  
19          Q.    Is there a role description somewhere?

20          A.    Yes.

21  
22          Q.    Where would we find that? I am not pressing you for  
23          it now, but where would we find it?

24          A.    I can provide one.

25  
26          Q.    That would be convenient, if you can provide it to  
27          Ms Hedge.

28  
29          MS HEDGE: We do have - we have required all of the role  
30          descriptions, so we can provide one to you.

31  
32          THE COMMISSIONER: Thanks. Don't trouble then, Ms Gregg.  
33          Thanks. Anything further, Ms Hedge?

34  
35          MS HEDGE: Q.    Yes, just one quick question. Just on  
36          that last topic I was asking about, you said you can't  
37          remember one. Would it be fair to say there hasn't been  
38          one? Do you want to think about that over lunch?

39          A.    I don't know.

40  
41          Q.    Right.

42          A.    I don't know if that would be fair or not.

43  
44          Q.    Well, do you think if you had done that in the last  
45          five years you would remember? So we could --

46          A.    It is possible that I would remember.

1 Q. And also possible you would not remember --

2 A. Mmm-hmm.

3

4 Q. -- proactively taking an interest in something the DNA  
5 lab in the last five years?

6 A. It's possible, yep.

7

8 Q. All right.

9

10 MS HEDGE: I see the time, Commissioner.

11

12 Q. Maybe you can think about that over lunch, to see if  
13 you can provide an example.

14

15 THE COMMISSIONER: Does that conclude your examination or  
16 not?

17

18 MS HEDGE: No. I was about to move on to a new topic.

19

20 THE COMMISSIONER: No, go ahead, yes. We've got a few  
21 minutes. Or did you want to adjourn now?

22

23 MS HEDGE: I am happy to take a few minutes. I was just  
24 looking at that clock over there that says 1 o'clock.

25

26 THE COMMISSIONER: Oh, I see. All right. It's 12.58,  
27 close enough for government work.

28

29 Q. Ms Gregg, we will see you after lunch.

30

A. Yes.

31

32 THE COMMISSIONER: What time, Mr Hodge?

33

34 MR HODGE: 2.15, please.

35

36 THE COMMISSIONER: We will adjourn until 2.15 pm, then,  
37 please.

38

39 **LUNCHEON ADJOURNMENT**

**[12.58pm]**

40

41 THE COMMISSIONER: Yes, Ms Hedge.

42

43 MS HEDGE: Q. Have you had a chance to think over the  
44 break to think of an example where you proactively asked  
45 the lab to tell you about a quality issue?

46

47 A. Yes, and I decided that I have probably got more of a  
reactive style than a proactive style. There is a broad



1 spectrum that I need to look after, so a reactive style is  
2 the approach I've taken.

3

4 Q. Should I take that to mean that you haven't  
5 proactively raised an issue with them, say, in the last  
6 five years?

7 A. Yes, you may.

8

9 Q. Can we move then to the decision made on 19 August  
10 2022 by Dr Rosengren --

11 A. Mmm-hmm.

12

13 Q. -- to change the process for sample, P1, P2 samples,  
14 in the range that used to be the DIFP range?

15 A. Yes.

16

17 Q. Are you comfortable with that terminology?

18 A. Please.

19

20 Q. You were the Acting Executive Director at that time?

21 A. Yes.

22

23 Q. Could I bring up your statement and can we turn to  
24 page 4 of the statement, [WIT.0032.0002.0001\_R at 0004].  
25 The operator is ahead of me. In paragraph 22, you say that  
26 you received a phone call from Dr Rosengren advising of a  
27 risk of confusion, and that the advice provided was not  
28 accurate. Do you see that?

29 A. Yes, I do.

30

31 Q. And the advice that was not accurate was the advice  
32 given by Ms Keller to Mr Drummond on 3 June 2022; is that  
33 right?

34 A. Well, the email that I received from Cathie Allen said  
35 it was advice from her.

36

37 Q. That's later on, but in this phone call - so you  
38 didn't have any emails from Cathie Allen at the time of  
39 this phone call?

40 A. No.

41

42 Q. In this phone call did Dr Rosengren tell you what  
43 advice was inaccurate?

44 A. No, he didn't.

45

46 Q. As you say, you received an email from Ms Allen  
47 advising that there was a correction she wished to make to

1 her advice?

2 A. Yes.

3

4 Q. Is that right? Let's have a look at that. It is  
5 HG-05. It is [WIT.0032.0007.0001\_R]. So this is the email  
6 you received?

7 A. Yes.

8

9 Q. She referred to an email that she had sent to  
10 Ms Keller on 3 June; is that right? If you look at the  
11 second paragraph:

12

13 *I was completing a Hot Issues Brief ... on*  
14 *3rd of June ... when I was asked by*  
15 *[Ms Keller] to [do things].*

16

17 And then in the fourth paragraph:

18

19 *I drafted some options and emailed them to*  
20 *[Ms] Keller and [Ms] Slade.*

21

22 Do you see that?

23 A. Yes, I do.

24

25 Q. At the bottom of the page, those are the options, with  
26 the yellow parts being the parts Ms Allen considered  
27 required clarification?

28 A. Yes, I believe that was the wording that she wanted to  
29 add.

30

31 Q. And change; is that fair?

32 A. Yes.

33

34 Q. Because there was wording underneath some of those  
35 yellowed sections, wasn't there?

36 A. Yes, I believe so.

37

38 Q. For example, under Option 1 previously it said,  
39 "Revert to the 2018 workflow", and now it says,  
40 "Discontinue the 2018 workflow"; is that fair?

41 A. Yes.

42

43 Q. So then there are changes; not just additions?

44 A. Yes.

45

46 Q. Do you accept that? Now, did you speak to Cathie  
47 Allen around the time of this email or did you just receive

1 the written correspondence?

2 A. I spoke to Cathie as well.

3

4 Q. Did she add any information to what's in her email  
5 when she spoke to you?

6 A. No, not really.

7

8 Q. Then can we have a look at an email that you then sent  
9 to Dr Rosengren on 17 August. So is it fair to say you  
10 received this on the 16th, you spent some time clarifying  
11 what the wording should be that you sent to Dr Rosengren?

12 A. Yes.

13

14 Q. You always expected to send something to him, because  
15 he is the one who has raised this issue with you?

16 A. Yes.

17

18 Q. Can we look at that email, [WIT.0032.0016.0001\_R].  
19 And this is HG-14. This is a two-page email and this is  
20 the only major piece of advice you gave Dr Rosengren, isn't  
21 it?

22 A. Yes.

23

24 Q. Later on you reviewed some drafts of the memorandum,  
25 but this the is the point where you are giving the advice  
26 about what might be done?

27 A. Yes.

28

29 Q. You, under the heading:

30

31 *Information about DNA testing prior to*  
32 *2018.*

33

34 Included some information about DNA analysis?

35 A. Mmm-hmm.

36

37 Q. Could you just say "yes" for the transcript?

38 A. Yes.

39

40 Q. And to do that, I understand you spoke to Mr Howes and  
41 Ms Brisotto?

42 A. Yes.

43

44 Q. To clarify your understanding of what that process  
45 was?

46 A. Yes.

47

1 Q. And then you put it in here for Dr Rosengren?

2 A. Yes. I also reviewed the SOPs at the time.

3

4 Q. In the third-last - sorry, just one moment. In the  
5 second-last paragraph of that page, do you see on the last  
6 line, you said:

7

8 *... which included 'microcon' to maximum my*  
9 *the chances of a DNA result being obtained*  
10 *after processing through stages 3 and 4 of*  
11 *the profiling process.*

12

13 Do you see that?

14 A. Yes.

15

16 Q. You understood, in writing this email, that that is  
17 one purpose of concentration, is to maximise the chances of  
18 getting a DNA profile?

19 A. Yes.

20

21 Q. But you didn't provide to him the level of the  
22 benefit? That is, the percentage of samples which might  
23 obtain a profile after concentration that was not before  
24 concentration; is that fair?

25 A. Yes, that's fair.

26

27 Q. And did you know --

28 A. No.

29

30 Q. -- what percentage that is?

31 A. No, I didn't.

32

33 Q. Did you ask anyone?

34 A. No.

35

36 Q. So you knew there was a benefit, but do you know the  
37 level of the benefit?

38 A. No. No, I don't.

39

40 Q. In this email, you also didn't give any advice about  
41 whether the pre-2018 process was still considered best  
42 practice in DNA analysis in Australia?

43 A. I didn't give that advice, no.

44

45 Q. Do you know?

46 A. No.

47

1 Q. Did you ask anyone?

2 A. No.

3

4 Q. And --

5 A. Sorry, my understanding was that we were to return to  
6 the pre-2018 process.

7

8 Q. I see. So you weren't considering considerations of  
9 best practice?

10 A. No.

11

12 Q. I understand. There is also nothing in this email  
13 which indicates whether there would be any difficulty in  
14 reverting to the pre-2018 process because of new  
15 instruments or new processes or anything of that nature?

16 A. No, there's nothing in that email.

17

18 Q. Did anyone tell you about new instruments or processes  
19 that might mean that it wasn't optimal to return to the  
20 pre-2018 process?

21 A. I believe that I had read an email from Cathie Allen  
22 that may have alluded to that, and post this I became aware  
23 of it, but not at the point of writing this email.

24

25 Q. And even the email you read from Cathie Allen that  
26 alluded to it, was that also after writing this email?

27 A. I think it might have been beforehand.

28

29 Q. So there might have been some allusion to it?

30 A. Yes.

31

32 Q. But you didn't ask anyone specifically whether the  
33 pre-2018 process was appropriate?

34 A. No.

35

36 Q. Or was optimal?

37 A. No.

38

39 Q. And in writing this email, you had access to Ms Allen,  
40 Mr Howes, Ms Brisotto?

41 A. Yes, I did.

42

43 Q. Did they understand why you were speaking to them?

44 A. Oh, I don't believe that Cathie - sorry, I believe  
45 that Cathie did, because she knew that I was providing this  
46 advice to Dr Rosengren.

47

1 Q. Yes.

2 A. But I don't believe that Justin or Paula knew about  
3 that.

4  
5 Q. I see. Ms Allen didn't suggest to you that there was  
6 some change in process that might mean reverting to  
7 pre-2018 was not optimal?

8 A. No, she didn't.

9

10 Q. Can we go to page 2 of that email. See the first  
11 sentence on that page [WIT.0032.0016.0001\_R at 0002]:

12

13 *The two options provided in the email from*  
14 *Lara Keller to the Acting Director-General*  
15 *on 3 June 2022 were intended to*  
16 *differentiate that volume crime ... samples*  
17 *would not be included in any recommendation*  
18 *for returning to the microcon process.*

19

20 A. Yes.

21

22 Q. Who gave you - or where did that opinion come from,  
23 that that was the intention of the email on 3 June from  
24 Lara Keller to the Acting Director-General?

25 A. I can't remember. I believe that Cathie Allen may  
26 have suggested that wording to me.

27

28 Q. If we look at that email, the one that was sent on  
29 3 June, that is [WIT.0032.0056.0001\_R]. Is this the email  
30 that you are referring to? No mention of P3 samples in  
31 that email, is there?

32 A. No.

33

34 Q. Or P1 or P2, in fact?

35 A. No, that's - no, that wasn't the email I was referring  
36 to.

37

38 Q. Well, this is the email of Lara Keller on 3 June to  
39 the Acting Director-General. Did you understand that there  
40 was some other email?

41 A. Sorry, I thought you were asking me a question about  
42 the paragraph that talks about the P3 samples.

43

44 Q. I am. Let's go back to that, so that we can be clear  
45 [WIT.0032.0016.0001\_R at 0002].

46

47 THE COMMISSIONER: What exhibit number is that?

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MS HEDGE: That is HG-14.

Q. So do you see in the first sentence on that page --

A. Yes.

Q. -- you are referring to an email from Lara Keller to Acting Director-General on 3 June.

A. Yes.

Q. And saying what the intent of that other email is?

A. Yes.

Q. What I was trying to show you then was that other email.

A. So I perhaps should have been clearer in my statement to you earlier, in that the sentence that you're alluding or pointing to here about the two options provided in the email from Lara Keller to the Acting DG on 3 June regarding the P3 samples, that wording, I believe, was suggested by Cathie Allen in her email to me on the 16th, I think.

Q. The email we just looked at a few moments ago?

A. Yes.

Q. Let's have a look at that again.

A. I think, without referring to it.

Q. So it is [WIT.0032.0007.0001\_R]. Do you have your statement there with you?

A. Yes, I do.

Q. It is HG-05.

A. I don't have my exhibits with me.

Q. I see. Right. Well, have a read on the screen, and we can turn to the second page, but I don't see any reference to P3 --

A. No, you're right.

Q. -- in that email either?

A. No, you're right.

Q. Can we show you the second page just so you can be confident. I might have missed something.

[WIT.0032.0007.0001\_R at 0002].

A. No, that's correct, you're right.

1  
2 Q. So going back to your email, then  
3 [WIT.0032.0016.0001\_R at 0002]. Page 2, please. And if  
4 you could zoom in on the top of the page.

5  
6 If that was the intention of that email, it was not  
7 achieved by the email; it doesn't mention P3. Is that  
8 fair?

9 A. Yes, that's fair.

10  
11 Q. Do you understand Ms Allen suggested to you that you  
12 write that; is that what you're saying?

13 A. No. Now that I've seen that email from the original  
14 email from her --

15  
16 Q. Right?

17 A. -- perhaps she did not suggest that to me. It may  
18 have been somebody else.

19  
20 Q. So someone suggested that to you. You didn't think of  
21 it yourself?

22 A. I don't think so.

23  
24 Q. So who suggested it to you? This is only six weeks  
25 ago.

26 A. Yeah. It could have been Alison Slade, who is also a  
27 person in the Executive Director's office.

28  
29 Q. Do you not remember who suggested that to you just six  
30 weeks ago?

31 A. No, I don't.

32  
33 Q. Right. Who else was involved in helping you draft  
34 this email? In your office, I mean. I don't mean lawyers  
35 or anyone of that nature.

36 A. Just Alison and myself and Cathie.

37  
38 Q. Ms Allen was involved in assisting you to draft this  
39 email?

40 A. Yes.

41  
42 Q. But you're confident she didn't suggest that?

43 A. I don't have any evidence to show you that she  
44 suggested that to me.

45  
46 THE COMMISSIONER: Q. That's not the question?

47 A. Sorry?



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Q. It was you, Ms Allen and --  
A. Ms Slade.

Q. Sorry?  
A. Ms Slade.

Q. Yes, Ms Slade. You three worked to settle - draft and settle this email. So you could not have known what Ms Keller intended to do by her email, so I would think that it wasn't you who suggested what Ms Keller's intent was, so it must have been one of the other two. And that's certain so far, isn't it, that one of the other two ladies must have suggested that you include that paragraph?  
A. Yes.

Q. But you can't remember which of them it was?  
A. No.

Q. All right.

THE COMMISSIONER: Yes, Ms Hedge.

MS HEDGE: Thank you.

Q. Do you accept that must be wrong, that that was the intention, if it's not mentioned at all in that email? Or it was an unachieved intention, do you think?  
A. I can understand that it could be not an intention of that email. I can't actually show evidence that it was an intention of that email, but I do know that, looking at the workflow from that time, that Priority 3 samples were not micro-concentrated.

Q. Right. Can we move on to something else, and that's about what involvement the QPS had on 19 August 2022. You were told by Megan Fairweather that the QPS wanted you to do everything possible but leave some sample for future testing; is that right?  
A. That's correct.

THE COMMISSIONER: I am sorry, Ms Hedge, just before you move on.

Q. The email that we have just been looking at, HG-14, if you could put it on the screen, please.  
WIT.0032.0016.0001\_R]. Yes, that's the one. If you go to

1 the preceding page, the purpose of this email, from you at  
2 least we know, was to correct an error that appeared in the  
3 earlier email?

4 A. Yes.

5

6 Q. So the email was written by you?

7 A. Yes.

8

9 Q. It's from you. And at the top of page 2 is this  
10 passage that Ms Hedge took you to, by which you are seeking  
11 to explain, give an explanation, for the error, I gather.  
12 The two options provided in the wrong way in which they  
13 were provided, the reason they were provided, you say, or  
14 one of the reasons is that they're intended to  
15 differentiate between - to point out that volume crime  
16 would not be included in any recommendation to return to  
17 the pre-2018 process. But how did that earlier email do  
18 that, in your opinion?

19 A. The earlier email from Cathie Allen? Or from --

20 Q. Yes, the incorrect one from Lara Keller, sent on the  
21 basis of Ms Allen's email to Lara Keller. How did that  
22 email from Lara Keller seek to differentiate or point out  
23 that volume crime would not be included in automatic  
24 micro-concentration?

25 A. My understanding is that they were just providing - so  
26 Lara was just providing options for Priority 1 and 2  
27 samples --

28

29 Q. Yes.

30 A. -- and that she hadn't provided options for Priority 3  
31 samples because they had never been involved in a  
32 micro-concentration process.

33

34 Q. But how could that email be read as intending to point  
35 out that volume crime was not included, since it doesn't  
36 say anything about volume crime?

37 A. Yes, I think it was by omitting "volume crime", they  
38 were - they were just focusing on Priority 1 and 2 samples  
39 and didn't expressly state that they were talking about  
40 volume - Priority 3 samples.

41

42 Q. You go ahead, Ms Hedge.

43

44 MS HEDGE: Leading on from that question the Commissioner  
45 asked you about, can we go back to that email of 3 June,  
46 [WIT.0032.0056.0001\_R]. This is that email again from  
47 Ms Keller to Mr Drummond. You just said, as you understand

1 it, these were all options for P1 and P2, leaving out  
2 entirely anything that happened in P3; is that right?  
3 A. That's my understanding.

4  
5 Q. In fact, Option 1 is what happened to P3 in 2018,  
6 isn't it? That it went straight to amplification and then  
7 there was concentration on a discretionary basis by  
8 reporting scientists?  
9 A. Yes, that's correct.

10  
11 Q. So Option 1 is what happened to P3 pre-2018? So it  
12 did have the P3 process, but here in this email it is  
13 suggested it was a P1 and P2 process.  
14 A. That's what they were trying to put forward. This was  
15 an option for P1s and P2s.

16  
17 Q. That's right, but it is the P3 process, isn't it?  
18 A. "All samples are processed through" - yes, that is the  
19 P3 sample - P3 process pre-2018.

20  
21 Q. That's right. So when you said to the Commissioner  
22 just then that none of these options were what happened to  
23 P3 in the past, that was a mistake?  
24 A. What I meant to be conveying was that the options when  
25 this email was written, the options were only - they were  
26 only referring to what they were proposing for P1 and P2  
27 samples.

28  
29 Q. Yes, all right. Let's move on to the Police. Can you  
30 go to HG-18, which is [WIT.0032.0020.0001]. This is your  
31 file note?  
32 A. Yes.

33  
34 Q. Can we zoom in on the main part of that. Thank you.  
35 19 August 2022, attendees: Justin - I am going to say  
36 people's last names, so let me know if I get any of them  
37 wrong: Justin Howes, Paula Brisotto, Cathie Allen, Megan  
38 Fairweather, Alison Slade?  
39 A. Correct.

40  
41 Q. And yourself?  
42 A. Yes.

43  
44 Q. And it says:

45  
46 *QPS email -> David Neville*  
47 *(dictated by Megan)*

1  
2 Then it says above there:

3  
4 *can't forward.*

5  
6 Is that what it says?

7 A. Correct.

8  
9 Q. Did Ms Fairweather tell you that she couldn't forward  
10 you the email?

11 A. Yes.

12  
13 Q. So you have never seen the email from the QPS?

14 A. I saw it later.

15  
16 Q. Okay. Not before you advised Dr Rosengren and before  
17 he made his decision?

18 A. Correct.

19  
20 Q. Can we return to your statement in paragraph 36  
21 [WIT.0032.0002.0001\_R at 0007]. At the top of page 7,  
22 actually. So this is the same meeting that we just saw the  
23 notes of?

24 A. Yes.

25  
26 Q. In the last line you say:

27  
28 *At this meeting I suggested getting QPS*  
29 *approval to do the second amp.*

30  
31 A. Yes.

32  
33 Q. You suggested that based on what Ms Fairweather had  
34 told you?

35 A. Yes, we - when Ms Fairweather told us that the  
36 scientists got quite concerned, and so by that stage, I was  
37 aware that it was only when we were thinking about doing a  
38 second amp that we might exhaust the sample, so that's when  
39 I thought it would be a good compromise.

40  
41 Q. When you say the "the scientists", do you mean  
42 Ms Allen, Ms Brisotto and Mr Howes?

43 A. Yes.

44  
45 Q. So these people in the meeting?

46 A. Yes.

47

1 Q. Not other scientists?

2 A. Correct.

3

4 Q. Other scientists didn't know about this happening, did  
5 they?

6 A. No.

7

8 Q. All right. So you suggested that as a compromise?

9 A. Yes.

10

11 Q. You have now seen that email from the QPS, so you  
12 would understand that they didn't directly ask for what you  
13 suggested, did they?

14 A. No, they didn't.

15

16 Q. They just wrote what their interest was, that things  
17 would not be exhausted "as a matter of routine" is how they  
18 said it?

19 A. Okay.

20

21 Q. Is that right?

22 A. I - without the email in front of me, I can't say  
23 exactly what words they used.

24

25 Q. All right. But you thought of this option?

26 A. Yes.

27

28 Q. Did you know then that obtaining QPS approval for  
29 exhaustion of a sample was not part of the pre-2018  
30 process?

31 A. Yes.

32

33 Q. And did you know that in fact it was not part of any  
34 process --

35 A. Yes.

36

37 Q. -- that the lab had ever done --

38 A. Yes.

39

40 Q. -- for any sort of priority sample?

41 A. Yes.

42

43 Q. All right. So this was a significant change to the  
44 Forensic lab process; do you accept that?

45 A. It is a change, yes.

46

47 Q. You don't think that's significant, requiring approval

1 by Police to exhaust a sample which scientists had been  
 2 doing at their own discretion for many years?  
 3 A. I don't think it's particularly significant, but I - I  
 4 understand that it's a change that has an effect on the  
 5 lab, yes.  
 6  
 7 THE COMMISSIONER: Q. Well, of course it is a change that  
 8 has an effect on the lab, because it is a change. What you  
 9 are being asked is whether you agree whether - that it is  
 10 significant or not, and your answer is not?  
 11 A. Yeah.  
 12  
 13 Q. What would you regard as a significant change?  
 14 A. A complete change in methodology, for example.  
 15  
 16 Q. Well, this is a complete change in methodology, isn't  
 17 it, where you decide --  
 18 A. Sorry, I'm --  
 19  
 20 Q. -- that you are going to treat samples in an a  
 21 completely different way?  
 22 A. I should have probably clarified. I meant analytical.  
 23  
 24 Q. I see. You mean a scientific change?  
 25 A. Yes.  
 26  
 27 Q. And why is a change to the technology significant and  
 28 a change to processes not significant?  
 29 A. I don't think I've really considered that. From a  
 30 scientific point of view, I put the science first and we  
 31 have our processes that to me are secondary.  
 32  
 33 Q. But in terms of quality control, which is what your  
 34 job is concerned with, why would you regard a change to  
 35 process as not warranting the adjective "significant" when  
 36 what's being discussed is how you are going to treat a  
 37 large number of samples coming through the lab?  
 38 A. So I suppose I would look at a significant change as  
 39 something that affects the actual science itself as opposed  
 40 to an administrative process change.  
 41  
 42 Q. And in your role as carrying out your duties, are you  
 43 limited to an interest in scientific processes?  
 44 A. No.  
 45  
 46 THE COMMISSIONER: Yes, Ms Hedge.  
 47

1 MS HEDGE: Q. Now, these decisions made about whether  
2 to do a second amp or to concentrate to full, you  
3 understand those two things are things that can exhaust  
4 samples?

5 A. I do now, yes.

6  
7 Q. Those decisions are made by Reporting scientists?

8 A. Yes.

9  
10 Q. Based on their scientific qualifications and expertise  
11 in this area?

12 A. Yes.

13  
14 Q. It takes a lot of training to be a Reporting  
15 scientist, doesn't it?

16 A. Yes, so I've been told.

17  
18 Q. So they are scientific decisions, aren't they?

19 A Reporting scientist deciding whether to do a second  
20 amp or to concentrate to full, they are scientific  
21 decisions; they are not administrative decisions?

22 A. Yes, but the process of requesting QPS approval to do  
23 the second amp is an administrative decision.

24  
25 Q. You would understand, though, that requiring people to  
26 get approval might change how they make the initial  
27 decision?

28 A. I would have thought not. I would have thought that  
29 they would look at the science in exactly the same way and  
30 would say, "I'd like to do a second amp, I'd need to get  
31 approval, I will go ahead," and ask for approval to exhaust  
32 the sample and go ahead.

33  
34 Q. Your view is the need to seek approval from anyone,  
35 whether it be internal or external, has no influence on how  
36 staff do their jobs?

37 A. It shouldn't have any influence on - on the scientific  
38 decision-making behind that, no.

39  
40 Q. Right. What if the QPS refuse approval? Then it has  
41 influenced the scientific decision, hasn't it?

42 A. Yes, it has.

43  
44 Q. If a Reporting scientist says, "I have decided this  
45 should have a second amp", QPS say, "No", that is a  
46 significant interference with their scientific discretion  
47 that existed before 19 August; is that fair?

1 A. Yes, that the QPS have requested. Because they would  
2 like --

3  
4 Q. Well, did they request it? Really, you decided it was  
5 a compromised option. Didn't you say that just before?

6 A. Yes, and they also sort of - I was advised that they  
7 would like to keep a sample for additional testing that's  
8 outside the scope of our laboratory, and that that's a  
9 decision for the - well, that was something that the QPS  
10 wanted to make sure they didn't - we didn't exhaust the  
11 sample.

12  
13 Q. Would you accept generally, just putting aside this  
14 issue for a moment, but generally there is sometimes a  
15 tension between scientific quality and perhaps requests  
16 from the QPS?

17 A. I don't know.

18  
19 Q. In your role as the Quality Manager, you have never  
20 identified a tension between QPS requests and quality of  
21 outcome?

22 A. Not since I have been involved in this particular  
23 issue around the Commission, no.

24  
25 Q. Oh, on any issue. You have been Quality Manager for  
26 16 years.

27 A. Mmm-hmm.

28  
29 Q. So for example, if Police requested a one-day  
30 turnaround, surely you would accept that that might affect  
31 the quality of what is produced in the one day?

32 A. Depending on the resources that we have available to  
33 us, it may affect the quality, requesting a turnaround time  
34 of one day.

35  
36 Q. So do you accept generally that sometimes there can be  
37 a tension between QPS requests and scientific quality? Or  
38 you don't think those things ever come into tension?

39 A. I think they can come into tension, but I think there  
40 are three aspects that play a role in the - well, there's  
41 two that have an effect on the quality of a result, and  
42 that being the turnaround time requested and the resources  
43 available. If we've got lots and lots of resources, we can  
44 potentially create a very fast turnaround time with a good  
45 quality. But you can't get all three together.

46  
47 Q. There's a lot of other things that affect quality as



1 well, isn't there? Like what instruments you have?

2 A. Yes.

3

4 Q. The processes?

5 A. I was just sort of --

6

7 Q. Okay.

8 A. -- simplifying it.

9

10 Q. All right. So you accept then that this decision on  
11 the 19th to introduce this idea, your idea, that you get  
12 QPS approval to do the second amp, do you accept that that  
13 could have an influence on scientific decisions in the lab?

14 A. No.

15

16 Q. Because we just went through that if they refuse it,  
17 then the lab will do something different to what the  
18 scientists think is the most appropriate thing to do for  
19 that sample. So do you accept that, at least in that  
20 circumstance, it has affected the scientific decisions of  
21 the lab?

22 A. It hasn't affected the scientific decisions of the  
23 lab. The QPS have asked us not to exhaust the sample.  
24 They want us to keep - they want us to keep some leftover  
25 sample so that they can request other analysis. So, you  
26 know, we have said, "We'd like to do a second amp", and  
27 they've said, "No", that's at their discretion.

28

29 THE COMMISSIONER: Q. So your evidence is that when a  
30 scientist makes a judgment, a professional judgment, that  
31 the best quality will be achieved by doing particular  
32 things within the technical processes, and that scientist  
33 is vetoed on that process by a police officer with no  
34 scientific training, that that is not an interference with  
35 the scientific process or decision-making?

36 A. I think that we are doing what the QPS have requested  
37 us to do, and they may request us to do a second amp or  
38 they may request us to keep the sample.

39

40 Q. No. No, that won't do, Ms Gregg, because QPS did not  
41 ask or did not instruct the lab to seek the approval of  
42 QPS, did they; that was your idea?

43 A. Yes, that's my idea.

44

45 Q. So what you proposed is that if they don't give  
46 approval; that is, they veto the process that's suggested,  
47 then the process won't be undertaken?

1 A. That's correct.

2

3 Q. So you don't think that's a quality issue, speaking as  
4 a quality controller?

5 A. It could be seen that way, I suppose, but I --

6

7 Q. How do you see it? I'm asking you.

8 A. I think we're making the best of a difficult situation  
9 where we have been asked to not exhaust the sample by the  
10 QPS and we are trying to satisfy that as well as produce a  
11 result for them, and it's not an ideal situation.

12

13 THE COMMISSIONER: Yes, Ms Hedge.

14

15 MS HEDGE: Q. What investigations did you make into  
16 whether introducing that step into the process was an  
17 appropriate step?

18 A. So it was discussed at that teams meeting where  
19 Cathie, Paula and Justin attended, and they agreed that  
20 that was a good idea, and that it should be something that  
21 we support.

22

23 Q. Did they say that immediately?

24 A. Yes.

25

26 Q. Knowing now - well, knowing - did you know then that  
27 that was a step that had never been introduced in the lab  
28 for any purpose?

29 A. The approval, yes, I did know that.

30

31 Q. So you knew then that there could be no data on that  
32 and how it would influence anything, because it's never  
33 been done before?

34 A. Yes.

35

36 Q. So you knew Mr Howes, Ms Allen, Ms Brisotto weren't  
37 speaking from a place of data analysis?

38 A. That's correct.

39

40 Q. They were just speaking --

41 A. We were just speaking of a place from the request from  
42 the QPS not to exhaust the sample.

43

44 Q. And you know the change management standard operating  
45 procedure?

46 A. Yes.

47

1 Q. And it is your view that this process where you  
2 suggested that and people in the meeting agreed was  
3 consistent with that standard operating procedure?

4 A. No, it's not.

5

6 Q. What was the urgency?

7 A. To provide advice for the Director-General.

8

9 Q. Why did that have to be done that day?

10 A. I believe it was the Director-General's last day. We  
11 were also aware that it had been brought to our attention  
12 on the 16th, and this was the 19th, and there was a need to  
13 try and rectify this as soon as possible.

14

15 Q. Who told you that there was a need to rectify it as  
16 soon as possible?

17 A. That's an assumption I've made.

18

19 Q. Okay. Who told you that the Acting Director-General's  
20 last day meant that this had to be done quickly?

21 A. It was a communication, I suppose, from his office.  
22 He would like to get it done today.

23

24 Q. Did that happen? Did someone tell you that or are you  
25 guessing?

26 A. I believe so, yes.

27

28 Q. Do you remember that? It was only six weeks ago. Do  
29 you remember that? Were you told that?

30 A. Yes.

31

32 Q. Do you remember who told you that?

33 A. I think it was Matthew Rigby.

34

35 Q. Did you tell Matthew Rigby or Dr Rosengren that you  
36 were not following the standard operating procedures for  
37 change management?

38 A. No.

39

40 Q. Did you tell them, either of them, that you had not  
41 made any investigation into whether that was an acceptable  
42 step other than asking the three people who you have  
43 described?

44 A. I did not tell them, no.

45

46 Q. Did you tell them that that is a step that had never  
47 been in place at the laboratory for any reason?

1 A. No.

2

3 Q. All right. Do you think in hindsight you should have  
4 told them those things?

5 A. Ah, yes, I think I could have told them those things.  
6 It would have been advisable to tell them those things.

7

8 Q. All right. In a quality managed situation like a  
9 forensic lab, change management really matters, doesn't it?

10 A. Yes.

11

12 Q. Deciding things quickly and without full consideration  
13 isn't a great idea, is it?

14 A. For me, the processes - if it's an administrative  
15 process that the laboratory can do, it requires less regard  
16 than a scientific change.

17

18 THE COMMISSIONER: Q. I guess to be clear, the reason  
19 you were comfortable proposing this as a step in the  
20 process was because you regarded it as an administrative  
21 step that you were introducing that had no bearing upon any  
22 of the technical processes or on any of the science?

23 A. Yes, that's a good summary. Thank you, Commissioner.

24

25 THE COMMISSIONER: Thanks.

26

27 MS HEDGE: Q. Do you consider it something that would  
28 need to be advised to NATA at the next accreditation?

29 A. It will be - if we still have this process in place --

30

31 Q. Yes.

32 A. -- it would be in the SOP.

33

34 Q. Yes.

35 A. I'm - so normally we wouldn't bring an administrative  
36 change like that to the attention of NATA. We would bring  
37 to their attention more technical changes such as  
38 instrumentation or change in a methodology. And I know  
39 that that's a method, but hope --

40

41 Q. Have you brought that change to the attention of NATA  
42 yet?

43 A. No.

44

45 Q. Do you think it's necessary the next time there is an  
46 accreditation?

47 A. I probably wouldn't - normally, I wouldn't highlight

1 it to them as a change because, as I said, it's just an  
2 administrative change.

3

4 Q. Okay. But not normally. I am asking you about this  
5 one. Are you going to tell them about this one, next time  
6 they come and accredit the lab?

7 A. If it's still in play, yes.

8

9 Q. All right. So you are going to tell them about it?  
10 So it's significant enough to tell NATA?

11 A. I think it's significant enough in the context that  
12 we're in now.

13

14 Q. Do you mean this Commission of Inquiry?

15 A. Yes, I do.

16

17 Q. Can I ask about another aspect of the QPS. You  
18 received an email from David Neville on 17 August. I will  
19 just show you that [WIT.0032.0029.0001\_R]. Let's look at  
20 this one first. That's you telling Inspector Neville and  
21 others in the Police about the decision made by the Acting  
22 Director-General after it was made; is that right?

23 A. Yes.

24

25 Q. Can we go down to page 2 [WIT.0032.0029.0001\_R at  
26 0002]. Do you see that email at the bottom there, 17  
27 August, 8.19 am?

28 A. Yes.

29

30 Q. Can we look at that email. Do you remember that  
31 email?

32 A. Yes.

33

34 Q. And in the middle of it, Inspector Neville says:

35

36 *Is there a risk of profiles being missed if*  
37 *samples below this concentration,*  
38 *particularly at the lower range, are run*  
39 *through without micro-concentration?*

40

41 A. Yes, I see that.

42

43 Q. So Inspector Neville was raising - and this was raised  
44 with you because you were the Acting Executive Director?

45 A. Yes.

46

47 Q. That's right. Not because of your quality management

1 role?

2 A. Yes.

3

4 Q. And he is raising the issue of concentrating P1 and P2  
5 samples?

6 A. Yes.

7

8 Q. Is that your understanding? All right. Can we go  
9 back to the email which you sent to Dr Rosengren,  
10 [WIT.0032.0016.0001\_R]. Do you remember this email that  
11 you described as the primary piece of advice given to  
12 Dr Rosengren? Or I described it and you agreed?

13 A. Yes.

14

15 Q. There's no mention in this email, is there, of that  
16 correspondence from Inspector Neville?

17 A. No.

18

19 Q. In fact, there's no mention of concern being raised by  
20 the Police with the lack of micro-concentration?

21 A. No.

22

23 Q. But if we go to page 2, under the options  
24 [WIT.0032.0029.0001\_R at 0002]:

25

26 *If option 2 is preferred, it may be prudent*  
27 *to consult with QPS ...*

28

29 Do you see that?

30 A. Yes.

31

32 Q. So you thought consultation with QPS was appropriate  
33 but didn't tell him about the consultation that you were  
34 engaged with where you were being written to by them?

35 A. Yes, I did not tell him that I had received an email  
36 from David Neville.

37

38 Q. Can we go back to page 1. Remember the date Neville  
39 emailed we got before was 17 August, 8.19 am, so it is  
40 about two hours before this email?

41 A. Yes, that's correct.

42

43 Q. I suggest to you that it would have been helpful to  
44 tell Dr Rosengren what the Police were saying at that  
45 stage. Do you accept that?

46 A. It may have been helpful to him. I don't know.

47

1 Q. You were then only told on 19th at 11.30 am that there  
2 had been consultation with QPS; is that right? That's the  
3 Teams meeting we just looked at?

4 A. Yes.

5

6 Q. So in the intervening two days you didn't know whether  
7 anyone was consulting with QPS; is that right? And you  
8 also didn't respond to Inspector Neville to tell him that  
9 this was all under consideration, did you?

10 A. No, I didn't.

11

12 Q. Do you know now that Dr Rosengren consulted with  
13 Inspector Neville?

14 A. No, I don't. Well, except for that Teams meeting.  
15 Didn't know it was Dr Rosengren who had spoken to  
16 Inspector Neville.

17

18 Q. All right.

19

20 Q. Why didn't you tell Dr Rosengren that  
21 Inspector Neville had written you with that concern when he  
22 was reconsidering that exact process?

23 A. I don't know. I probably - it was probably an  
24 oversight to say that the QPS had written to me.

25

26 Q. Did you speak to Ms Allen or Ms Slade about it, about  
27 whether you should include that detail?

28 A. No, I didn't speak to them about that.

29

30 Q. All right. Can I move onto the - after the decision  
31 made by the Director-General, it was your responsibility, I  
32 understand, to communicate that to the staff of the DNA  
33 forensic lab. And you did that by email?

34 A. Yes, I forwarded the email from Dr Rosengren.

35

36 Q. And then you received many questions and emails; is  
37 that fair?

38 A. I did get some, yes.

39

40 Q. And you had two Zoom meetings with staff to talk to  
41 them and explain?

42 A. Teams meetings, yes.

43

44 Q. Yes, Teams meetings.

45 A. Yep.

46

47 Q. All right. Can I ask you about two of the issues that

1 were raised with you. Scientists raised with you an issue  
2 about microconning to full, to 15 microlitres, and whether  
3 they would be prevented from doing that by the automatic  
4 microcon to 35. Do you remember that issue?

5 A. Yes, I do. Yes.

6

7 Q. Some scientists had that view; other scientists had a  
8 different view. I am not suggesting it was uniform, but  
9 some scientists were concerned about that; is that right?

10 A. Yes.

11

12 Q. Did you brief up those concerns to Dr Rosengren or to  
13 Mr Drummond, who by then was back in the Acting  
14 Director-General's seat?

15 A. No, I did not.

16

17 Q. You were still the Acting Executive Director?

18 A. Yes.

19

20 Q. All right. So immediately above you in the chain was  
21 the chief pathologist; is that right?

22 A. No. The Executive Director reports to the Deputy  
23 Director-General of the Prevention Division, Professor  
24 Keith McNeil.

25

26 Q. My apologies.

27 A. That's all right.

28

29 Q. Did you brief up those concerns to him?

30 A. No.

31

32 Q. A second concern that was raised with you was whether  
33 the new approval before exhaustion process should apply to  
34 other samples; is that right?

35 A. Yes.

36

37 Q. If scientists said to you, "Well, can we still exhaust  
38 P1 and P2 outside the range"? The DIFP range.

39 A. Yes.

40

41 Q. Do you remember that issue?

42 A. Yeah - yes.

43

44 Q. Okay.

45 A. I was concentrating more on the DIFP range.

46

47 Q. But you understood the memo to only relate to the DIFP



1 range?

2 A. Yes.

3

4 Q. P1 and P2?

5 A. Yes.

6

7 Q. So in that range approval is required before  
8 exhaustion?

9 A. Yes.

10

11 Q. But if the memo only applies to that, do you accept  
12 that approval is not required to exhaust lots of other  
13 samples?

14 A. So the - I would err on the side of caution, and I  
15 would be getting approval from the QPS to exhaust samples.

16

17 Q. Is this the advice you gave to the scientists in the  
18 lab?

19 A. I believe so, yes.

20

21 Q. That they should get approval from the QPS to exhaust  
22 any sample?

23 A. I decided, yes, to err on the side of caution.

24

25 Q. That is a significant change to all samples across all  
26 quant ranges; is that fair?

27 A. Yes, but as I said I was focused on the DIFP range.

28

29 Q. Okay. But you've made that other change?

30 A. Yes.

31

32 Q. Was that put into force by changes to the standard  
33 operating procedures?

34 A. I don't know.

35

36 Q. Okay.

37 A. I'm not aware that there has been a change to the  
38 SOPs.

39

40 Q. You just don't know either way?

41 A. I don't know either way. Sorry.

42

43 Q. Did you bring up that concern and your response to it  
44 to Professor McNeil?

45 A. No.

46

47 Q. Or to Mr Drummond?

1 A. No.

2

3 Q. All right. So did you unilaterally make a change to

4 the procedures for these other samples to insert the QPS

5 approval before exhaustion step?

6 A. All - all - what I said to the scientists was, "If you

7 are going to exhaust the sample, you need to get QPS

8 approval."

9

10 Q. But that's not what the memo says, is it?

11 A. The P1s and the P2s in the DIFP range.

12

13 Q. That's what the memo said?

14 A. Yes.

15

16 Q. But you told them that for everything?

17 A. If they're concerned then they need to get approval

18 from the QPS, yes.

19

20 Q. "If they're concerned"? Don't they need certainty of

21 procedure, not - why would the responsibility for deciding

22 whether approval was required be on individual scientists?

23 A. Could you say that again? Sorry.

24

25 Q. You just said that your advice to the scientist was if

26 they were concerned about samples that are not P1 or P2

27 inside the range, so other things - if they were concerned,

28 they should get approval. And I said, and I suggested to

29 you, that it's not a good process to have individual

30 scientists trying to determine whether or not they need

31 approval, but a good process would be one where it was very

32 clear whether approval was required or not?

33 A. Yes.

34

35 Q. Do you agree with that?

36 A. Yeah, I would agree with that.

37

38 Q. Okay. But your advice to them did set up this

39 situation where they had to decide whether they were

40 concerned before they sought approval?

41 A. Yes, and I said to - yes, and I said to err on the

42 side of caution and get approval.

43

44 Q. All right. Now, I assume your decision to give that

45 advice also didn't comply with the change management

46 procedures, standard operating procedure?

47 A. Correct.

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Q. Are you going to tell NATA about that change as well?  
A. Yes.

Q. And --  
A. If it's still in play at the time.

Q. Yes. And what was the scientific basis to include all of those other samples with the P1, P2, in-the-range samples?

A. There wasn't a scientific basis. There was a - as I said, there was a wish to comply with the QPS's request to not exhaust the sample.

Q. And you understood that view of QPS to be ranging across all samples, not just ones in the range P1 and P2?  
A. I knew that it was about the ones that were P1, P2 in the range, but when I was questioned by the scientists, I said that they needed to err on the side of caution.

Q. Did you consult with the QPS before you changed that process?  
A. No.

THE COMMISSIONER: Q. What does "err on the side of caution" mean in scientific terms?  
A. I suppose --

Q. What is the benchmark a scientist uses to determine whether she should err on the side of caution?  
A. I suppose it was - for me, it was just that you should seek approval to exhaust the sample.

Q. And what was the procedure that you envisaged would be used to seek that approval?  
A. There had been - I didn't envisage anything. There had been discussions about how that could happen through the Forensic Register, and I think it was by adding a task. And so, they were working - they were in the process of working out the best way to do that.

THE COMMISSIONER: Yes, Ms Hedge.

MS HEDGE: Q. When did you finish your Acting Executive Director role?  
A. At the end of August. The 31st.

1 Q. All right. So your second meeting, I believe, was  
2 30 August, so that was quite at the end of your time?  
3 A. Yes.

4  
5 Q. Did you understand through those meetings that there  
6 was significant controversy in the lab about whether the  
7 decision made on 19 August was best practice?  
8 A. No, I didn't understand that.

9  
10 Q. So you didn't think from the scientists saying to you,  
11 "This is stopping us maximising a profile", that they were  
12 saying this is not best practice?  
13 A. They didn't put it to me in the terms that it wasn't  
14 best practice.

15  
16 Q. But did they put it to you in the terms that they  
17 believed they could not maximise the chances of getting the  
18 best DNA profile out of the sample?  
19 A. Yes, and it was more put in the terms that they had  
20 had - they had had the discretion previously and they  
21 didn't anymore.

22  
23 THE COMMISSIONER: Q. When a scientist - would you  
24 accept that the scientists who work as case managers, who  
25 perform the interpretation of the profiles, are in a  
26 position to know the best way to process a sample in order  
27 to give the best prospect of obtaining a usable profile?  
28 A. I would, yes.

29  
30 Q. So when one of them says to you, asks you, whether QPS  
31 and the Director-General are aware that conserving a sample  
32 reduces the ability of the scientist to get the best  
33 results of the case now, what did that mean to you? This  
34 is Ms Moeller writing to you on 25 August. What did you do  
35 with that information? What did you think you ought to do  
36 with that information?  
37 A. So I was getting a lot of emails at that time from  
38 staff, and so that's why I decided that it would be best to  
39 have a Teams meeting to try and understand what their  
40 concerns were.

41  
42 THE COMMISSIONER: Yes. Go ahead, Ms Hedge.

43  
44 MS HEDGE: Thank you.

45  
46 Q. Now, these issues were raised also with Ms Brisotto  
47 and Mr Howes?

1 A. I don't know.

2

3 Q. Well, they forwarded some of them to you, didn't they?

4 A. Mr Howes did, yes.

5

6 Q. Can I show you this document [WIT.0014.0076.0001].

7 This is Mr Howes and Ms Brisotto raising - we just need the

8 top of the email, so you might zoom on the top, if that

9 assists with the redaction. We see you writing to them.

10 There was a thread on MS Teams where people were - where

11 Reporting scientists were suggesting other ways that one

12 might exercise discretion about concentration and so on.

13 Do you remember that?

14 A. Yes.

15

16 Q. And then you said this:

17

18 *Let's stick to the memo.*

19

20 I assume you mean the 19 August memo?

21 A. Yes.

22

23 Q.

24

25 *Happy to consider ideas for the future,*

26 *that is backed up by robust data and proper*

27 *consideration.*

28

29 A. Yes.

30

31 Q. So you understood when you received this MS Teams

32 discussion that there was ongoing controversy amongst

33 Reporting scientists about whether the 19 August decision

34 was a good decision or the best decision? Do you accept

35 that?

36 A. I don't know if "controversy" - I don't know if

37 that's - but there was concern and there was discussion

38 around it.

39

40 Q. Differing opinions?

41 A. Differing opinions, yes.

42

43 Q. Some people perhaps thought it was a good decision;

44 other people disagreed?

45 A. Yeah.

46

47 Q. You said you were happy to consider ideas backed up by

1 robust data. Did you suggest to anyone that they might  
2 collect some data so that these differing opinions might be  
3 resolved?

4 A. I was hoping that the scientists might initiate that  
5 themselves.

6  
7 Q. Did you suggest that to anyone?

8 A. No, I didn't, until later.

9  
10 Q. When you say, "the scientists", do you mean the  
11 Reporting scientists?

12 A. Yes.

13  
14 Q. They're not --

15  
16 THE COMMISSIONER: Q. How were they going to do that?  
17 What was your hope?

18 A. I was hoping they might put a change proposal together  
19 or following, you know, their SOP or whatever that they  
20 have in DNA, to say, "It would be good if we could  
21 investigate this, and this is my proposal for doing this.  
22 This is how I propose that we do it."

23  
24 MS HEDGE: Q. But you didn't suggest that to anyone?

25 A. I didn't overtly suggest it to anybody.

26  
27 Q. Did you covertly suggest it to someone?

28  
29 THE COMMISSIONER: I think the obverse is "implicitly"  
30 here.

31  
32 MS HEDGE: Q. Did you implicitly suggest it to someone?

33 A. I suggested in the Teams meeting that we needed data  
34 to be collected and that that data should undergo proper  
35 consideration.

36  
37 Q. Did anyone in the Teams meeting say they would do  
38 that?

39 A. No.

40  
41 Q. Are you aware that to obtain data like that would  
42 require requests to bdna, the owner of the Forensic  
43 Register?

44 A. So there was - there's other ways that we can get  
45 data. We can actually collect - do the experiment  
46 ourselves and collect the data ourselves. So there's other  
47 ways, but, yes, one of the ways is to request from bdna

1 that data.

2

3 THE COMMISSIONER: Q. What was the difference between  
4 what they were proposing and what you were proposing so  
5 that your proposal did not need any data and theirs did?

6 A. As I said, I thought my proposal was an administrative  
7 change as opposed to a change in the technical, analytical  
8 process.

9

10 Q. I am talking about their concern, Ms Moeller's  
11 concern, for example, about excluding the prospect of a  
12 full microcon and the consequences of that. Those are the  
13 sorts of issues they had, aren't they?

14 A. Yes.

15

16 Q. Yes. So those are issues you say couldn't be looked  
17 at seriously without getting some data. Why could you  
18 implement your proposal to microcon to half without data?

19 A. So my - it's not a wish. I want - I knew that we  
20 needed - that the - that the direction from the  
21 Director-General was to return to the pre-2018 processes,  
22 and the documented process was a micro-concentration of  
23 35 ng/ $\mu$ L. When the scientists brought to my attention they  
24 would like some discretion around that and would like to be  
25 able to micro concentrate to full, I looked into the SOPs  
26 to see whether that was an option, but it was only a rework  
27 option. It wasn't an initial process option. And given  
28 that the QPS had said, "We don't want you to exhaust the  
29 sample", there is - I felt that there was a need to collect  
30 data around the advantages and the likelihood of getting a  
31 profile from that first pass-through and now concentration  
32 to full.

33

34 Q. So the Director-General, who is not a scientist  
35 experienced in this field, wants something. Police, who  
36 are equally inexperienced in this field, want something.  
37 And you thought your job was to ensure that what they  
38 wanted got done, whether or not scientists within FSS, who  
39 are the experts, whether or not they had qualms about it or  
40 concerns about it? That was to be left to another day; is  
41 that right?

42 A. Yes. I wanted to collect data to make sure that we  
43 were providing advice to the QPS around the advantages of  
44 microconning to full.

45

46 Q. Yes. And so why did you think the Director-General  
47 wanted the pre-2018 process to be adopted, even if that was

1 not the best way to go?

2 A. I understand that he wanted us to return to the  
3 pre-2018 process.

4  
5 Q. This wasn't my question.

6 A. I don't know about whether he thought about whether it  
7 was the best process.

8  
9 MS HEDGE: Thank you.

10

11 Q. Last question. You are aware of a pause in testing  
12 that was ordered by the Acting Director-General last  
13 Friday, 30 September 2022?

14 A. Yes.

15

16 Q. And you are back in your Quality Manager role, assume?

17 A. Yes - sorry, no. I have been taken offline to assist  
18 Forensic DNA with the Commission of Inquiry.

19

20 Q. To assist them from a quality perspective, or from  
21 what perspective?

22 A. Just providing scientific support in any way I can.  
23 So I am doing both roles at the moment. I am also the  
24 Quality Manager until that role gets filled.

25

26 Q. You had that quality role then on last Friday?

27 A. Yes.

28

29 Q. Were you consulted before that decision was made?

30 A. I knew that there had been requests made by  
31 Inspector Neville to pause the testing, but I wasn't  
32 consulted.

33

34 Q. And to your knowledge was anyone in the Forensic lab  
35 consulted --

36 A. Not to my knowledge.

37

38 Q. -- about that decision?

39 A. Not to my knowledge.

40

41 Q. In particular, Lara Keller? Do you know whether Lara  
42 Keller was consulted?

43 A. I don't know. She was briefing up about it.

44

45 Q. Did you see that, did you? You saw an email where she  
46 briefed it up?

47 A. I saw the draft brief and we were advised - sorry, I



1 take that back. We were advised from one of the  
2 Commissioner of Inquiry legal team that they had also  
3 provided some advice as well to the Director-General about  
4 the pause, and he told us that in a Teams meeting. I can't  
5 remember the date.

6  
7 Q. When you say Commission of Inquiry legal team, do you  
8 mean the legal team advising Queensland Health in relates  
9 to this Commission of inquiry --

10 A. Correct, yes.

11  
12 Q. -- not anyone inside the Commission of Inquiry?

13 A. Correct.

14  
15 Q. I understand.

16  
17 MS HEDGE: Yes. Thank you. Those are my questions.

18  
19 THE COMMISSIONER: Thank you

20  
21 <EXAMINATION BY MR HYNES

22  
23 MR HYNES: Thank you, Commissioner.

24  
25 Q. Ms Gregg, I only have a few questions and it concerns  
26 your terminology of events.

27  
28 Can I take you back to 15 July 2022, and Mr Operator  
29 can I please have on the screen [WIT.0032.0029.0001\_R at  
30 0003]. There is an email there which is from you on the -  
31 that you can see the large portion of that which is from  
32 you, dated 12 July 2020?

33 A. Yes.

34  
35 Q. It is at 12.32 pm that day?

36 A. Yes.

37  
38 Q. If we just follow that thread through, Mr Operator, to  
39 its beginning onto the next page, please, and down to the  
40 bottom of that. We can see that it commenced there at  
41 15 July 2022 at midday from a person called Darren Pobar  
42 who is with the Police. You understand that?

43 A. Yes.

44  
45 Q. In that email that he sent there on 15 July, he was  
46 asking you in that second paragraph towards the bottom  
47 starting with:

1  
2 *I understand ...*  
3

4 He was asking you about a change in process and the impact  
5 it would have on turnaround times; is that right?

6 A. Yes.  
7

8 Q. Now, you are aware then from that email, and that was  
9 a Friday, we can see from the "Sent" item there. You were  
10 aware from that email, weren't you, that Police were  
11 concerned about that aspect of the change in process?

12 A. Yes.  
13

14 Q. Also just out of an abundance of caution with your  
15 chronology, you didn't actually start as the ED until the  
16 Monday?

17 A. Yes.  
18

19 Q. Is that right?

20 A. That's correct.  
21

22 Q. If we fast-forward and go up the page, please,  
23 Mr Operator, to this email here which starts a little bit  
24 higher up, Mr Operator, please. On 20 July 2022 at  
25 9:51 am. It is Mr Pobar again emailing you, isn't it?

26 A. Yes.  
27

28 Q. You hadn't yet, between the 15th and 20th, responded  
29 to that first email, I take it?

30 A. That's correct.  
31

32 Q. And in this email here, Mr Pobar is asking you whether  
33 or not there's been concentration involved in the testing  
34 of these samples in the DIFP range?

35 A. Yes.  
36

37 Q. Now, he talks there at the very end of that passage in  
38 that second paragraph, which is at the bottom of the page,  
39 about the DIFP range potentially benefiting from  
40 concentration. You see that?

41 A. Yes.  
42

43 Q. You did understand from your involvement in the lab  
44 for many years as a quality manager that concentration  
45 would benefit a sample?

46 A. Yes.  
47

1 Q. Okay. And your response that we started with then is  
2 a little later that day. If we could scroll up, please,  
3 Mr Operator, and go to the start of that email, please.  
4 [WIT.0032.0029.0001\_R at 0003]. This is your email in  
5 response, 12:36 pm; is that right?

6 A. Yes.

7

8 Q. I just want to ask a few questions about it. Firstly,  
9 you say:

10

11 *Hi Darren,*

12

13 *I have reached out to my colleagues ...*

14

15 Who are we talking about here?

16

17 A. Cathie Allen.

18

19 Q. So this email here, was that, in essence, scribed by  
20 her and you have relayed that information?

21

22 A. It was pretty much a cut and paste from an email that  
23 Cathie Allen sent me.

24

25 Q. Okay. With respect then to that email, what you  
26 informed him of in all of that was that concentration was  
27 not occurring; it was going straight to amplification when  
28 they're in that DIFP range. That was the new process post  
29 6 June?

30

31 A. Yes.

32

33 Q. You understood that, from the earlier email from  
34 Mr Pobar, that Police thought there could be benefits to  
35 concentration; yes?

36

37 A. Yes.

38

39 Q. You agree with that?

40

41 A. Yes.

42

43 Q. So Police's concerns then at this point in time when  
44 you are writing this email are time frames, turnaround?

45

46 A. Yes.

47

48 Q. You didn't answer them in this email about turnaround  
49 times?

50

51 A. Not unless Cathie had in her email, but no.

52

53 Q. And Police were also concerned about concentration and  
54 the benefits that could be obtained from it?

55

1 A. Yes.

2

3 Q. Knowing those concerns then, did you take them  
4 anywhere?

5 A. So at this point in time, and it was day two and a  
6 half of being the Acting Executive Director, I didn't  
7 understand the importance of the email that I was sending  
8 to Darren Pobar, that it was saying, "We're not  
9 concentrating".

10

11 Q. If we fast-forward then to the next significant event  
12 as it relates to the DIFP process, it was a phone call you  
13 got from Dr Rosengren on 16 August 2022?

14 A. Correct, yes.

15

16 Q. And in that phone call, he raises some issues with  
17 you?

18 A. He just said there's been some - that Cathie would let  
19 me know what those issues were.

20

21 Q. So between 20 July and 16 August, you were faced with  
22 information but you didn't think there was any significance  
23 to it; is that what you are saying?

24 A. I didn't understand the importance of it, no.

25

26 Q. But with Mr Rosengren when he called and said there  
27 were issues, did you raise these concerns with Police?  
28 That is, the turnaround times or the concentrate issue with  
29 him?

30 A. No, I did not.

31

32 MR HYNES: Thank you, Commissioner.

33

34 THE COMMISSIONER: Yes. Yes, Mr Dean?

35

36 <EXAMINATION BY MR DEAN

37

38 Q. Concerning the meeting on 19 August which you made a  
39 diary note about, 19 of August this year?

40 A. Yes.

41

42 Q. And you said that present at that meeting in your  
43 diary note shows --

44

45 THE COMMISSIONER: What exhibit is that, Mr Dean?

46

47 MR DEAN: I am sorry. I didn't have a note of the number.

1 It was one taken by counsel assisting.

2

3 MS HEDGE: HG-18.

4

5 MR DEAN: HG-18.

6

7 THE COMMISSIONER: Thank you.

8

9 MR DEAN: Q. If you need to put it up on the screen,  
10 please say so and I'll ask for it. But you have may recall  
11 the handwritten note I am talking about, the file note?

12 A. Yes.

13

14 Q. You recorded there that present at the meeting amongst  
15 others was Cathie Allen, Justin Howes and my client, Paula  
16 Brisotto?

17 A. Yes.

18

19 Q. You described them as being the scientists who were  
20 present at the meeting?

21 A. Yes.

22

23 Q. You said, in answer to questions from Counsel  
24 Assisting, that when you raised this compromise proposal  
25 about not proceeding to exhaust a sample without going  
26 first to the QPS and asking for their permission, that the  
27 scientists were in agreement with that proposal?

28 A. That's my understanding, yes.

29

30 Q. Is it right to say that the way in which that unfolded  
31 was that there was this identification by Ms Fairweather  
32 that the QPS didn't want samples exhausted?

33 A. Yes.

34

35 Q. And that that presented a problem because sometimes  
36 ordinarily the practice of the laboratory would be to  
37 exhaust the sample with testing?

38 A. Yes.

39

40 Q. You then identify that maybe one way to solve this  
41 problem that was emerging was to have this compromise that  
42 you mentioned where you would go to QPS first, the  
43 scientists would go to the QPS first and seek permission  
44 before exhausting the sample?

45 A. Yes.

46

47 Q. And that the response of the scientists collectively

1 in that sense was that, "Well, if the QPS won't permit us  
2 to exhaust a sample, then we do have to have some solution  
3 to that problem"?

4 A. That's not my recollection. It was just that they  
5 favoured the suggestion that I had to approach the QPS to  
6 request exhaustion of the sample.

7  
8 Q. Was there also some discussion that there needed to be  
9 some inquiry made to find out what other laboratories did  
10 to deal with this same sort of problem that existed  
11 elsewhere?

12 A. My recollection is that there was a desire to contact  
13 other laboratories to determine what volume of sample they  
14 needed for the additional testing, should QPS want to send  
15 the remaining sample to another jurisdiction.

16  
17 Q. And so that sort of inquiry was what is needed to be  
18 made before one could finally resolve this problem that  
19 seemed to be thrown up by the QPS's desire as communicated  
20 to you in that meeting?

21 A. I think they're separate in that the QPS requested a  
22 pause, and so we didn't want - sorry, requested us to not  
23 exhaust the sample. We wanted to make sure that if we did  
24 do one amp and we had approximately 15 microlitres  
25 remaining, that that was enough volume for another  
26 jurisdiction to be able to process if they're requested by  
27 QPS. So to me, they're separate issues. One is not  
28 exhaust, but also make sure that the volume that we've got  
29 is enough for the other jurisdictions.

30  
31 Q. Because if the volume that you have got left over is  
32 not enough for the other jurisdictions, you have exhausted  
33 the sample, haven't you?

34 A. To all intents and purposes, yes. It would be enough  
35 for us to do a second amp if we wanted to, but it may not  
36 be enough for the other jurisdictions to do the testing  
37 that they wanted to do.

38  
39 Q. All right. And that was the point of the request by  
40 the QPS, wasn't it, as you understood it had been made?

41 A. It was part of - yes, yes.

42  
43 Q. So whilst you can split them into those differentiated  
44 issues, they're related?

45 A. Yes, absolutely.

46  
47 Q. And so from the scientists' point of view there were

1 further enquiries that needed to be made?

2 A. Yes, we wanted to make sure that we had enough  
3 volume for the other jurisdictions.

4  
5 Q. All right. But that, in the meantime, because of what  
6 was understood by those present at the meeting, the  
7 scientists, in particular, and yourself, the compromise was  
8 the only way you could see forward until the matter was  
9 further resolved?

10 A. Without adversely affecting the processing in the  
11 laboratory even more.

12  
13 Q. Thank you.

14  
15 MR DEAN: Thank you, Commissioner.

16  
17 THE COMMISSIONER: Yes, Mr Dean. Mr Hickey? Ms McKenzie?  
18 Anybody?

19  
20 MS MCKENZIE: No, thank you.

21  
22 THE COMMISSIONER: Q. Ms Gregg, just one thing.  
23 Operator, would you put up [WIT.0032.0022.0001\_R], please.  
24 Just have a look at that, would you, Ms Gregg.

25 A. Yes.

26  
27 Q. You see in the paragraph under the subtitle,  
28 "Background", you say that a sample of 35 mL,  
29 after concentration, is enough for one quantitation and two  
30 amplifications. Why would you be quantifying it after  
31 concentrating it?

32 A. I don't know, but that's my understanding of the  
33 workflow, that after they concentrate it, they then do  
34 another quant.

35  
36 Q. I see. Thanks. Anything arising out of that?

37  
38 THE COMMISSIONER: Yes, Mr Rice?

39  
40 MR RICE: I just have a couple of questions.

41  
42 THE COMMISSIONER: Yes, certainly. Go ahead, Mr Rice

43  
44 **<EXAMINATION BY MR RICE**

45  
46 MR RICE: Q. Ms Gregg, after being issued with the  
47 Director-General's memorandum of 19 August, it is right to

1 say, isn't it, you were tasked to both inform the staff and  
2 to also implement that direction?

3 A. Yes.

4

5 Q. Okay. And that led to, in due course, to the conduct  
6 of two Teams meetings at which you fielded questions and  
7 attempted to explain?

8 A. Yes.

9

10 Q. I just want to summarise what criteria you were  
11 working with at that time. Having been given the  
12 Director-General's memo, did you feel obliged that it had  
13 to be complied with?

14 A. Yes.

15

16 Q. Did you also feel obliged to give effect to what you  
17 understood the prevailing QPS view to be, that the sample  
18 was not to be exhausted?

19 A. Yes.

20

21 Q. Was that a guiding consideration in your interaction  
22 with staff concerning this memorandum?

23 A. Yes.

24

25 Q. Were you also guided by the content of SOPs that you  
26 had accessed from pre-2018 to determine what the workflow  
27 was at that time?

28 A. Yes.

29

30 Q. And did your explanation of those SOPs form part of  
31 your explanation to the staff in these Teams meetings?

32 A. Yes, it did. Yes, I said that I referred to the SOPs,  
33 yes.

34

35 Q. Were they effectively the three things that were  
36 guiding you: The need to comply with the DG's memo, the  
37 need to comply with the prevailing QPS view about  
38 exhausting a sample irrespective of what prior policy there  
39 was and, thirdly, the content of the SOPs?

40 A. Yes.

41

42 Q. Does that sum it up?

43 A. Yes, it does.

44

45 MR RICE: Thank you, Commissioner.

46

47 THE COMMISSIONER: Thank you. Any re-examination,



1 Ms Hedge?

2

3 MS HEDGE: Just one matter.

4

5 <FURTHER EXAMINATION BY MS HEDGE

6

7 MS HEDGE: Q. If we could put up [WIT.0032.0027.0001\_R].  
8 Mr Dean, who was sitting over there, if you don't know who  
9 I am referring to, asked you some questions about asking  
10 other jurisdictions what they did. And if we can just  
11 scroll down to the top of the next page, do you see at the  
12 bottom of that page, page 2, [WIT.0032.0027.0001\_R at 0002]  
13 that you said:

14

15 *My reading is that we are OK with 15uL.*  
16 *Can you please confirm?*

17

18 This is at 2.07 pm. Do you see that?

19

20 A. Yes.

21

22 Q. And then Mr Howes said at the top of the page:

23

24 *I think we need to ask about Minifiler and*  
25 *Y-Filer Plus ...*

26

27 Do you see that?

28

29 A. Yes.

30 Q. Now we go to the next page. Sorry, backwards to page  
31 one. Thank you [WIT.0032.0027.0001\_R]. In the middle of  
32 the page is you writing:

33

34 *Minifiler: max amp volume is 10u1*  
35 *Y-Filer Plus: Same as ID+ which is 5u1*

36

37 Do you see that?

38

39 *Full email trail attached*

40

41 A. Yes.

42

43 Q. So between those two emails, you had some  
44 correspondence with ESR, the lab in New Zealand?

45

46 A. Yes.

47

48 Q. To get that information?

49

50 A. Yes.

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Q. All right. And so you passed that information on at 4:57 pm?

A. Yes.

Q. Was that after you received it from the ESR?

A. Yes, very close.

Q. So you didn't have the information from ESR when Dr Rosengren sent out his memo?

A. That's correct.

Q. So you didn't tell him you were waiting on information from other labs?

A. No.

Q. So he sent out the memo and at that time you weren't sure whether or not there was going to be sufficient volume to send to other labs for retesting and only found out later in that afternoon; is that fair?

A. So I had had some verbal advice and I can't remember who from, but it was from Paula, Justin or Cathie, that said, "We're pretty sure that it's less than that 15 microlitres, but it would be wise to check", so --

Q. You were relying on that verbal advice?

A. Yes, I was.

Q. To allow the Director-General to send out his memo?

A. Yes.

Q. Thank you.

THE COMMISSIONER: Anything arising out of that, Mr Rice?

MS HEDGE: No, thank you.

THE COMMISSIONER: Thank you, Ms Gregg. You are free to go. Thank you for your assistance.

THE WITNESS: Thank you very much.

MS HEDGE: Mr Hodge has the next witness.

THE COMMISSIONER: Yes.

<DR DAVID ROSENGREN, SWORN

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<EXAMINATION BY MR HODGE

MR HODGE: Q. Your name is David Rosengren?

A. That's correct.

Q. And you are the Chief Operating Officer at Queensland Health?

A. That's correct.

Q. And you have got a Bachelor of Medicine and a Bachelor of Surgery from the University of Queensland?

A. I do, yes.

Q. And, Doctor, I think, is that one degree?

A. It is one degree, yes.

Q. Bachelor of Medicine/Bachelor of Surgery. And you, as I understand it, have more than 20 years in public and private hospital emergency departments?

A. Sadly, that's correct. Yes.

Q. And you continue to provide clinical services?

A. I do.

Q. And you were the Acting Director-General of Queensland Health for two weeks from Monday, 8 August 2022 to Sunday, 22 August 2022?

A. That's correct.

Q. And I take it from your background that you don't have any experience in relation to DNA testing?

A. I do not, no.

Q. Have you acted as the Acting Director-General before other than for this short period?

A. No, I have not.

Q. How long have you held the position of Chief Operating Officer in Queensland Health?

A. I was the Acting Chief Operating Officer for some date in early March, and I was substantively appointed to the role in early August. I don't have those exact dates at hand, but approximately.

Q. Thank you. I will just bring up your witness statement. It is [QHE.0106.0001.0001\_R]. That is the

1 statement you have given to the Commission?

2 A. That's correct.

3

4 Q. If we go to [QHE.0106.0001.0001\_R at 0015]. You  
5 affirmed that on 16 September 2022?

6 A. That's correct.

7

8 Q. Do you have any corrections to that statement?

9 A. No.

10

11 MR HODGE: I tender the statement.

12

13 THE COMMISSIONER: Exhibit 60.

14

15 **EXHIBIT #60 - STATEMENT OF DAVID ROSENGREN DATED**  
16 **16 SEPTEMBER 2022**

17

18 MR HODGE: Q. I want to ask you about some aspects of  
19 the statement, Dr Rosengren. The first thing I just want  
20 to understand is if we go to paragraph 19 of the statement,  
21 which is on [QHE.0106.0001.0001\_R at 0003], just to put  
22 this in context, you were asked a number of questions about  
23 the decision on 6 June 2022, made by Mr Drummond?

24 A. Correct.

25

26 Q. This question, subparagraph c here is in relation to  
27 that question. And you see in the last three lines of  
28 paragraph 19 you say:

29

30 *This was to be an interim measure pending*  
31 *further consideration of the question of*  
32 *thresholds by the Commission of Inquiry,*  
33 *and I believe the intention was to revert,*  
34 *so far as possible, to the workflow in*  
35 *place for such samples pre-2018.*

36

37 I just wanted you to explain to us how you came by your  
38 understanding as to the intention behind the decision made  
39 on 6 June 2022?

40 A. So when this was brought to my attention during my  
41 brief period as the Acting Director-General, I would have  
42 asked to be brief on the background behind the process, in  
43 particular the decision that we were reviewing, with  
44 regards to the 6 June decision that's referenced.

45

46 And so the advice that I was provided in speaking to  
47 the staff in the Office of the Director-General and also

1 legal counsel was that the intention of the  
2 Director-General had been to return the processing to the  
3 pre-2018 workflows because it was the workflows introduced  
4 in 2018 that were significantly in question through the  
5 Commission of Inquiry, and so, therefore, I understood it  
6 to be a logic decision that we would revert to the  
7 pre-existing process which was not in question up until  
8 that time, until we could get further advice around a  
9 pathway forward as a result of this particular process of  
10 investigation.

11  
12 Q. So when you commenced as the Acting Director-General  
13 on 8 August 2022, you weren't familiar with the decision  
14 that had been made on 6 June?

15 A. At that particular time, I would have had a very  
16 high-level understanding of the particulars related to the  
17 Commission of Inquiry and the specific issues with the DNA  
18 lab with Forensic and Scientific Services, but as the Chief  
19 Operating Officer, the issue didn't sit within my portfolio  
20 as such, and so detailed understanding of specifics and  
21 specific decisions would not have been part of my normal  
22 working activity. So I very rapidly brought myself up to  
23 speed when this issue was first raised with me during that  
24 period of time.

25  
26 Q. I see. And in your understanding of what the  
27 intention of Mr Drummond was, that was something that you  
28 formed based on what you were told by the people who were  
29 briefing you during the time when you were Acting  
30 Director-General?

31 A. That's correct, yes.

32  
33 Q. I know you have had some conversations with  
34 Mr Drummond. It wasn't based on those conversations; it  
35 was based on the briefings you were given?

36 A. No. So at the time Mr Drummond left to go on leave,  
37 this particular decision had not been identified as being  
38 in question, so I don't recall there being any specific  
39 handover on this particular item or the particular decision  
40 related to 6 June.

41  
42 Q. I understand. But also while you were the  
43 Director-General, as I understood your statement, you spoke  
44 to Mr Drummond, I think, on two occasions whilst you were  
45 still the Acting Director-General. Your understanding of  
46 what his intention was wasn't based on what he said to you  
47 during that period in reference to what was said to you?

1 A. Yes. No - no, my - that's correct. Yeah.

2

3 Q. And then the way in which the issue then was first  
4 brought to your attention, as I read your statement, was on  
5 12 August 2022. That's a Friday?

6 A. Friday evening. That's correct.

7

8 Q. As I understand, it you were at a function on that  
9 Friday evening?

10 A. Yes, I was at a school event and received a phone call -  
11 I'd have to read the statement to work out exactly what  
12 time. It was about 5.00 or 6.00pm at night, I think.

13

14 Q. It is paragraph 24. Maybe if we can blow up that  
15 paragraph, it is at the bottom of [QHE.0106.0001.001\_R at  
16 0004] and the top of - continues over to the top of page  
17 0005?

18 A. Yes, 6.15 pm roughly on Friday 12 August when it was  
19 first brought to my attention.

20

21 Q. The time that is set out in that statement, is that  
22 going back and checking your telephone records or the  
23 records of Mr Rigby or Ms Fairweather?

24 A. Without going into micro-detail, I have a new phone.  
25 I don't have access to the records of the specific  
26 timeframes, but because I was at a school event, I knew  
27 exactly what time the event started. So it's an  
28 approximation, not an exact time when that phone call  
29 occurred.

30

31 Q. You got a call then, as I understand it, from the  
32 Executive Director and also the acting Chief Legal Counsel?

33 A. Yes.

34

35 Q. On a Friday evening at a school function?

36 A. Yes, at 6.15 pm.

37

38 Q. Was it an urgent call?

39 A. It was considered by then to be an urgent call that  
40 required a conversation with myself as the Acting  
41 Director-General.

42

43 Q. In the call, you say that they advised you about a  
44 potential inaccuracy that had been identified in the  
45 options provided to Shaun Drummond?

46 A. That's correct.

47

1 Q. And then over the page, you say:

2

3 *I understood the potential inaccuracy was*  
4 *related to the fact that it was not*  
5 *strictly possible to revert strictly to the*  
6 *pre-2018 workflow due to the introduction*  
7 *of new technology since that time.*

8

9 A. That's the advice that was presented to me at that  
10 point in time.

11

12 Q. What was the new technology they told you about?

13 A. I don't understand, and at that point in time we  
14 didn't have sufficient exact information to be able to  
15 answer that, but I was informed, or the way I interpreted  
16 the information, was that new technology had been  
17 introduced to the lab with regards to the types of machines  
18 and the types of workflows, and so that there was no longer  
19 a possibility for us to revert exactly to the pre-2018  
20 workflows, so that a form of a modification was required to  
21 provide explicit clarity. That's the advice that we - that  
22 I received on that Friday evening.

23

24 Q. And you go on in that paragraph, I think, to pick up  
25 that part you're talking about, which is you say:

26

27 *The effect of the discussion on 12 August*  
28 *2022 was whether there was sufficient*  
29 *clarity in the memorandum to ensure the*  
30 *intention to revert to pre-2018 testing*  
31 *workflows for 'DNA insufficient for further*  
32 *processing' results had been effectively*  
33 *achieved.*

34

35 So I think that is what you just said to us orally?

36 A. Yes. I was aware from the - my very high level of  
37 visibility before taking on the Acting Director-General  
38 position for that time period, I was aware that there was a  
39 significant amount of anxiety or tension within the  
40 workplace related to the scrutiny associated with the  
41 Commission of Inquiry, and that it was very important for  
42 all parties to make sure that there was not an opportunity  
43 for confusion or room for ambiguity about what was the  
44 intention of the Director-General, which was to revert to  
45 the pre-2018 process.

46

47 So I was very keen to have clarification on, if there

1 was an ambiguity or an opportunity for confusion, then it  
2 was an imperative for me as the Acting Director-General to  
3 close that out and to provide explicit clarity so that  
4 there was no confusion in that space.

5

6 Q. For the moment we will just focus on 12 August 2022.  
7 When you talk about clarity in the memorandum, what is the  
8 memorandum that you're talking about?

9 A. So in fact in retrospect, it was a verbal direction  
10 from the Director-General from - I think I discovered  
11 subsequently - at the time I had the conversation on the  
12 Friday, I had understood that the D - the  
13 Director-General - had provided the instruction to the  
14 staff in the Forensic DNA lab through a written memo.  
15 Subsequently, as the week progressed, I discovered that in  
16 fact that had been a verbal instruction from the  
17 Director-General and there wasn't an original memo, but at  
18 the time I had the conversation that was what I understood.

19

20 Q. Tell me if I have understood correctly, though, you  
21 had been told inaccurate or potentially inaccurate  
22 information had been provided to Shaun Drummond?

23 A. That's correct.

24

25 Q. And then you understood that the inaccuracy was about,  
26 or somehow arose from, the introduction of new technology  
27 since 2018?

28 A. That was the original advice in that phone  
29 conversation on the Friday evening.

30

31 Q. But you didn't know what the new technology was?

32 A. I did not know that, and the Executive Director of the  
33 Director-General's Office and the Chief Legal Counsel were  
34 not able to explicitly provide me with that specifics. And  
35 so I think I subsequently asked for them to go away and  
36 work through the exact details to allow a decision. I made  
37 a decision that at that point in time, at that time on a  
38 Friday night, there was no material requirement for us to  
39 do anything there and then. There was no ongoing risk  
40 between Friday night and return to normal business hours  
41 the following week. So I acknowledged the information,  
42 made a decision on what was made available to me - there  
43 was no immediate decision required at that point in time -  
44 and requested that further information be gathered so that  
45 we could consider it in detail and make an informed  
46 decision subsequently.

47



1 Q. What I then want to try and understand is how that  
2 fits into the last part, which is about sufficient clarity,  
3 because it seems like what you had been told was  
4 Mr Drummond had been provided with inaccurate information  
5 or potentially inaccurate information and made a decision  
6 based on inaccurate information, but then the last part of  
7 what you are saying seems to suggest the issue was that  
8 something about the communication of his decision was  
9 perhaps being misunderstood?

10 A. No. So the Director-General, the intention of the  
11 Director-General's - as I was advised - instruction was to  
12 revert to the pre-2018 workflows. I was given the  
13 information that staff had identified on that Friday that  
14 in fact as a result of changes in technology, it was not  
15 possible to revert to the 2018 workflow because that  
16 workflow was no longer an option, and so that we needed to  
17 provide clarification of what was the closest workflow that  
18 would deliver on the pre-2018 processing of those specimens  
19 through the lab.

20

21 Q. I understand. So that was your understanding --

22 A. That was my understanding --

23

24 Q. -- on the Friday night?

25 A. -- on the Friday. It was very limited information  
26 without being able to speak to the experts.

27

28 Q. And then on Monday - this is paragraph 26 of your  
29 statement - you attended a telephone call with the same two  
30 people, Matt Rigby and Megan Fairweather?

31 A. That's correct.

32

33 Q. By then, or within that call, did they tell you that  
34 the situation was that the information that had been  
35 provided to Mr Drummond as to the two options was incorrect  
36 and, to put it bluntly, he had chosen one option, not  
37 realising that he should have chosen the other option?

38 A. So at that point in time, I don't think that that was  
39 on my level of awareness. At that point in time, on the  
40 information that I had available, the issue was more  
41 directed to the potential of confusion amongst lab staff,  
42 because they had understood the direction to be to revert  
43 to the pre-2018 workflows and they weren't able to do that  
44 strictly.

45

46 And so that, at this point in time with information I  
47 had available, my intention was to provide a more explicit

1 level of clarity around what we wanted that workflow to  
2 precisely be so that all members of the lab would have a  
3 consistent understanding of what we were expecting of them  
4 with the management of those or the processing of those  
5 specimens, until further advice from the Commission would  
6 potentially provide us with other direction.

7  
8 Q. I see. And then if we come to paragraph 28 which is  
9 on page 0006, [QHE.0106.0001.0001\_R at 0006], we see you  
10 say:

11  
12 *As a result of the discussions, I asked*  
13 *that further information be obtained from*  
14 *Cathie Allen ... about the ... position of*  
15 *the pre-2018 threshold workflow and for*  
16 *them to update the options available to*  
17 *revert to that process.*

18  
19 A. Yes, so what I was needing to do was to get direction  
20 or advice from the experts in DNA processing to the  
21 question around the lack of clarity had been raised by the  
22 lab staff. And so, I was asking for the lab staff to  
23 provide suggestions as to what the clarification needed to  
24 be to ensure that they would be able to implement a  
25 consistent approach to those specimens for all people in  
26 the lab.

27  
28 Q. So this is what you say you had understood on Monday  
29 evening when talking to Ms Fairweather and Mr Rigby?

30 A. Yep.

31  
32 Q. That the lab staff were confused because they couldn't  
33 revert to the pre-2018 workflow because of some  
34 technological issue?

35 A. The advice that was provided to me that initiated this  
36 question was members of the lab team had identified that  
37 there was a - they had a sense of confusion around the  
38 explicit process they were expected to follow. So that's  
39 the advice that was provided to me as the Acting  
40 Director-General, and so the logical response - or at least  
41 I thought it was logical - was to seek advice from the lab  
42 around what was going to be the most appropriate workflow,  
43 in explicit detail, that would deliver on the intention,  
44 which was to revert as best as possible to the pre-2018  
45 workflow.

46  
47 Q. I see. So in that call on the evening of Monday,

1 15 August, you asked for them to go back to Cathie Allen  
2 and Helen Gregg to get clarification around the workflow?  
3 A. So on Monday - did you say it was the 15th? I had  
4 been away in Fraser Coast and I had just returned to  
5 Brisbane late that afternoon. And so, the phone call was  
6 just checking in, because we'd had the conversation on the  
7 Friday night, just for an update on where we were at. And  
8 I still didn't at that point in time have enough clarity in  
9 my mind what the explicit issues were, and so I asked them  
10 to get specific advice from the experts to give me that  
11 better understanding of what the underlying issue was.

12  
13 Q. I see. I may have misunderstood your statement - it  
14 was a bit tricky to figure out - in paragraph 28. When you  
15 say here "as a result of the discussions", this seems to be  
16 actually happening on Tuesday, 16 August. You say:

17  
18 *As a result of the discussions, I asked*  
19 *that further information be obtained from*  
20 *Cathie Allen ...*  
21

22 Who did you ask?

23 A. Well, I would have asked Matthew Rigby, who was the  
24 Executive Director of the Office of the Director-General,  
25 to chase that down on my behalf. But, in fact, I then made  
26 a decision subsequently that in order to ensure there was  
27 no lack of clarity around what I was asking for, I phoned  
28 Helen Gregg directly myself to have that conversation.

29  
30 THE COMMISSIONER: Q. You rang her yourself?

31 A. I rang her myself because I decided that the best way  
32 to get clarity around what I was asking for was to speak  
33 directly to Helen myself and let her know what I had been -  
34 what had been raised with me as a specific concern so I  
35 could give her better guidance on what I was specifically  
36 asking her to clarify for me.

37  
38 MR HODGE: Q. And then this, I think, is what you are  
39 talking about in paragraph 29. You say at about 12:45pm,  
40 so that's on the Tuesday, you telephoned Helen Gregg  
41 and indicated that you that you required advice from FSS on  
42 a technological level regarding strengthening clarification  
43 of the forensic DNA analysis workflows to revert as closely  
44 as possible to the workflows in place before the  
45 introduction of the thresholds in early 2018?

46 A. That's a perfect description of what I was trying to  
47 explain just previously, yes.

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Q. I have to be honest; I don't know what it means. What is "advice from FSS on a technological level"?

THE COMMISSIONER: Q. Did you just say it was a perfect description of what you meant?

A. Well, for me it was.

Q. Well, you had better tell us what you meant.

A. So I had been given a summary of a concern that was second and third-hand to me through the acting Head of Legal Services, the Executive Director of the Office I was currently in, around a complexity around a lab workflow that none of us had any understanding of. And so, I needed advice from the experts. The technological level is about the workflow.

The question that was raised to me as a potential ambiguity related to a technical workflow of how specimens were processed in the lab. I had no - I had no, and now have some, visibility of the process. But at that point in time I had none, and so I needed expert advice from people who worked in the lab, knew exactly what was going on, to give me an understanding of what it was I was trying to clarify.

Q. At a sufficiently detailed level to allow you to make an informed decision rather than acting upon conclusions?

A. That's correct.

Q. Yes.

A. Yes.

MR HODGE: Q. And at some point in time - and tell me if I am right - at some point in time you realised that this had nothing to do with some technological change since 2018?

A. So my understanding still was that there were differences in - there was new technology, new machines, changes to workflows. So I still understand that that was a contributor to confusion. It then subsequently - when I received the correspondence, a copy of the correspondence that had been provided to Shaun Drummond, it was then that the lab staff identified to me in that correspondence that there had been some errors in that advice put forward to the Director-General. But until I received that correspondence, I was not aware of that being a primary

1 issue. Up until that point in time, I thought it was  
2 simply just a technical issue in the lab around new  
3 machines and new technology advances that were causing  
4 confusion.

5

6 Q. Just so I understand it, because I will come in a  
7 moment to that email, but at this point in time, having  
8 spoken on a couple of occasions to Mr Rigby and  
9 Ms Fairweather and having spoken directly to Ms Gregg, your  
10 understanding remained that there was some issue about  
11 technological issues impeding the ability to revert to the  
12 2018 workflow?

13 A. That's correct.

14

15 Q. And what I then want to press you on is you understand  
16 now that that was not the issue?

17 A. Well, I'm not absolutely certain that it wasn't an  
18 issue, but subsequently the issues around the wording of  
19 that email to the Director-General that made the  
20 instruction were brought to my attention to be potentially  
21 confused. However, that was not an issue for me at the  
22 time as the Acting DG because my understanding was that the  
23 intention was to return to the pre-2018 workflows as best  
24 as possible, and so I focused on that particular issue  
25 about that clarification to ensure that the lab had a clear  
26 understanding of what we were asking them to do around the  
27 processing of the samples.

28

29 Q. Can I --

30 A. Those other issues were not as materially important to  
31 me in that time period as the Acting DG for a period of two  
32 weeks.

33

34 Q. Let me skip forward and go backwards. If we go  
35 forward to page 0011 [QHE.0106.0001.0001\_R at 0011], in  
36 paragraph 49, you say:

37

38 *I did not reconsider the decision but*  
39 *rather provided specific clarification to*  
40 *ensure that there was no ambiguity or*  
41 *confusion arising from the options relied*  
42 *upon in the decision of 6 June 2022, and*  
43 *thus allowing the decision to be*  
44 *consistently implemented by all staff.*

45

46 A. That's correct.

47

1 Q. Just tell us what that means?

2 A. So, as I have just previously referenced, I was  
3 focusing on the intention of the original decision by the  
4 Director-General. And the intention, irrespective of the  
5 way the advice was worded, the intention was to revert the  
6 lab to a pre-2018 workflow.

7

8 Q. Can I attempt to simplify it to see if you agree with  
9 this?

10 A. Yes.

11

12 Q. You know now that the Director-General was presented  
13 with two options?

14 A. Correct.

15

16 Q. And you know now that the option that he was told  
17 reflected the pre-2018 workflow did not reflect the  
18 pre-2018 workflow?

19 A. I do understand that, yes.

20

21 Q. And that the other option that he was told did not  
22 reflect the 2018 workflow or pre-2018 workflow in fact did  
23 reflect the pre-2018 workflow?

24 A. Well, it reflected, from my understanding, a 2012  
25 workflow. So at the time I was making these decisions, the  
26 only focus for me in the interim Acting Director-General  
27 role for a two-week period of time was to provide clarity  
28 on what I had understood to be the intention of the  
29 Director-General's instruction to revert to the work flows  
30 of 2018.

31

32 THE COMMISSIONER: Q. But you understood that the  
33 Director-General wanted to revert to a process that existed  
34 at a particular time?

35 A. That's correct.

36

37 Q. You were told at first, or you understood at first,  
38 that an issue had arisen because that reversion might  
39 not be possible because of technical changes that had  
40 occurred in the interim?

41 A. That's correct.

42

43 Q. And then you were told that in fact, the problem  
44 wasn't so much that, it was that what the Director-General  
45 had been told by way of information was in some degree  
46 inaccurate?

47 A. That's correct.

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Q. And you were going to be given the accurate information?

A. I'd sought the accurate information so that I could then make sure that in delivering the intention of the Director-General, I had a much clearer pathway for the lab staff to follow.

Q. Yes. And so then you got an email or a couple of emails - I think Mr Hodge will take you to them.

A. Yep.

Q. And you acted upon those emails to effectuate Mr Drummond's decision to revert to the pre-2018 process?

A. That was my intention, yes.

MR HODGE: Q. And just tell us - maybe I will take you to one of the emails you refer to. Can we go to [QHE.0106.0004.0001\_R]. Do you have a copy of your statement with you?

A. No, I don't.

Q. What I might do is if we can just have that on one side of the screen, and on the other side of the screen can we just bring up from Dr Rosengren's statement the page which is [QHE.0106.0001.0001\_R at 0006]. If you blow up paragraph 30 of your statement, you say in preparing this statement, you have been provided with an email:

*... dated 16 August 2022, sent by Cathie Allen at 1.06pm to Helen Gregg.*

A. That's correct.

Q. And if we then look at the document on the other side of the page, that seems to be that email that you're referring to?

A. That's correct, yes.

Q. You see in the first paragraph, Ms Allen says:

*Yesterday afternoon I had a meeting with Mr Glen Rice QC, Megan Fairweather, Chief Legal Counsel, and Karen Watson, Crown Law. During this meeting, it was highlighted that I had not been clear in an explanation regarding options that had been put forward*

1           *as alternative workflows to the one*  
 2           *currently in place ...*

3  
 4       A.    Yep.

5  
 6       Q.    And just pausing for a moment on that, were you aware  
 7       of this meeting that had occurred between Mr Rice and  
 8       Ms Fairweather and Ms Watson?

9       A.    No.

10  
 11       Q.    Okay. I accept that, but just doing the best you can  
 12       for us, you see this was sent on Tuesday, 16 August and  
 13       it's referring to a conversation "yesterday afternoon",  
 14       which would be Monday, 15 August. And you recall you then  
 15       spoke to Megan Fairweather at 5.00 pm on Monday, 15 August.  
 16       You don't recall having been told about a meeting that had  
 17       occurred within the preceding few hours between  
 18       Ms Fairweather and Ms Allen?

19       A.    Not specifically. I wouldn't - you know, I don't have  
 20       any explicit notes of that meeting - of that conversation,  
 21       but I don't have any explicit recollection of that level of  
 22       detail in our conversation.

23  
 24       Q.    But you must at some stage have been told about the  
 25       meeting between Mr Rice and Ms Fairweather and Ms Watson  
 26       and Ms Allen?

27       A.    As the Acting Director-General, I would not be told  
 28       every specific. I would be expecting that these sorts of  
 29       meetings, because I had already asked for them to go away  
 30       and provide me with clarification and expert advice. So  
 31       when I asked that, I am assuming that there will be various  
 32       forms of communications and discussions between the team  
 33       and the clinical experts to be able to provide that advice  
 34       back to me.

35  
 36       Q.    Is I think I framed my question badly, and it might  
 37       have seemed like a trap. It's not a trap. You were told  
 38       in writing, an email was sent to you, telling you about the  
 39       meeting. If we go to [QHE.0106.0002.0001\_R], this is the  
 40       first exhibit to your statement?

41       A.    If that is the case, then yes.

42  
 43       Q.    We'll just bring - sorry.

44       A.    But I don't recall explicitly having a phone  
 45       conversation.

46  
 47       THE COMMISSIONER:   But that is the next day?



1  
2 MR HODGE: Q. Yes. So you got an email from Ms Gregg  
3 telling you about it, yes?

4 A. Subsequently, yes.

5  
6 Q. I see. It's not - sorry, I might have misunderstood  
7 you. You were told at some stage about this meeting, you  
8 were just told on the Wednesday not necessarily Monday.

9 A. Yeah, you asked me about the Monday evening --

10

11 Q. I understand?

12 A. -- and I don't have a recollection of the Monday  
13 evening.

14

15 Q. I understand. And then in this email that we have got  
16 up on the screen, if we go to the second page  
17 [QHE.0106.0002.0001\_R at 0002], this is what is described  
18 as the clarification about the 3 June 2022 options.

19 A. Yes.

20

21 Q. And you would have read this?

22 A. Yes.

23

24 Q. And this is the part that reflects the understanding  
25 that you developed about what was pre-2012 and 2018?

26 A. That's correct.

27

28 Q. And just if you can explain to us, on the face of it,  
29 reading this, it looks like what is now described as  
30 Option 2, concentration of all samples in range, is being  
31 said to be the workflow that was in fact in place pre-2018.

32 A. That's how I understood the way it was presented to  
33 me, yes.

34

35 Q. Yes. And you see that the strike-outs indicate that  
36 Option 2 has gone from being described as "least preferred"  
37 in the 3 June 2022 email to now not having those kind of  
38 descriptives?

39 A. That's correct, yes.

40

41 Q. Okay. So is it - again, I just want to clarify. Is  
42 it the case that this is what happened: You at some point  
43 were told and understood Option 2 reflected the pre-2018  
44 workflow, and it hadn't been what had been selected by  
45 Mr Drummond because he had been misinformed, and you  
46 clarified his decision in the sense that you understood he  
47 wanted to revert to the situation as it had been pre-2018,

1 and, therefore, you made clear that Option 2 was what was  
2 being selected?

3 A. So the answer to the question is yes. But, again, I  
4 was less interested in Option 1 or Option 2. I was more  
5 interested in the intention of the decision and the  
6 clarification of that. So I was - that's what I was  
7 focusing on in my analysis of the information provided to  
8 me.

9

10 Q. I understand. All you wanted to do was to make sure  
11 what you understood to be Mr Drummond's intention, which  
12 was to undo everything that had been done in 2018, would be  
13 done?

14 A. That was my intention, correct.

15

16 Q. And why it was that Mr Drummond had been misinformed,  
17 that was something that, from your perspective, could be  
18 left to Mr Drummond to deal with? You were only in the  
19 acting role for two weeks?

20 A. I was very happy to leave that to Mr Drummond to deal  
21 with.

22

23 Q. And you expected that would be something he would deal  
24 with in due course?

25 A. I didn't believe there was any urgency for us to  
26 address that in that time period, but I felt there was an  
27 urgency in clarifying the workflow for the team in the lab.

28

29 Q. I understand. And so, against that background, you  
30 know that the other thing that you added was to prohibit  
31 concentration without - or prohibit testing without QPS  
32 consent, if it would exhaust all of the sample?

33 A. So that is correct.

34

35 Q. And that you didn't understand to be part of the  
36 pre-2018 workflow?

37 A. I can't specifically answer that. That was a  
38 clarification that we included based on the consultation we  
39 had with the Queensland Police Service in the drafting of  
40 this recommendation, of this memo, for the staff.

41

42 Q. I understand, but what I am just trying to test with  
43 you is: your intention was, the thing you were fixed on  
44 doing, was ensuring that whatever was the pre-2018 workflow  
45 was what would be re-introduced?

46 A. That's correct.

47

1 Q. And it can't be that nobody - you tell me if I am  
2 wrong, but nobody suggested to you that adding this  
3 qualification which was needing QPS consent to certain  
4 testing was something that was part of the pre-2018  
5 workflow?

6 A. So I understood from the advice that I was given, and  
7 I'm going back in my recollection now, that there had at  
8 that time been a discretionary element to decision-making  
9 based on scientist preference at the time as to whether or  
10 not that would be done. And, in my conversations and the  
11 feedback from the Queensland Police Service, I felt that in  
12 the context of what we were trying to achieve and deliver,  
13 that we needed to have a higher level of explicit  
14 expectation around that.

15  
16 I was also led to believe through - I can't remember  
17 whether it was conversations or through the email chain  
18 that follows - that there had been changes in the  
19 technology around the amplification micro-concentration  
20 processing that allowed them to undertake those processes  
21 with less impact on the residual sample, but the Queensland  
22 Police Service had been quite explicit that they had  
23 significant reservations around a mandatory workflow that  
24 might consume samples without them having the opportunity  
25 to participate in that decision-making. So that's why that  
26 qualifier was introduced to the memo.

27  
28 Q. So let me just focus on that part then, what the  
29 Queensland Police Service said to you. Can we bring up  
30 [QHE.0106.0010.0001\_R]. You see this is an email that  
31 Mr Rigby is forwarding to you and Ms Fairweather on  
32 19 August at 9:29 am?

33 A. Correct.

34  
35 Q. And this is forwarding an email from, at that stage,  
36 Inspector Neville?

37 A. Correct.

38  
39 Q. You read that email?

40 A. I did.

41  
42 Q. If we go down to the bottom of the first page, we see  
43 that Inspector Neville is talking about how it was that the  
44 QPS agreed to removal of the process in 2018.

45 A. That's correct.

46  
47 Q. And then if we go over the page [QHE.0106.0010.0001\_R

1 at 0002] you see at the top of the page you see  
2 Inspector Neville says:

3  
4 *In November 2018 the QPS first raised*  
5 *concern with the Managing Scientist that*  
6 *the removal of the automatic*  
7 *micro-concentration process may have*  
8 *resulted in evidence being missed.*  
9

10 And do you see about halfway through the next sentence it  
11 says:

12  
13 *... and that 'automatic progression of*  
14 *samples through the Microcon process means*  
15 *that all available DNA extract will be*  
16 *consumed, so no further testing can be*  
17 *conducted on these samples of this step'.*  
18 *Based on this advice, the QPS continued*  
19 *with the arrangement.*  
20

21 A. That's what it says, yep.

22  
23 Q. And then further into the next paragraph, see the  
24 second sentence:

25  
26 *If the advice from the Managing Scientist*  
27 *is correct, the automatic concentration of*  
28 *all samples in the ranged of*  
29 *.001-.0088ng/ $\mu$ L could result in the*  
30 *opportunity being lost to use another*  
31 *service provider to obtain important*  
32 *probative evidence. This is a consequence*  
33 *that the QPS is unable to accept as a*  
34 *matter of routine.*  
35

36 A. That's correct.

37  
38 Q. Just so I understand it, you at some point must have  
39 come to realise that using automatic micro-concentration or  
40 the automatic micro-concentration process didn't result in  
41 the whole of the sample being consumed?

42 A. So this was on the Friday. At some stage - and I  
43 don't know the exact sequence of timing, but at some stage  
44 on the Friday we then received clarifying information from  
45 the lab around the 35 microlitre volume and the reassurance  
46 that a single amplification could be undertaken with the  
47 technology that was available in the lab, and it was only a

1 second high level of amplification that would actually  
2 delete the sample to a point where there would be a risk of  
3 there being no residual DNA for alternative testing.  
4

5 And that's why we, in the memorandum, propose the  
6 initial process, but that if a second process was required,  
7 there would then introduce a risk of depletion of the  
8 sample, that that could only be done, based on this  
9 feedback from the Queensland Police Service, with their  
10 explicit consent, so that at least there was an engagement  
11 with the Queensland Police Service, who were the purchaser  
12 of the activity from us.  
13

14 Q. Yes, I understand. But just tell me if you agree with  
15 these propositions. At some stage on 19 August 2022, you  
16 realised that the information that the QPS had been given,  
17 which was that automatic micro-concentration meant that the  
18 whole of the sample would be consumed, was incorrect?

19 A. That's what he describes in that email. I understood  
20 that the differentiation in that was related to different  
21 technology now being available in the lab compared to at  
22 the time that this decision was made in 2018. That's how I  
23 interpreted the information that I was getting from the lab  
24 and from the Queensland Police Service.  
25

26 Q. I understand. I understand. But if you would just  
27 listen to my question --  
28

29 THE COMMISSIONER: No, I think Dr Rosengren answered the  
30 question.  
31

32 Q. Do you mean you noticed that Inspector Neville was  
33 acting upon the basis that auto-concentration; that is,  
34 concentrating every sample within the range, he was told  
35 would exhaust the sample --

36 A. That's correct.  
37

38 Q. -- but that you learned that that is not so, that it  
39 is possible to have a second amp.

40 A. That's correct.  
41

42 Q. And you thought that the reason for the inconsistency  
43 between what Inspector Neville believed and what you knew  
44 was due to this new technology that you heard about  
45 earlier.

46 A. That was the advice I was provided from the lab when  
47 they updated me on the 35 microlitre threshold.

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Q. I see. You were told that by the lab?

A. Well, secondhand. I wasn't speaking to the lab directly, but that was the advice that came to me, that the lab had updated that information to say that it was reasonable to do an initial process, but it was only if a second amplification was required that we would deplete the sample to the point where it would become a concern to the Queensland Police Service.

Q. Was the point in that communication, ultimately from the lab, in response to your concern about using up the sample if concentration is used at all?

A. So originally the advice was that even a single concentration as an automatic would run the risk of depletion, to have no residual DNA left.

Q. When you say the advice was, you were given that advice or Neville was telling you that was the advice?

A. Neville was telling me that advice. That then the advice --

Q. So did you raise that with somebody?

A. So I then drafted, or we had a draft memo, but then, in the process of that, further information was inputted from the lab --

Q. Yes.

A. -- to suggest that, actually, it was reasonable to do an initial concentration because with the technology that they were using, it didn't take up as much of a volume as previously historically had -- this is how I understood the information --

Q. No, I understand, and so --

A. -- and so that, therefore, we were - I was comfortable in the memorandum of expecting that there would be an amplification done on all of them. It was only if we were going beyond the level of 35 microlitres of residual DNA sample that we would not progress further until Queensland Police Service had given us direction.

Q. But it's your - sorry, Mr Hodge. Your recollection is that you were given to understand that this possibility only arose since 2018.

A. That's correct. That's my understanding. That's how I interpreted the advice provided.

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MR HODGE: Q. Can I try and put your decision-making process back to you to see if I can summarise it accurately. The first step was: you understood that Mr Drummond's intention was to revert to the pre-2018 workflow?

A. That's correct.

Q. Subject to any qualification from the QPS, that was what you wanted to do?

A. That's correct.

Q. Then you received this feedback from Inspector Neville, the effect of which you understood to be that the QPS was concerned about reverting to a pre-2018 workflow if it was going to consume all of the sample?

A. Correct.

Q. Then after that, you then received further information to the effect that whatever it was that Inspector Neville had been told - it doesn't matter whether it was wrong but it was not current --

A. Correct.

Q. -- and then no one, as far as you know, went back to Inspector Neville, but what you did was inform yourself, or others informed you, that it was possible to perform concentration and one amplification without consuming all of the sample?

A. Correct.

Q. So the judgment you made was if we have a process that provides for automatic micro-concentration to 35 microlitres and a single amplification, that will be the balance between, on the one hand, reverting to the pre-2018 workflow and, on the other hand, meeting what you understood to be the concern from QPS about consuming all of the sample.

A. Correct.

Q. And that was how you came to formulate the final form of the memorandum that you issued on 19 August.

A. Correct.

Q. You can probably see an obvious question would be what is the process for decision-making that will then occur as to whether a second amplification or any further testing

1 should occur in relation to a sample.

2 A. So my understanding was that if an initial  
3 amplification had been undertaken, and that the lab felt  
4 that a further amplification would be necessary in order to  
5 determine a result, but if that would deplete the sample  
6 beyond the minimum threshold for residual testing in  
7 another lab, then that could only be done after  
8 consultation with the Queensland Police Service on  
9 assessment of the value of that particular specimen in the  
10 context of the case. That's how I understood it.

11

12 Q. Yes. My point is just there's obviously then got to  
13 be some process, a new process, because it's not something  
14 that has been done before, for how that type of  
15 consultation will work.

16 A. So I had been led to believe that there already was a  
17 pre-existing discretionary process where either the  
18 Queensland Police Service could request additional testing,  
19 based on the significance of the sample, if it hadn't  
20 already been - my understanding was the existing post-2018  
21 process was that the specimens that weren't tested were  
22 held available and the Queensland Police Service could  
23 request that analysis to be undertaken if they felt it  
24 relevant in the context of their case. So I understood  
25 that that process already existed around the interaction  
26 between the lab and the Queensland Police Service around  
27 seeking that advice or providing the request.

28

29 THE COMMISSIONER: Q. You acted upon the basis that the  
30 process for getting QPS's consent would be taken care of,  
31 otherwise they wouldn't have raised it with you at all.

32 A. I understood that that was an existing process that  
33 already was in place.

34

35 MR HODGE: Q. And tell me, this may have just not been  
36 something that you turned your mind to, but did you regard  
37 it as a decision from the scientists in the lab to form a  
38 view as to whether it would be appropriate to undertake a  
39 second amplification, and then they would need to initiate  
40 a process of consultation with QPS, or was that not a  
41 detail that you thought about?

42 A. It was not a detail that I specifically put my mind  
43 to. I made an assumption based on my understanding that  
44 that would be managed between Forensic Scientific Services  
45 and Queensland Police Service.

46

47 Q. Am I right in thinking, from your perspective, the



1 thing that you wanted to get done, before the conclusion of  
2 your term as Acting Director-General, was to rectify this  
3 issue of the problem that had arisen in relation to the  
4 6 June 2022 decision, whilst addressing the concern raised  
5 by the QPS, and then you would be finishing the role as  
6 Acting Director-General, and it would be for others to then  
7 deal with the further issues that might arise from that?

8 A. Well, I'm not quite sure how to answer the question.  
9 I continued to work through the issues in the timeframe  
10 that I had. If I had continued on in the Acting  
11 Director-General's role, I would have continued to process  
12 it --  
13

14 Q. Yes.

15 A. -- but that was the timeframe it took for us to  
16 address that issue, and then Shaun Drummond was returning  
17 to the role and so it would be then for him to pick up  
18 those ongoing issues to work them through as the  
19 Director-General.  
20

21 Q. I understand. One other question I just wanted to ask  
22 about. Were you aware, Dr Rosengren, that there were other  
23 samples outside of that range of 0.001 to 0.0088 that were  
24 concentrated and could potentially be entirely used up?

25 A. No.  
26

27 Q. Okay. Insofar as anyone within the lab or associated  
28 with FSS was using your memorandum to apply the samples  
29 outside of that range, that wasn't something that you  
30 intended?

31 A. The only issue that had been raised to me were the  
32 samples between the range of 0.001 and 0.0088.  
33

34 MR HODGE: I don't have any further questions.  
35

36 THE COMMISSIONER: Ladies and gentlemen, those of you who  
37 want to ask Dr Rosengren questions, do you think we could  
38 finish this afternoon so that he doesn't have to come back  
39 tomorrow?  
40

41 MR RICE: Well, I don't have anything, Commissioner.  
42

43 MS MCKENZIE: Nothing.  
44

45 MR DEAN: I have nothing.  
46

47 MR HICKEY: Nor do I, Commissioner.

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MR HYNES: Nor I, Commissioner.

THE COMMISSIONER: Thank you. Then, thank you for your assistance, Dr Rosengren, you are free to go.

THE WITNESS: Thank you very much.

**<THE WITNESS WAS RELEASED**

THE COMMISSIONER: Mr Hodge?

MR HODGE: Commissioner, that is the last witness for module 1.

THE COMMISSIONER: Yes.

MR HODGE: If it is convenient, I might just say something very briefly about where to from here.

THE COMMISSIONER: Yes.

MR HODGE: Some of the witnesses who we originally scheduled to appear in this module have now been referred to later modules and at least two of the witnesses who gave some evidence during this module will return in later modules. What I will do is just briefly outline what we propose over the coming month for hearings.

THE COMMISSIONER: Yes.

MR HODGE: The first thing I should say is we have broken what had previously been described as a single module, and the single large topic of general operation of DNA testing in Queensland, into three modules.

Module 2, which will commence next week on 10 October, will be on the identification and addressing of technical issues. This is both in relation to the operation of the lab and collection measures undertaken by the QPS in Queensland Health.

The witnesses in that module will include scientists from the lab and some experts. Part of the evidence, both from scientists and also possibly some other witnesses, will concern the culture of the lab in addressing and responding to technical issues, and I want to just say, at

1 the outset, our look at the culture of the lab is not about  
2 workplace conflict in a general sense. Many workplaces, as  
3 everyone is aware, have conflicts to some degree. Our  
4 concern is about understanding to what extent the culture  
5 of the lab facilitates scientific best practices.  
6

7 As a simple example, Commissioner, we are interested  
8 in understanding whether problems of the kind that  
9 Dr Budowle identified in relation to elution volumes to the  
10 DNA IQ system, why it is that they were or were not picked  
11 up or challenged at an earlier time.  
12

13 The Commission has retained experts to review some  
14 specific aspects of the technical operation of the lab and  
15 collection measures, and these experts will also give  
16 evidence during the course of this module. And I expect  
17 that given the number of witnesses, this module will  
18 continue through the week of 17 October.  
19

20 Module 3, which I presently expect will commence in  
21 the week of 24 October, will be on management and, in this  
22 module, we will call only a few witnesses who have been  
23 involved in the management of the lab to examine aspects of  
24 that management as it intersects with the issues that they  
25 then will have considered in module 1 in relation to the  
26 Options Paper and module 2 related more generally to  
27 identification and addressing of technical issues.  
28

29 Module 4 will be a concluding module on the general  
30 operation of the lab, and it will be concerned with the  
31 present and the future of DNA testing at QHFSS. As you,  
32 Commissioner, and some of the parties know, the Commission  
33 has engaged two independent experts, each very experienced  
34 and each from a different lab, to review the overall  
35 operation of the Queensland lab, and they will be the  
36 witnesses for module 4. My present expectation is that  
37 they will commence their evidence at some time in the week  
38 of 31 October.  
39

40 I think I should add, as is often the case with a  
41 Commission of Inquiry, our timetable is flexible and it may  
42 be that some of the timeline changes depending upon how  
43 long particular witnesses are required or how much time  
44 parties need.  
45

46 There are two further sets of hearings which we are  
47 presently anticipating beyond what I have just outlined.

1  
2           The first is, I understand that you wish,  
3 Commissioner, to have oral submissions from interested  
4 parties. And so, I anticipate at some stage after the  
5 conclusion of what I have termed module 4, we'll have oral  
6 submissions. And, secondly, we are conscious that it is a  
7 matter of particular importance to you that there be an  
8 examination as thoroughly as possible of the DNA testing in  
9 the investigation of the murder of Shandee Blackburn, and  
10 we will have another module separately and later on the  
11 outcomes of the Commission's investigations of that  
12 testing.

13  
14 THE COMMISSIONER:    Yes.

15  
16 MR HODGE:    Commissioner, that is all I wish to say.

17  
18 THE COMMISSIONER:    Yes. Does anybody else want to raise  
19 anything this afternoon before we adjourn till Monday?

20  
21           Thank you everyone, then. We will adjourn till  
22 Monday, 10 October at 9.30, Mr Hodge?

23  
24 MR HODGE:    I am content with 10.00am, Commissioner.  
25 I won't be calling the first witness.

26  
27 THE COMMISSIONER:    10.00 am then. Would that make it  
28 better for you? Anyway, it won't make it worse. So  
29 10.00 am on 10 October. Thank you. Adjourned.

30  
31 **THE HEARING WAS ADJOURNED TO 10.00AM ON MONDAY, 10 OCTOBER**  
32 **2022**

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